

立法會
Legislative Council

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by the Administration)

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Legislative Council
Panel on Economic Services

Minutes of meeting held on
Monday, 27 May 2002, at 10:45 am
in the Chamber of the Legislative Council Building

Members present : Hon James TIEN Pei-chun, GBS, JP (Chairman)
Hon Kenneth TING Woo-shou, JP
Hon Eric LI Ka-cheung, JP
Hon Fred LI Wah-ming, JP
Hon Mrs Selina CHOW LIANG Shuk-ye, JP
Hon CHEUNG Man-kwong
Hon HUI Cheung-ching, JP
Hon CHAN Kam-lam
Hon SIN Chung-kai
Hon Jasper TSANG Yok-sing, JP
Hon Howard YOUNG, JP
Hon LAU Chin-shek, JP
Hon Miriam LAU Kin-ye, JP
Hon CHOY So-yuk
Hon Henry WU King-cheong, BBS

Non-Panel Members attending : Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Hon Michael MAK Kwok-fung

Members absent : Dr Hon LUI Ming-wah, JP (Deputy Chairman)
Dr Hon David LI Kwok-po, GBS, JP
Dr Hon Philip WONG Yu-hong

**Public officers
attending**

: Agenda Item IV

Economic Services Bureau

Ms Sandra LEE
Secretary for Economic Services

Ms Miranda CHIU
Deputy Secretary for Economic Services

Ms Irene YOUNG
Principal Assistant Secretary for Economic Services

Health and Welfare Bureau

Miss Angela LUK
Principal Assistant Secretary for Health and Welfare

Department of Health

Mrs Mary CHAN
Acting Chief Pharmacist, Department of Health

**Attendance by
invitation**

: Consumer Council

Mrs CHAN WONG Shui
Chief Executive

Ms LAU Ying-hing
Head, Research and Survey Division

Beauty Care and Hairdressing Training Board,
Vocational Training Council

Ms CHENG Ming-ming
Chairlady, Beauty Care and Hairdressing Training Board

Mr Nelson IP Sai-hung
Member, Beauty Care and Hairdressing Training Board

The Cosmetic and Perfumery Association of
Hong Kong Ltd

Mr Homer YU
Honorary Life President

Mr Jacky CHOI
President

Clerk in attendance : Mr Andy LAU
Chief Assistant Secretary (1)2

Staff in attendance : Miss Anita HO
Assistant Legal Adviser 2

Ms Debbie YAU
Senior Assistant Secretary (1)1

I Confirmation of minutes and matters arising

(LC Paper No. CB(1)1711/01-02 - Minutes of meeting held on 20 February 2002; and
LC Paper No. CB(1)1692/01-02 - Minutes of meeting held on 20 March 2002)

The minutes of the meetings held on 20 February 2002 and 20 March 2002 were confirmed.

II Information papers issued since last meeting

(LC Paper No. CB(1)1654/01-02(01) - Tables and graphs showing the import and retail prices of major oil products from April 2000 to March 2002 furnished by the Census and Statistics Department; and
LC Paper No. CB(1)1789/01-02(01) - Review of Travel Agents Ordinance (Cap. 218))

2. Members noted the above information papers issued since last meeting.

III Items for discussion at the next meeting scheduled for 24 June 2002

(LC Paper No. CB(1)1775/01-02(01) - List of outstanding items for discussion; and
LC Paper No. CB(1)1775/01-02(02) - List of follow-up actions)

3. Members agreed to discuss the following items at the forthcoming meeting to be held on 24 June 2002:

(a) Development of helicopter industry in Hong Kong; and

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- (b) Proposed Airport Authority (Permitted Airport-Related Activities) Order.

(Post-meeting note: The Administration subsequently advised that the consultancy study concerning the development of helicopter industry in Hong Kong was still in progress and they were not ready to brief members on its findings within this legislative session.)

4. Members also agreed that the Administration should be invited to brief the Panel on the work of the Hong Kong Logistics Development Council in due course.

IV Regulation of beauty products and services provided by beauticians

- (LC Paper No. CB(1)1821/01-02(01) - Submission from Hon Fred LI dated 21 May 2002;
LC Paper No. CB(1)1775/01-02(06) - Information paper provided by the Administration; and
LC Paper No. CB(1)1829/01-02(01) - Submission from Wella Hong Kong Limited)

5. Referring to his submission circulated vide LC Paper No. CB(1) 1821/01-02(01), Mr Fred LI called on the Administration to introduce new regulatory measures to enhance the safety of beauty products for better protection of consumer interest. He expressed dissatisfaction about the inaction on the part of the Administration. In contrast to the Administration's claim that the arrangement for regulating beauty products and services in overseas countries were varied and sundry, many economies such as the United States, the United Kingdom, Japan and the Mainland had adopted independent regulatory framework for beauty products/services and imposed a mandatory labelling system for beauty products. However, in Hong Kong, beauty products were regulated only as other consumer goods under the Consumer Goods Safety Ordinance (CGSO) and needed only to satisfy a "general safety requirement". Mr LI stressed that he was not calling for a system of pre-approval registration of beauty products as such but considered that a new legislation for a mandatory labelling system for beauty products would enable consumers to make an informed choice. While acknowledging that the chemical expressions of certain ingredients stated in labels were hardly meaningful to the general public, they would be extremely useful in helping the medical professionals to trace the chemicals in case major incidents affecting public health happened. Besides, labelling facilitated enforcement actions as the importer concerned might be held liable if the labels contained inaccurate information.

6. The Chairman invited the deputations to give their views.

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Consumer Council

[LC Paper No. CB(1)1775/01-02(03)]

7. Mrs CHAN WONG Shui, the Chief Executive of the Consumer Council (CC) suggested that the Administration should consider introducing new regulatory measures to enhance the safety of beauty products. As an immediate measure, CC proposed that the Administration should set out, under the CGSO, the safety requirements of beauty products with a view to protecting consumers from the use of hazardous substances contained therein. CC believed that the introduction of the proposed measure would not increase the burden on the enforcement authority as it had already been taking action along the same line. CC also believed that the proposed measure would be welcomed by the trade, as the safety standards provided certainty, and transparency to Government's enforcement action.

8. As a long-term measure, CC proposed that the Administration should also consider introducing a mandatory labelling system for beauty products under the CGSO. Details of the scheme could be further examined in collaboration with the interested parties. CC believed that if the requirements were limited to essential information and implemented by stages, the minimal additional costs would well be compensated by enhanced consumer confidence on the safety aspect of such products.

9. On beauty services, CC supported the implementation of trade test for the beauty care sector developed by the Beauty Care and Hairdressing Training Board.

Beauty Care and Hairdressing Training Board, Vocational Training Council

[LC Paper No. CB(1)1775/01-02(04)]

10. Ms CHENG Ming-ming, Chairlady of Beauty Care and Hairdressing Training Board, Vocational Training Council (BCHTB/VTC) supported in principle the introduction of a labelling system whereby related information, including ingredients and identity of the importer or local distributor of products should be made known to consumers at the time of purchase. BCHTB/VTC also agreed to the introduction of a licensing system on beauticians and was working on a voluntary trade testing system with a view to establishing a recognized qualification framework. This would help the development of a regulatory or licensing system for the beauty care industry in the long run.

The Cosmetic and Perfumery Association of Hong Kong Ltd

[LC Paper No. CB(1)1775/01-02(05)]

11. Mr Homer YU, the Honorary Life President of the Cosmetics and Perfumery Association of Hong Kong Ltd. (CPA HK) tabled his speaking note and the revised submission from the Association. He said that the majority of the cosmetic importers and traders in Hong Kong were multi-national corporations and professional bodies which provided high quality products and services to consumers. The recent problem

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was caused by the influx of inexperienced and quick profiteering traders who wished to make profit overnight. The result was a flood of unknown products with exaggerated efficacy in the market. Whilst the trade was not objecting to the imposition of a mandatory labelling system for beauty products, the proposal should be further examined, taking into account the nature of the existing problem, and the cost and benefit to the trade. He stressed that in addition to formal regulation by the Administration, industry self-regulation played an important role in consumer protection. To this end, CPAHK suggested that the Administration should provide further assistance to facilitate the trade to draw up guidelines for monitoring purposes.

(Post-meeting note: The speaking note (Chinese version only) and the revised submission from the Association (English version only) were circulated to members vide LC Paper No. CB(1)1859/01-02(01).)

Labelling requirements of beauty products

12. Mr Fred LI reiterated the need to introduce new regulatory measures for beauty products to enhance consumer protection. Since the recent mercury incidents involved expensive models of beauty cream, the price of products could no longer guarantee the quality and safety of beauty products.

13. Mrs Selina CHOW considered that stipulating the labelling requirements could not eliminate all health risks associated with beauty products because the average consumers might not have any idea about the substances listed in the labels. Under the existing legislation, the Customs and Excise Department (C&ED) was already empowered to take enforcement actions against those beauty products violating the safety standards. Whilst there might be areas of uncertainty in existing legislation relating to safety standards, she had initiated discussions with C&ED and the trade to improve the situation.

14. In view of the gloomy economy, Mr HUI Cheung-ching opined that further legislation intervening free trade and reducing business opportunities should be avoided. He also pointed out that the present actions taken by CC already served as a proper safeguard for consumers.

15. Mr Kenneth TING also said that efforts should be directed to study measures in enhancing enforcement under the CGSO instead of introducing a labelling system which might not solve the problem at all.

16. Mr YU of CPAHK said that products manufactured in the United States, Japan and European Union countries were already subject to stringent standards and control. As a means to boost selling, manufacturers and importers had already put in place labels and instructions for use in multiple languages to help consumers make an informed choice. Mr Jacky CHOI, the President of CPAHK added that at present, more than 90% of beauty products in the market were labelled with information like

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instruction for use, ingredients and country of origin. In his opinion, the problem revealed recently was caused by dishonest traders taking advantage of the inadequacy of the surveillance system for beauty products. These few dishonest traders might exaggerate the efficacy of products or boost the weighting of certain substances contained in the products to mislead consumers. They might even not follow the safety limits of certain substances contained in beauty products so as to boost the short-term efficacy of products. In the recent cases of facial creams with high mercury content, both products had clear labels of ingredients. As such, mandatory labelling system could not solve the problem.

17. The Secretary for Economic Services (SES) clarified that the Administration had never made a claim that the price of a product would reflect its quality.

18. Regarding the need for a mandatory labelling system for beauty products, SES said that there was no compelling health and safety reasons to impose further regulatory control on beauty products. Where these products fell under the definitions of food or pharmaceutical products, elaborate systems of safety control already existed under existing legislation. For other beauty products, existing provision under the CGSO should provide appropriate cover. Whilst it might have certain advantages, a labelling system, which required stating the ingredients of the product, could not be expected to eliminate all health risks associated with beauty products. Listing the ingredients of a product might help consumers stay away from certain ingredients if they so wished, but precedents indicated that it was not the labelled ingredients or intended content of the product that gave rise to health risk: the problem arose from impurities or ingredients that should not have appeared in the product in the first instance. Likewise, information on the name and address of the importer would not be useful for consumers who were dissatisfied with the product, as normally it was the retailer, rather than the importer, that a consumer would turn to. Such a labelling requirement might also work against consumer interest as it might deter parallel import, thereby limiting the choices to consumers at competitive prices, and the costs to the trade would inevitably be passed on to consumers.

19. The Principal Assistant Secretary for Health and Welfare also explained that beauty products would be regulated as pharmaceutical products under the Pharmacy and Poisons Ordinance (PPO) if they contained substances which were defined as pharmaceutical products or made medicinal claims as stipulated in the PPO. These products must first be registered with the Pharmacy and Poisons Board (PPB) before they could be manufactured or sold in Hong Kong. In considering an application for registration, PPB would take into account the safety, efficacy and quality of the product concerned. In accordance with PPO, product labels should contain, among other things, the name and quantity of each active ingredient, expiry date, dosage, route and frequency of administration and warnings as appropriate.

20. Mr Fred LI was unconvinced of the Administration's reply. He was gravely concerned that notwithstanding the prevailing overseas practices, the Administration

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was not willing to introduce a labelling system for beauty products to enhance consumer protection. He cautioned that without a labelling system, the existing problem would prevail.

21. SES remarked that whilst different countries might have different legislation to suit their own local circumstances, there was no need for Hong Kong to adopt all overseas legislation for local implementation. Beauty products, like other products, were already regulated under the PPO if they contained substances which were defined as pharmaceutical products or made medicinal claims as stipulated in the PPO.

22. Mr CHAN Kam-lam agreed with CC that the introduction of a mandatory labelling system for beauty products might only bring about a minimal and non-prohibitive cost to the affected traders. He believed that the minimal additional costs would well be compensated by the enhanced business opportunities for local traders following the increased consumer confidence on the safety aspect of such products. Even pre-packaged food products costing a few dollars bore labels, he could not see why similar provision could not be applied to more expensive beauty products. On the issue of enforcement, he advised that the measures adopted by other jurisdictions could serve as useful reference. He also pointed out that labelling could help consumers screen out faked products.

23. SES clarified that under the Trade Descriptions Ordinance, it was an offence in law for traders to provide false or misleading trade descriptions of goods. There was also legislation against unlawful use of trade marks for the purpose of protecting intellectual property. She said that in case a consumer was dissatisfied with a given product, she or he would normally turn to the retailer rather than the importer. However, under contract law, there was no contractual relationship between consumers and importers, and hence there were no grounds for the affected customers to claim compensation from the importers direct. In introducing new legislation, the Administration must satisfy itself that it was necessary and justified and that the law would be enforceable.

24. Regarding the legal issues raised by SES relating to the relationship between importers and consumers, Mrs CHAN of CC said that the subject matter had been reviewed by the Law Reform Commission and a report on "Contracts for the supply of goods" was published.

25. In view that advanced economies had imposed stringent requirements in regulating beauty products, Mr SIN Chung-kai opined that Hong Kong should endeavor to offer the same level of protection to consumers. Given some users had suffered from allergy or some other health problems after using the beauty products sold in the market, beauty products should be labelled in the same spirit as pre-packaged food.

26. SES reiterated that comprehensive labelling requirements listing all ingredients and their weightings could not help consumers screen out the problematic

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substances contained in the products. This would only bring about additional cost and reduce the cost competitiveness of the products. It would be more cost effective to list out only those substances affecting human bodies and currently classified as drugs and pharmaceutical products in the labels. Unlike pre-packaged food labelling to which abundant resources were allocated for its enforcement to ensure public health, resources were not available to effectuate enforcement for beauty products. On Mr SIN's request to undertake a comparison study on the regulation of beauty products among Hong Kong, the United States and the European Union countries, SES replied that subject to resource constraints, the Administration might consider further the request put forward by Mr SIN.

27. The Deputy Secretary for Economic Services (DS/ES) added that the Administration was not adverse to the idea of labelling and labelling requirements for certain products had been introduced where circumstances so required. In the recent cases of facial cream with high mercury content, both products had clear labels of ingredients. It was the existing surveillance and enforcement systems that identified the hazards in these products, and worked to safeguard the interest of the public. Apart from stepping up enforcement by C&ED, an effective way to help consumers make their purchasing decisions was to enhance consumer education and encourage dissemination of information. The trade should also be encouraged to implement a labelling system on a voluntarily basis.

28. Recalling that the CC had objected to a proposed labelling system setting out the name and address of importers when the Trade Marks Bill was considered by the Legislative Council, Mrs Selina CHOW queried why CC had changed its stance now.

29. Mrs CHAN of CC clarified that the proposal to only identify the name and address of the importer of goods might not achieve the intended purpose of enhancing consumers' interest. Detailed justifications had been given when the Trade Marks Bill was debated. However, in the long run, CC supported the introduction of a mandatory labelling system for beauty products under the CGSO. She suggested that the Administration and the industry could agree on the content of the labels and the kinds of beauty products that should be labelled. She believed that the labelling system could foster consumer confidence of beauty products and attracted both local and overseas consumers because of the legal protection afforded to them.

30. Ms LAU Ying-hing, the Head, Research and Survey Division of Consumer Council added that CC was well aware that labelling alone could not solve all problems in relation to product safety. However, it enhanced consumers' right to information and enabled them to avoid products with substances they were allergic to. Labelling requirements also served as a guide to the industry.

31. Mrs Selina CHOW remarked that Hong Kong had imported around HK\$2.7 billion worth of beauty products in 2001 while CC only received about 150 complaints on beauty products in 2000 and 2001. In reply to her enquiry on the nature of the

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complaints in terms of commercial disputes and product safety, and the type of importers involved in the complaints, Mrs CHAN of CC said that the related information was not in hand and she would provide the information after the meeting. Given the general public was unable to judge whether a certain product was safe or not from the look of it, and hence might not raise complaints on the beauty products with CC, it was likely that the number of complaints received so far represented only the tip of an iceberg. In her opinion, specifying the safety requirements would give consumers good protection.

32. Unconvinced of the reply, Mrs Selina CHOW sought scientific back up of CC's claim that the number of complaints received by CC represented only the tip of an iceberg. Mrs CHAN of CC replied that in the recent case of facial creams with high mercury content, more than 1 000 people filed their cases with the authority after the incident happened.

33. SES clarified that according to the latest formation provided by the Department of Health (DH), 1 414 calls had been made to the special DH hotline which started operation on 2 May 2002. DH made arrangements for mercury screening on 496 persons who had reportedly applied the beauty cream. 39 persons were referred to specialist out-patient clinics for follow-up; another six were admitted to hospital, of whom five had already been discharged.

Safety standards and enforcement

34. On specifying the safety standards under the CGSO, Mrs CHAN of CC pointed out that the requirements on the safety limits of certain substances and the list of substances not to be used or used in restriction for beauty products currently available within C&ED should be made known to the industry players to facilitate enforcement. Ms LAU of CC added that detailed specifications of the above safety limits could be incorporated into the legislation to supplement the general provision of "reasonable safety standard" under the CGSO. Mr CHOI of CPAHK supported CC's proposal that the Administration should set out, under the CGSO, the safety requirements of beauty products. Currently, the industry was confused by the various safety standards in force. For instance, USA restricted the use of hydroquinone, a skin whitener, to 2 ppm while the Mainland restricted its use to 1 ppm. It would be helpful to the industry if the Government could promulgate a set of safety standards so that the importers might check against the list of substances contained in the beauty products provided by the manufacturers before introducing the goods to Hong Kong market.

35. In response, SES noted that several sets of safety standards were promulgated within the industry. In case of doubt, importers could arrange for testing and certification of their products against the Chinese National Standards - Hygiene Standards for Cosmetics (GB7916-87), which was the standard adopted by the C&ED for enforcement actions.

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36. Mr Howard YOUNG was concerned about the effectiveness of the present surveillance and enforcement mechanism. DS/ES confirmed that the recent mercury poisoning incidents were uncovered by C&ED during its regular surveillance under the existing control mechanism. The retailers involved had been cooperative on the matter.

37. In response to Mr Michael MAK's question about the tests and surveys conducted by CC on beauty products, Ms LAU of CC informed members that CC had maintained regular dialogue with C&ED on its work. To avoid wastage of resources, the two sides would exchange information on their tests and surveys. As regards the choice of consumer products for testing and surveys, she said that due to resources constraint, CC would normally follow up on items which received wide public concern or were heavily utilized by the general public.

Industry self-regulation

38. Noting the diverse membership of the Association, Mr Howard YOUNG enquired that whether the Association was prepared to take up the role as an industry self-regulatory body and obtained the resources sufficient to cover all types of players within the industry.

39. In response, Mr YU of CPAHK advised that industry self-regulation for cosmetic industry was an effective measure and a popular trend among advanced economies. The Association would like to request the Administration to render the necessary support to the industry so as to facilitate the implementation of industry self-regulation.

40. While appreciating the merit of voluntary self-regulation, Mr Michael MAK enquired if the Association had issued any guidelines regarding the regulation of beauty products for its members. In reply, Mr YU of CPAHK pointed out that many importers and traders were very concerned in preserving their brand names and displayed high professional standard on product safety. According to overseas experience, the lists of ingredients of beauty products in standard specifications submitted by the importers to the self-regulatory body would be made available for public inspection. Such practice could serve as useful reference for Hong Kong.

Regulation of beauticians

41. Upon Mr Michael MAK's enquiry on the licensing, training and penalty for beauticians in overseas experience, Ms CHENG Ming-ming of BCHTB/VTC pointed out that the United States, Japan, Taiwan and the Mainland had already instituted licensing system on beauticians. To prepare the industry before the implementation of the licensing system, the Training Board was at present working on a voluntary trade testing system and the assessment of the certification bodies with a view to

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establishing a recognized qualification framework.

V Any other business

42. There being no other business, the meeting ended at 12:45 pm.

Legislative Council Secretariat
18 July 2002