

Food Safety in China

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Food safety scandals in China

Numerous food safety scandals in China have aroused public concern about food safety, causing mistrust on domestic food product.

- Notorious cases:

- Melamine tainted infant formula in 2008
- Sale of frozen meat that was found to be more than 40 years old
- Hogwash oil: illicit cooking oil which has been recycled from waste oil collected from sources such as restaurant fryers, grease traps, slaughterhouse waste and sewage from sewer drains.



Police inspect illegal cooking oil, better known as "hogwash oil" seized during a crackdown in Beijing

Photo: AFP/GETTY IMAGES

Legal Framework

NPC* Law

State Council Regulations

CFDA
Provisions/Measures**

National Standards

*NPC: National People's Congress

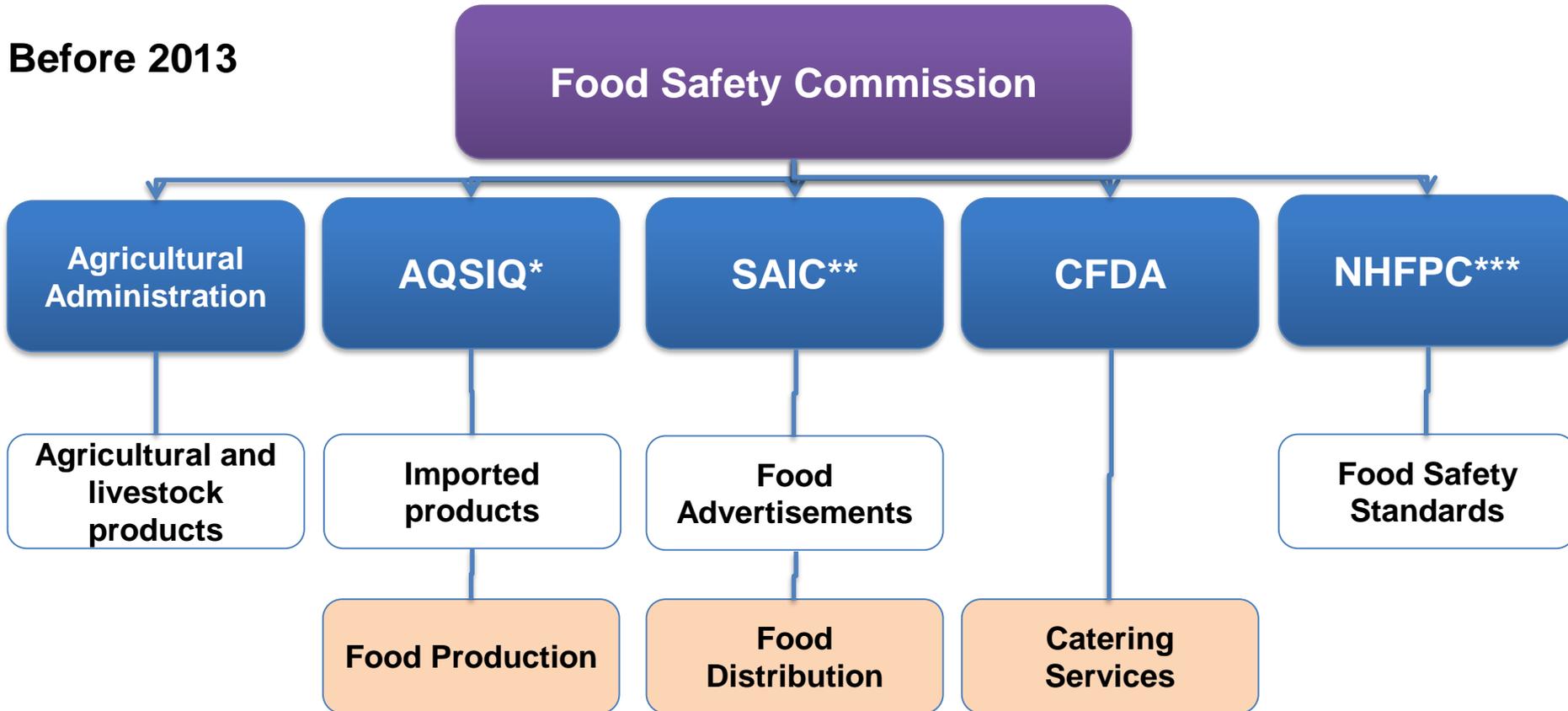
**CFDA: China Food and Drug Administration

Legal Framework

NPC Law	Food Safety Law
State Council Regulations	Regulations on the Implementation of the Food Safety Law
CFDA (Provisions/Measures)	Measures for the Administration of Food Production License
	Measures for the Administration of Food Trading License
	Measures for Routine Supervision and Inspection of Food Production and Trading Risks
	Measures for the Investigation on Food Safety Fraudulent Practices
	Provisions for the Administration of Food Labeling
	Measures for the Administration of Food Recall
National Standards	Administrative Measures for the Registration of Infant Formula Milk Powder Formulas
	On Packaging, Ingredients, Labeling, Food Additives

Regulatory Regime

Before 2013



Separated administration results into low efficiency

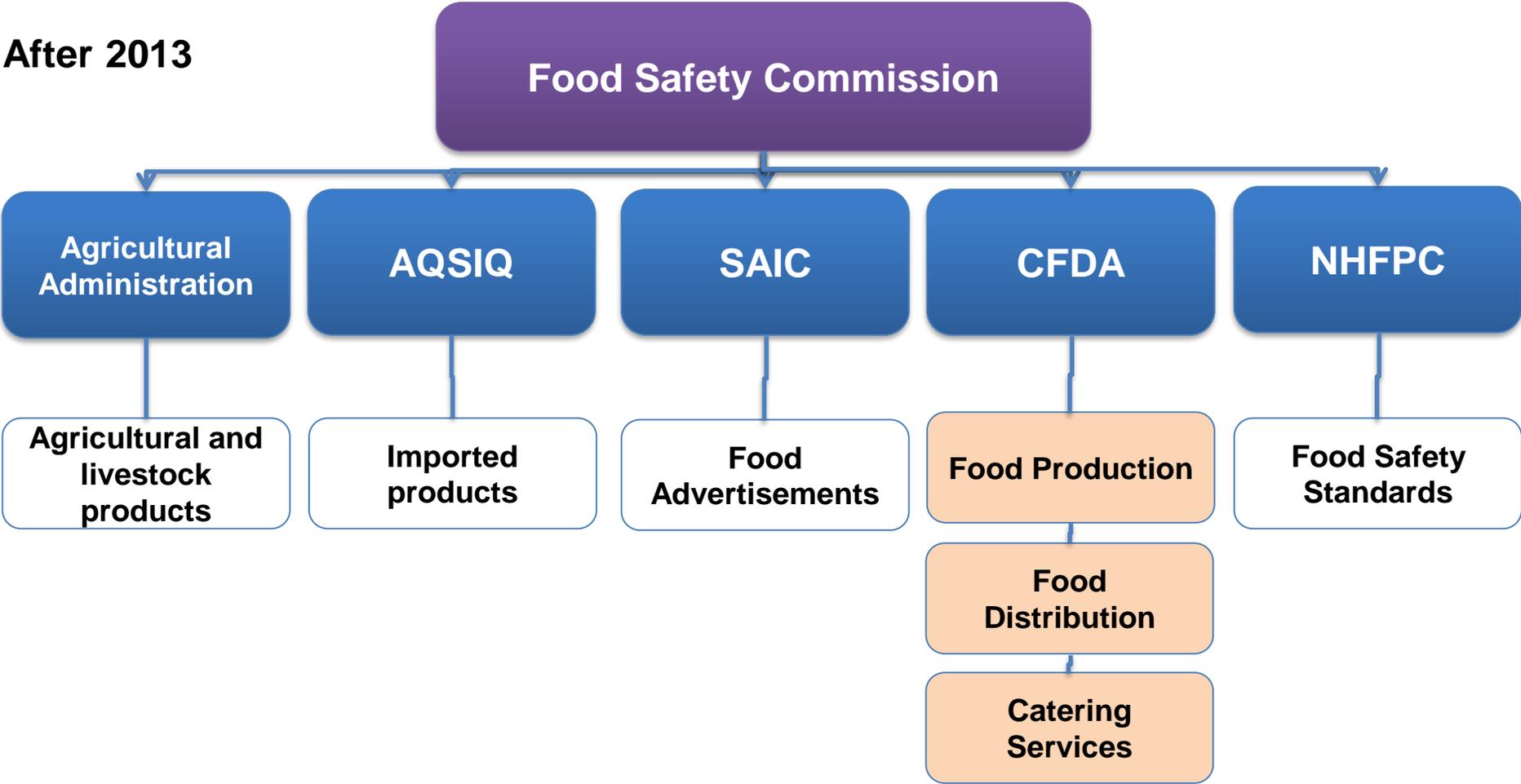
*AQSIQ: General Administration of Quality Supervision, Inspection and Quarantine

**SAIC: State Administration of Industry and Commerce

***NHFPC: National Healthcare and Family Planning Commission

Regulatory Regime

After 2013



Now consolidated under the sole purview of CFDA

License and Permits

		License/Permit Required	Approval Authority
Food Production Company		Food Production License	Local CFDA authorities
Food Trading Company		Food Trading License	Local CFDA authorities
Special Foods	Dietary supplements	Filing or Registration Certificate	CFDA
	Infant formula Milk Powder	Formula Registration Certificate	CFDA
	Formula foods for special medical purposes	Registration Certificate	CFDA

License and Permits

Infant Formula Milk Powder

- **Equal requirements for domestic and imported products**
a CFDA-issued formula registration certificate is needed when importing infant milk powder into the PRC
- **Limitations on formula quantities to avoid market disorder**
each producer shall, in principle, have no more than 9 product formulas under 3 formula series (each series includes 1, 2 and 3 stages)
- **False and exaggerated promotions on labels and instructions prohibited**
truthful and clear expressions as to the place of origin or country of the raw materials, instead of ambiguous expressions such as “imported milk”, “ecological pastures,” and “imported raw materials.”
- **Supervision through both formula registrations and production licensing**
supervision of infant milk powder by referring to the administrative measures for pharmaceuticals

Entry into China's Market

Set-up Business Presence: Manufacturing or Trading Companies

The Catalogue for the Guidance of Foreign Investment Industries (June 28th, 2017)”:

Only the purchase and wholesale of paddy, wheat and maize belong to the restricted category (negative list management), the manufacturing and sale of food and special equipment for food production are encouraged;

Importation and Distribution via Local Agents or Distributors

The Catalogue for the Implementation of Registration of Manufacturers of Foreign Imported Food (November 26th, 2015)

Food listed in the Catalogue can only be imported after its overseas manufacturer has successfully been registered.

Competent authorities: General Administration of Quality Supervision, Inspection and Quarantine + National certification and Accreditation Administration

Entry into China's Market

Sale to China's Consumers via Cross-Board E-commerce Platforms

- **Bonded Importation:** Currently there are 10 cross-border e-commerce pilot cities, the bonded import business can be practiced only in specific areas of the pilot cities.
- **Direct Mail Entry:** there are very few restrictions, consumers can purchase goods through foreign e-commerce platforms or their domestic subsidiary e-commerce platforms, then the goods will be shipped by foreign enterprises as personal package and entry into China as direct mail.

Penalties Against Violations

Civil Liabilities	<ul style="list-style-type: none">• First-to- pay rule : the party which first receives a request for compensation, either the manufacturer or the seller, has to compensate consumers for personal injuries or property damage due to product defects without avoiding any liability.• Punitive damages system: allows consumers to claim compensation of three times the loss suffered or ten times the product price.
Administrative Liabilities	<ul style="list-style-type: none">• Permanent denial of market entry: Any person who has been sentenced to a fixed-term of imprisonment or more severe punishment due to food safety crimes shall be permanently prohibited from engaging in food manufacturing or trading management activities, or serving in any food management positions in a food manufacturing or trading company.• Penalties: 20 to 30 times the product value
Criminal Liabilities	<ul style="list-style-type: none">• Production or sale of foods failing to comply with food safety standards(Criminal Law Article 143)• Production and sale of poisonous and harmful foods (Criminal Law Article 144) <p>3-7 fixed-term imprisonment, life imprisonment, fines or confiscation of property.</p>

Food Recall

- Administrative powers to recall unsafe food products were transferred from the State Administration of Quality Supervision, Inspection & Quarantine (“**AQSIQ**”) to **CFDA** in March 2013;
- Different from the original provisions issued by AQSIQ in 2007, which only regulate food manufacturers, the new Measures expand the regulatory scope to cover food product distributors, wholesalers, and retailers, including market owners, lessors of food operating counters, organizers of food exhibitions and third-party online food sales platforms;
- According to the severity and urgency of food safety risk: Class I recall, Class II recall and Class III recall. Class III food recalls only apply to food with incorrect or false labeling, marks or signs.
- Clear time limit requirements for food recalls, providing that Class I, II and III food recalls shall be initiated within 24, 48 and 72 hours and completed within 10, 20 and 30 working days, respectively;



Thank you!

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