

立法會
Legislative Council

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LegCo Panel on Food Safety and Environmental Hygiene

Minutes of Special Meeting
held on Thursday, 26 April 2001 at 10:45 am
in the Chamber of the Legislative Council Building

- Members Present** : Hon Fred LI Wah-ming, JP (Chairman)
Hon Tommy CHEUNG Yu-yan, JP (Deputy Chairman)
Hon David CHU Yu-lin
Hon WONG Yung-kan
Hon Jasper TSANG Yok-sing, JP
Hon LAU Kong-wah
Hon SZETO Wah
Hon LAW Chi-kwong, JP
Hon Michael MAK Kwok-fung
Dr Hon LO Wing-lok
Hon WONG Sing-chi
- Members Absent** : Hon Albert HO Chun-yan
Hon SIN Chung-kai
Hon James TO Kun-sun
Hon CHAN Yuen-han
Dr Hon YEUNG Sum
Hon YEUNG Yiu-chung
Hon TAM Yiu-chung, GBS, JP
Hon Abraham SHEK Lai-him, JP
Hon IP Kwok-him, JP
- Public Officers Attending** : Miss Sarah WU
Deputy Director of Food and Environmental Hygiene
(Environmental Hygiene)

Mr W H CHEUK
Assistant Director (Headquarters)
Food and Environmental Hygiene Department

Attendance by Invitation : Estate Restaurant (Hong Kong) Merchants Association

Mr CHAN Cheung-chor

Chiu Chow Overseas Food Trade Merchants Association

Mr CHEUNG Sing-hung

Association of Restaurant Managers Limited

Mr CHING Kee

Hsin Kuang Restaurant (Holding) Limited

Mr WOO Chu

Hong Kong Catering Industry Association

Mr WONG Yiu-hung

Lucky House Restaurant Group Limited

Mr KO Cheuk-kuen

Kowloon City Merchant Association

Mr Anthony CHEUNG

Hong Kong Federation of Restaurants and Related Trades

Mr NG Tak-leung

Hong Kong Tourism Board

Mr Dick Kaufman

Lan Kwai Fong Association

Mr Richard Feldman

Clerk in Attendance : Mrs Constance LI
Chief Assistant Secretary (2)5

Staff in Attendance : Ms Joanne MAK
Senior Assistant Secretary (2)2

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- I. Administration's consultation paper on the inspection and categorization of food establishments**
(LC Paper Nos. CB(2)757/00-01(01), CB(2)918/00-01 and CB(2)1371/00-01(01))

Meeting with deputations

The Chairman welcomed representatives of the 10 deputations to the meeting. At the Chairman's invitation, the deputations presented their views on the Administration's consultation paper on the inspection and categorization of food establishments issued in January 2001.

Estate Restaurant (Hong Kong) Merchants Association

2. Mr CHAN Cheung-chor of Estate Restaurant (Hong Kong) Merchants Association made the following points -

- (a) He did not support the proposed Hygiene Manager and Hygiene Supervisor Scheme as these posts would only duplicate the responsibilities of the licensee and restaurant manager;
- (b) The Open Categorization Scheme (OCS) was unnecessary as it had a labelling effect on food establishments. Since the food

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establishment was already granted a licence, the grading under OCS would give confusing message to the public;

- (c) He supported the improvements to the inspection system and welcomed constructive advice to be given by health inspectors during inspection; and
- (d) He supported the proposed Demerit Points System particularly the proposal that the trade should be offered an option to have the accrued demerit points set aside if they had carried out the required improvements within the specified period. However, he opined that the proposal should be more detailed to reduce any misunderstanding and unnecessary breaches.

Chiu Chow Overseas Food Trade Merchants Association

3. Mr CHEUNG Sing-hung of Chiu Chow Overseas Food Trade Merchants Association supported the proposed improvements to the inspection system that inspections would be less frequent but more comprehensive and thorough. He also welcomed the strengthening of health education for food operators at the end of each inspection. He considered that education was more appropriate than policing.

Association of Restaurant Managers Limited

4. Mr CHING Kee of Association of Restaurant Managers Limited objected to the introduction of Hygiene Manager and Hygiene Supervisor as their duties were already being carried out by the licensee or restaurant manager. He considered that the proposal would only increase the operation cost. He also objected to the OCS because the licensee should have complied with all the licensing requirements of the Food and Environmental Hygiene Department (FEHD) when a licence was granted. The OCS would only convey confusing messages to the public. He also considered it unfair that the OCS should start with the food business industry. However, he supported the proposed improvements to the inspection system and the Demerit Points System, and suggested that there should also be an appeals mechanism.

Hsin Kuang Restaurant (Holding) Limited

5. Mr WOO Chu of Hsin Kuang Restaurant (Holding) Limited made the following points -

- (a) He objected to the introduction of Hygiene Manager and Hygiene Supervisor as their duties might overlap those of restaurant managers and would add costs to small-scale food businesses. He

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also expressed concern about the legal responsibilities of the Hygiene Manager, their qualifications, and the arrangements if the Hygiene Manager was on leave.

- (b) On the Demerit Points System, he welcomed the proposal that the accrued demerit points could be set aside if the operator had carried out improvements. He proposed that three points, instead of five, should be deducted for conviction of an offence, and that it should only apply to offences related to food safety and health hazard. Minor violations not related to food hygiene, such as broken tiles, should not be included.
- (c) He did not support the OCS as the food establishments were already licensed and under constant monitoring. He was concerned that assessments carried out during different hours might give rise to different gradings.
- (d) As the rate of food-borne diseases in Hong Kong was relatively low as compared to other cities, the frequency of inspections should be reduced. Health education was preferred to penalty.

Hong Kong Catering Industry Association

6. Mr WONG Yiu-hung of Hong Kong Catering Industry Association said that while he supported a reform of the present system, he objected to the introduction of Hygiene Manager and Hygiene Supervisor because it would only duplicate the duties of existing staff, increase operation costs and create ambiguities in their responsibilities. He also objected to the OCS which would have a labelling effect on food establishments. However, he agreed that the frequency of inspections could be reduced and welcomed advice for improvements by the health inspectors. He also welcomed the improvements to the Demerit Points System which should confine to those violations which were related to food safety and health hazard. For other minor offences relating to repair and maintenance, a penalty scheme similar to that for minor traffic offence should be adopted.

Lucky House Restaurant Group Limited

7. Mr KO Cheuk-kuen of Lucky House Restaurant Group Limited shared the views of some other deputations that the introduction of Hygiene Manager and Hygiene Supervisor would duplicate the duties of the licensee, increase operation costs and add difficulties to the operation of food businesses. He also objected to the OCS because it would have serious impact on the trade. He pointed out that the conditions of a food establishment might vary during different hours, and the assessments might not be fair or accurate. However, he

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supported the proposals on the inspection system and welcomed more advice to be given by the health inspectors for the improvement of the hygiene conditions of food premises. He emphasized that inspections should not be carried out during peak business hours because it would add pressure on the food business staff. As for the Demerit Points System, he agreed with the other deputations that only those offences related to food safety and health hazard should attract demerit points.

Kowloon City Merchant Association

8. Mr Anthony CHEUNG of Kowloon City Merchant Association agreed with other deputations that the proposed Hygiene Manager and Hygiene Supervisor were unnecessary because the licensee was already performing similar duties. He said that the licensee had attended training courses run by FEHD and was able to perform the monitoring role satisfactorily. Mr CHEUNG also considered that the proposed OCS was unfair to the food business industry as other trades were not subject to a similar categorization system. He held the view that the current inspection and penalty systems were already sufficient.

9. Mr CHEUNG expressed support for the proposals on the inspection system and welcomed more advice to be given by health inspectors. He said that the Administration should have more discussion with the trade to further improve the hygiene standard. As regards the Demerit Points System, Mr CHEUNG said that the proposals were acceptable but certain minor offences not related to food hygiene should be subject to a fine rather than demerit points. He urged the Administration to further discuss the details with the trade.

Hong Kong Federation of Restaurants and Related Trades

10. Mr NG Tak-leung, Chairman of Hong Kong Federation of Restaurants and Related Trades said that while he would support reforms that would assist the trade, he opposed the OCS because it would have adverse impact on those employees working in a poorly graded food establishment. These employees would then have difficulties to find new jobs. The OCS would also have negative impact on Hong Kong's reputation as a gourmet paradise and discourage investment from overseas. He considered that it would be more useful to provide training to employees of the trade as some of them were new immigrants who were not acquainted with Hong Kong's food hygiene standards.

11. Mr NG further said that the inspection system and the Demerit Points System should be carefully examined before implementation. He objected to the proposal that the demerit points should be doubled for a repeated offence.

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It would be necessary to define clearly the situations where points should be deducted. As for the duration of inspection, it should be flexibly adjusted according to the hygiene conditions of individual food establishments. Mr NG also requested extension of the consultation period so that the trade could work out a detailed submission on the consultation paper for the Administration's consideration.

Hong Kong Tourism Board

12. Mr Dick KAUFMAN of Hong Kong Tourism Board said that his views did not necessarily represent that of the Hong Kong Tourism Board. Mr KAUFMAN pointed out that the current system was generally effective, as evidenced by the relatively few food incidents in Hong Kong. Nevertheless, he welcomed any improvements that would raise the hygiene standard and food safety awareness of the trade. He generally agreed to the role of the Government as described in paragraph 2.2 of the consultation paper, except the role to provide consumers with information on the hygiene standard of licensed food establishments. He considered that consumers relied to a large extent on the existing licensing and inspection system which was to ensure that all licensed food establishments met the prescribed hygiene standards. As regards the OCS, he considered that it was not workable, confusing and did not serve to better inform the public and tourists. However, the other suggestions on hygiene management and the supervisory scheme had merits and should be further explored. He said that the Demerit Points System was a successful scheme except that the actual inspection time at each food establishment had not been taken into consideration.

Lan Kwai Fong Association

13. Mr Richard FELDMAN objected to the Administration's proposal because improving the hygiene standards of Hong Kong's food industry could not be achieved by grading the food establishments but by education. He pointed out that the current system was working very well. There were few outbreaks of food incidents which were caused by the source of food rather than contamination at the food establishments. He was worried that grading the industry at regular intervals would create tremendous pressure on the industry, and the scheme could give rise to higher risks of corruption as operators would want to obtain a high grade for their food establishments. He considered that as far as food safety was concerned, the food was either safe or unsafe and there was no point of grading it. Mr FELDMAN also said that while the Administration had always stressed the importance of education on food hygiene, food hygiene education had not been included in the proposal. He did not consider that education could be achieved by surprise visits to the food premises. He suggested that educational visits should be scheduled so that both the management and staff of the food premises could attend.

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14. Mr FELDMAN further said that if the proposed OCS was to be implemented, Government would have difficulties to defend why certain food premises which were given a low grade could continue to operate with a licence. He also commented that the current inspection visits did not place sufficient emphasis on assessing food safety in a scientific way, such as checking the temperature of food which required cold storage. He considered that a self-regulatory system with fewer inspections would put public health at risk. He supported frequent inspections but such inspections should be educational rather than punitive in nature.

15. On the Demerit Points System, Mr FELDMAN said that the existing system was effective as demonstrated by the statistics of persecutions taken by the Administration in the past, and no change was required. He considered it more important that the health inspectors were properly trained to assist the trade to enhance the standard of food hygiene, rather than to grade the establishments.

Discussion

16. Dr LO Wing-lok sought clarification on the responsibilities of the licensee and managers of a food establishment in staff training and reporting to health inspectors. Mr CHAN Cheung-chor responded that while the licensee could appoint managers to assist in staff training and hygiene management, the licensee was ultimately responsible for all matters relating to the food establishment. Mr NG Tak-leung said that part of the duties of the proposed Hygiene Manager overlapped those of the licensee and the managers who were responsible for staff training and reporting to health inspectors.

17. Mr David CHU shared the deputations' concerns that the Administration should focus on raising the hygiene standards through education. He noted that the deputations did not object to the proposed improvements to the inspection system and the Demerit Points System. Mr CHU said that the proposal of introducing a Hygiene Manager would add costs to the trade, and he did not agree that there should be too much government intervention in the internal management of a private business. He also agreed with Mr FELDMAN that it would not be appropriate to give ratings on food safety.

18. Mr LAU Kong-wah sought clarification from Mr FELDMAN on how the proposed grading system would contradict the objective of raising hygiene standard. He said that if consumers chose to patronize the highly-graded restaurants, those of a lower grading would be eager to improve their standards. Mr FELDMAN responded that he fully supported the principle of raising the hygiene standards in the food industry but no incentive was provided in the proposal. He considered that the concept of grading food establishments

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according to their hygiene standards did not make any sense because food was either safe or unsafe. Moreover, the Administration's proposal also failed to recognize the dynamic nature of the hygiene conditions in a food establishment. Mr FELDMAN was of the view that the OCS did not have scientific merit and the public would not understand why a licensed restaurant would have a low grade in food hygiene. He added that the subjectivity of the grading system stemmed from the nature of inspection which was only a snap-shot of the hygiene conditions of a restaurant graded at a particular time.

19. Mr LAU Kong-wah commented that the proposed OCS would provide incentives for a restaurant to improve its hygiene conditions in order to have a good grading and attract more customers. He considered that the grading could provide more information to customers to facilitate them making the choices. Mr LAU pointed out that consumers only needed to know the overall hygiene standard of the food establishment but not the scientific details. He hoped the industry could give more views on the formulation of an objective indicator.

20. Mr KAUFMAN considered that the public only wanted to know whether a restaurant was safe to eat in. If a restaurant was open, it meant that the restaurant got a licence and complied with all the necessary requirements and was therefore safe to eat in. Mr CHEUNG Sing-hung said that the trade adopted a positive attitude and supported the Administration's proposal as a whole, except the OCS and the appointment of Hygiene Manager. He shared the view that the hygiene standard of a food establishment should be considered acceptable if it was granted a licence by FEHD. It was the customers' choice to patronize a particular food establishment having regard to the type of food and price range, etc. He said that even a highly graded restaurant might not be able to maintain a high standard at all times.

21. Mr WONG Yung-kan noted that the deputations were in support of raising hygiene standards but objected to the introduction of Hygiene Manager. He asked whether the deputations had other suggestions to ensure the hygiene standard of food establishments if inspections were conducted less frequently.

22. Mr WONG Yiu-hung explained that at present, the licensee and three appointed managers were responsible for ensuring the hygiene standards of a restaurant. All of them possessed knowledge in food hygiene and they coordinated all operational and training matters. It was therefore not necessary to appoint a Hygiene Manager. He considered that the OCS would only embarrass the Administration if food incidents occurred in highly-graded restaurants. Mr FELDMAN added that it would be difficult to formulate objective standards for the grading system. He said that the hygiene conditions of some five-star hotels were also unacceptable.

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23. Mr LAU Kong-wah pointed out that a restaurant could be downgraded any time if they could no longer meet the standard and if food-borne disease did occur. Referring to Mr KAUFMAN's comments, Mr LAU considered that not all licensed restaurants were of the same hygiene standard, and that their licence could be revoked or suspended if their hygiene conditions were unsatisfactory.

24. Mr KAUFMAN reiterated that if a restaurant was licensed, it should be safe to eat in. If it was not safe to eat in, it should not be licensed and should be closed.

25. The Chairman thanked representatives of the deputations for their views.

Meeting with the Administration

26. Deputy Director of Food and Environmental Hygiene (Environmental Hygiene)(DD(EH)) made the following points in response to views expressed by the deputations -

- (a) A licence would be granted if the food establishment could satisfy the relevant fire safety and building requirements. As for food safety and hygiene, the source of food, food preparation, food storage and the general hygiene conditions would be subject to regular monitoring and inspection by health inspectors;
- (b) The OCS was proposed in view of the strong request of customers that the previous "5-star" grading scheme should be retained with improvements. The system would be fair, open and based on objective standards. The grading would be made based on continuous assessments in six months, and was subject to review and adjustments; and
- (c) It would not be necessary to create a new post of Hygiene Manager and Hygiene Supervisor if the existing staff of the food establishment could perform such duties. The Administration intended to offer training to employees of the small-scale food establishments to enhance their knowledge in food hygiene.

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DD(EH) said that the Administration welcomed views from the trade on ways to improve the practicability, fairness and the scientific basis of the proposals in the consultation paper.

27. Referring to a survey conducted by the Democratic Party, Mr WONG Sing-chi said that over 40% of the respondents considered that hygiene was the most important factor in their decision of patronizing a food establishment. Only 6% of the respondents considered other factors, such as price, the most

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important. The survey revealed that grading the food establishments according to their hygiene standards could enhance customer information and was necessary. To address the deputations' concerns, he suggested that scientific standards should be devised for the OCS to enhance its accuracy and fairness. It was also desirable to introduce more than two grades for the OCS. However, Mr WONG said that he did not support the proposal of reducing the frequency of inspections because making an inspection visit would have the effect of reminding the food establishments of the need to maintain the hygiene standards. He suggested that the Administration should explore the feasibility of maintaining the current frequency of inspections with re-deployment of resources.

28. Mr WONG Sing-chi added that it was necessary to designate a staff member of a food establishment to perform the role of Hygiene Manager, so that the designated employee would be held responsible for the hygiene standard of the food establishment. He also considered that objectivity of the grading could be achieved with training provided to health inspectors.

29. Mr Jasper TSANG said that unlike the star-grading for hotels which were assessed according to the facilities provided, the OCS was to grade the food establishments according to their hygiene standards which were rather dynamic. He sought clarification from the Administration on the message it wanted to convey to consumers by the OCS, i.e. whether the consumers were encouraged to patronize only highly-graded restaurants or whether the consumers should be responsible for their decision of patronising the lowly-graded ones. He also enquired about the action to be taken if a restaurant was not given any grading under the OCS.

30. DD(EH) explained that it would be the consumers' choice whether to patronize a particular food establishment. The OCS would grade the establishments according to their food safety and hygiene conditions and not for food quality or reasonableness of price. The grading was to convey the message that a restaurant had attained a certain hygiene standard based on assessments on the food handling process and the general hygiene conditions.

31. Mr LAU Kong-wah asked about the Administration's response to the deputations' comments that the OCS lacked a scientific basis. He also enquired about the target or objective for introducing the OCS. DD(EH) responded that the OCS would be based on 59 indicators, and 18 of which were already covered by the current inspections. More indicators had been proposed for inclusion in the OCS to cater for different food businesses. The Administration would welcome views of the trade on how to improve the scientific basis of these indicators. Moreover, training for health inspectors would be strengthened, and appropriate inspection tools, e.g. thermometer for measuring food temperature, would be provided for inspectors. DD(EH) further said that

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the OCS was to promote food safety. The OCS aimed at providing an evaluation of the performance of food establishments in the last six months. They could be down-graded if food incidents were discovered afterwards or if there were convictions of offences.

32. Mr Tommy CHEUNG shared with members his experience in visiting the health authorities in Toronto and the Orange County in Los Angeles. He said that both cities had abolished the grading system. In Toronto, a three-grade system was adopted and the food operators there were required to attend a training course every three years at a cost of about CAN\$40. In Orange County, inspections were carried out every four months; while inspections in Hong Kong were made much more frequently. He considered that a grading system was not necessary for a place such as Hong Kong where frequent inspections were being conducted on food establishments.

33. Mr CHEUNG shared the deputations' concern about the lack of scientific basis in grading the food establishments. He said that different health inspectors might come up with different assessments as there was an element of subjectivity in applying the standards. He doubted the effectiveness of the OCS in providing accurate information to consumers. Regarding the proposed Demerit Points System, Mr CHEUNG agreed with the trade's suggestion that only those offences related to food safety should be included, and that the minimum demerit points should be three instead of five. Mr CHEUNG also urged the Administration to strengthen education on food operators by health inspectors. In this connection, he informed members that the health inspectors in Los Angeles devoted 50% of their working time to educating the food operators.

34. Mr David CHU suggested that the proposal of appointing a Hygiene Manager should be made optional to the trade. He also suggested that an incentive scheme should be put in place to reward the top 5% of food establishments with the best grading results.

35. Dr LO Wing-lok considered that the standards used for grading a food establishment should be based on the degree of risk for eating in a food establishment. There should be a lower risk for eating in the food establishment which had complied with all the requirements. He expected that scientific standards would emerge after the OCS had been implemented for some time. To ensure consistency in enforcement by health inspectors, Dr LO suggested that the Administration should discuss with the trade the indicators for the OCS. Dr LO also asked about the Administration's response on the possibility of corruption arising from the grading system.

36. Assistant Director (HQs) of Food and Environmental Hygiene Department (AD(HQ)) responded that corruption prevention measures had

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already been built into the current inspection system. Health Inspectors were given assignments each day to ensure that they would not have prior knowledge of their assignments, and to prevent them from getting too familiar with any particular food establishment. The Administration would further consult the Independent Commission Against Corruption on the corruption prevention aspects of the proposal.

37. AD(HQ) further said that food establishments could not be classified solely on the basis of being safe or unsafe to eat in. He said that a food establishment would be granted a licence if it complied with the basic building and fire safety requirements. A licensed restaurant was not necessarily one that was safe to eat in. Moreover, there were grey areas between "safe" and "not safe" and the purpose of the OCS was to provide consumers with information on the hygiene conditions of the food establishments. The OCS could also enhance positive competition among restaurants not only in food quality and price, but also in food safety and hygiene conditions. As regards unlicensed food premises and food establishments which posed immediate health hazard, a proposal was being made to simplify the procedures for ordering closure of the premises concerned.

38. On the appointment of Hygiene Manager, AD(HQ) expressed doubt that many of the existing personnel of food establishments possessed the qualifications required for performing the duties of a Hygiene Manager. The Administration considered it reasonable that a Hygiene Manager of a restaurant with at least 100 seating capacity should have attended a 16-hour to 20-hour training course. The training cost would be around HK\$800 - \$1,300. He said that the restaurant did not need to recruit additional staff to be the Hygiene Manager but the employee designated to perform the duties of Hygiene Manager was required to attend a training course. He added that although the trade emphasized that the hygiene conditions were being monitored by the licensees and the managers, the hygiene standard of some food premises were not satisfactory. In the past three years, there were 800 food incidents affecting 4000 people, of these, 370 incidents occurred last year. As there was no indication that the number of food incidents would decrease, it was necessary to promote food safety by introducing new policies.

39. Dr LO Wing-lok agreed that restaurants could not only be classified as 'safe' or 'not safe to eat in', because even the safest ones could have food incidents too. The purpose of the OCS, therefore, was to measure the degree of risk. He said that food poisoning ranked top on the reports of infectious diseases in past years. Mr WONG Sing-chi considered that the Administration was applying the concept of total quality management and would derive the OCS based on scientific standards. He pointed out that the service quality standard adopted by the Social Welfare Department consisted of four principles, 19 standards and 79 indicators, which were much more than those

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proposed for the OCS. He stressed that the OCS was to provide restaurants with a standard procedure to reduce any risk in food safety. He suggested that the Administration should further discuss with the trade the implementation details to ensure that the indicators were relevant and necessary. Mr David CHU said that while he appreciated that the OCS would enhance consumer information, he had reservations about the usefulness of such information, as it might cause confusion and misunderstanding.

40. The Chairman commented that the survey conducted by the Democratic Party was a comprehensive one. The survey showed that 42.6% of the respondents had greatest concern for the hygiene conditions of food establishments while only 37% were concerned about food quality. Moreover, 72% of the respondents supported grading restaurants according to their hygiene standards. He said that Members belonging to the Democratic Party were in support of the OCS proposal. He pointed out that the Hygiene Manager did not require additional staff, as existing staff could be designated to take up such duties and to receive necessary training. As regards the Demerit Points System, he advised the Administration to consider the trade's suggestions that only those offences related to food safety should be subject to the demerit points system while other offences could be dealt with by fines.

II. Any other business

41. There being no other business, the meeting ended at 1:00 p.m.

Legislative Council Secretariat
14 June 2001