

立法會
Legislative Council

Ref : CB2/PL/FE

LC Paper No. CB(2) 2169/02-03
(These minutes have been seen by
the Administration)

Panel on Food Safety and Environmental Hygiene

**Minutes of meeting
held on Tuesday, 29 April 2003 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)
Dr Hon David CHU Yu-lin, JP
Hon WONG Yung-kan
Hon Andrew CHENG Kar-foo
Hon Michael MAK Kwok-fung
Hon LEUNG Fu-wah, MH, JP
Dr Hon LO Wing-lok

Member attending : Hon Cyd HO Sau-lan

Members absent : Hon James TO Kun-sun
Hon CHAN Yuen-han, JP
Hon WONG Sing-chi

Public officers attending : Items II to IV

Mr Eddy CHAN
Deputy Secretary (Food and Environmental Hygiene)
Health, Welfare and Food Bureau

Miss Vivian KO
Principal Assistant Secretary (Food and Environmental Hygiene)¹
Health, Welfare and Food Bureau

Dr S P MAK
Deputy Director (Food and Public Health)
Food and Environmental Hygiene Department

Dr Y Y HO
Consultant (Community Medicine) (Risk Assessment and
Communication)
Food and Environmental Hygiene Department

Item V

Mr Eddy CHAN
Deputy Secretary (Food and Environmental Hygiene)
Health, Welfare and Food Bureau

Mr Edward LAW
Principal Assistant Secretary (Food and Environmental Hygiene) 2
Health, Welfare and Food Bureau

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

Mr HUNG Chi-pai
Assistant Director (Operations)1
Food and Environmental Hygiene Department

**Attendance by : Item IV
invitation**

Consumer Council

Mrs CHAN Wong Shui
Chief Executive

Ms LAU Yin-hing
Head, Research and Survey Division

Hong Kong Food Science & Technology Association Limited

Mrs Becky CHEUNG
Chairlady

Mr Brian LEUNG
Director of Functionary

Hong Kong DNA Chips Limited

Mr LI Chun-wai, Vincent
Assistant Sales Manager

Dr Richard Collins
Laboratory Director

Hong Kong Organic Farming Association

Ms CHU Pui-kwan
Chairperson

Ms YEUNG Po-hi
Vice Chairperson

Mr KWOK Chung-wai
Project Officer

Produce Green Foundation

Ms LAU Yuen-yee
Executive Secretary

Green Women Current - Tuen Mun Yan Oi Tong Women's
Development Centre

Ms CHEUNG Yuet-fung
Organiser

Ms WONG Yuen-ha
Committee Member

Hong Kong Organic Resource Centre

Dr Jonathan WONG
Director

Greenpeace

Mr SZE Pang-cheung
Campaigner

Mr Christopher FUNG Ka-keung
Assistant Campaigner

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

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

Action

I Confirmation of minutes of meeting
[LC Paper No. CB(2)1835/02-03]

The minutes of the meeting on 20 March 2003 were confirmed.

II. Date of next meeting and items for discussion
[LC Paper Nos. CB(2)1836/02-03(01) and (02)]

2. Members agreed to discuss the following items at the next regular meeting scheduled for 27 May 2003 at 10:45 am -

- (a) the Administration's way forward regarding the recommendations of the Report of the Investigation for the 2002 Avian Influenza Incident; and
- (b) review of the enforcement of the Fixed Penalty System for minor public cleanliness offences.

3. In response to the Chairman, Deputy Secretary (Food and Environmental Hygiene) (DS(FEH)) said that the Administration would need to further discuss with the restaurant trade and "private kitchen" operators in revising the proposal on the regulatory framework for private kitchens. He expected that the revised proposal would be provided to the Panel for discussion in June 2003.

4. The Chairman said that at the special meeting on 16 April 2003, the Director of Food and Environmental Hygiene (DFEH) had said that his department would explore, in collaboration with the Home Affairs Department, introducing legislation to require private buildings, which had not set up owners' corporations or engaged the services of management companies, to rectify their sanitary problems. The Chairman enquired about the progress made in this regard. DS(FEH) said that he would check with DFEH and keep the Panel posted of any developments.

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III. Information paper(s) issued since last meeting

5. Members noted that no information paper had been received since the last meeting.

IV Meeting with deputations on the Administration's proposals on the regulation of genetically modified food and nutrition labelling
[LC Paper No. CB(2)1511/02-03(04)]

Meeting with deputations

6. The Chairman welcomed representatives of the deputations to the meeting. He invited members to note that the following organisations had made written submissions to the Panel but were unable to send representatives to the meeting -

- (a) Hong Kong Food Council [LC Paper No. CB(2)1565/02-03(01)];
- (b) Hong Kong Retail Management Association (HKRMA) [LC Paper No. CB(2)1836/02-03(04)];
- (c) World Wide Fund for Nature [LC Paper No. CB(2)1836/02-03(07)]; and
- (d) Secretariat of Legislative Councilors of the Democratic Party [LC Paper No. CB(2)1875/02-03(01)].

Consumer Council

[LC Paper No. CB(2) 1836/02-03(03)]

7. Mrs CHAN Wong Shui, Chief Executive of the Consumer Council, said that the Council supported the introduction of a mandatory labelling system on nutrition information. However, it took the view that Hong Kong as an international city should put in place the system earlier. She said that the Consumer Council had reservations about the Administration's proposed timetable of implementing such a system five to ten years later. Mrs CHAN pointed out that mandatory nutrition labelling should not pose any problem to multinational corporations producing food for exports since their products should have already complied with the labelling requirements imposed in other countries. There was no reason for their products exported to Hong Kong to adopt a lower nutrition labelling standard. As to locally manufactured food products, Mrs CHAN said that some had labels on nutrition information but it was not comprehensive enough and was not standardised in format.

8. As regards genetically modified (GM) food, Mrs CHAN Wong Shui said that the Consumer Council supported the introduction of a mandatory pre-market safety assessment requirement for GM ingredients. GM ingredients should be assessed for their health impact, such as whether an allergen or harmful toxin was generated and resistance to antibiotics was increased as a result of genetic modification, and whether there were any other unintended effects, particularly in foods targeted at specific groups such as infants. The Consumer Council considered that as the eating habits of the Chinese were different from that of the western countries, the research findings of overseas countries might not be applicable to Hong Kong. She added that local universities and research institutions should be encouraged to conduct studies on GM

Action

food safety to produce data and information directly applicable to the local population. Mrs CHAN further said that the voluntary labelling system implemented in the United States was inappropriate and should not be followed by Hong Kong.

9. Mrs CHAN Wong Shui said that the Consumer Council supported the introduction of a mandatory labelling system for GM food as soon as practicable. She disagreed to the Administration's saying that "there is no international consensus on the labelling of GM food". She pointed out that it was only the labelling system that differed from country to country, but there was a general consensus in the international community on the need for the labelling of GM food. She added that negative labelling claims should be prohibited.

10. Mrs CHAN Wong Shui said that the Consumer Council also proposed the introduction of traceability/product tracing technology and the requirement of proper documentation for the production of GM food. Regarding the worries of the food trade about the cost implications of introducing a labelling system of GM food, Mrs CHAN said that it would cost more to the food trade should some of the GM products be found to be unsafe for human consumption. She pointed out that implementation of such a system would instil confidence in consumers.

Hong Kong Food Science & Technology Association Limited
[LC Paper No. CB(2) 1906/02-03(02)]

11. Mrs Becky CHEUNG, Chairperson of Hong Kong Food Science & Technology Association Limited, said that the proposed food labelling legislation was in line with the global trend in food labelling. The Association considered that the proposed transitional period of five to ten years from voluntary to mandatory labelling on nutrition information was reasonable. Mrs CHEUNG pointed out that the Hong Kong market was a small one to overseas exporters, and they might not consider it worthwhile to open a new production line of packaging for products to be exported to Hong Kong in order to meet Hong Kong's labelling requirements. She said that to do so, the production cost would increase and this would inevitably be passed onto customers.

12. On nutrition labelling, Mrs Becky CHEUNG said that it was unclear as to whether nutrients like minerals, vitamins and dietary fiber content would be required to be listed out on food labels under the current proposal. She added that, at present, the difference between health food and food products claimed to boost the body's immune system and the labelling requirements in respect of these products were unclear.

13. Mrs Becky CHEUNG said that the food trade supported the implementation of a GM food labelling system but the trade needed time to adapt to the change and they required more information on the GM testing and the costs. Mrs CHEUNG pointed out that it was difficult to ascertain whether the raw materials for food production had been genetically modified. She urged the Administration to provide more detailed

Action

guidelines on negative labelling and take measures to prevent some unscrupulous food traders from exploiting the use of negative labelling to deceive consumers.

Hong Kong DNA Chips Limited
[LC Paper No. CB(2) 1836/02-03(05)]

14. Dr Richard Collins, Laboratory Director of Hong Kong DNA Chips Limited, said that the global trend was towards providing more information to consumers about ingredients derived from GM sources. To meet such demands, some biotechnology companies provided highly sensitive DNA-based tests for GM ingredients, which could detect the presence of GM ingredients at a level even lower than the threshold of 1% adopted by the European Union (EU). He pointed out that most regions including Mainland China had adopted a "Yes / No" principle for GM labelling while allowing an acceptable level of adventitious contamination. He said that food companies in these regions might find it easier to follow such requirement as it only involved simple qualitative analysis.

Hong Kong Organic Farming Association
[LC Paper No. CB(2) 1906/02-03(03)]

15. Ms CHU Pui-kwan, Chairperson of Hong Kong Organic Farming Association, expressed support for the introduction of a mandatory labelling system for GM food. She said that no conclusion had been made by scientists on the long-term safety of human consumption of GM foods. She was of the view that genetic modifications would disturb the balance of ecosystems and contaminate natural species. She said that without a mandatory labelling system for GM food, it was difficult for organic farmers to differentiate which were GM seeds and which were not. There was therefore a risk for organic food producers to have inadvertently used GM ingredients in their food production process. She considered that under a voluntary labelling system, food importers did not have the incentive to label their GM food products as such. Mandatory GM food labelling was therefore necessary to protect consumers' right to know and enable them to make their choices based on religious, cultural or ethical considerations.

16. Ms CHU Pui-kwan also pointed out that since legislation on GM food labelling had already been introduced in our neighbouring places such as Japan, South Korea, Mainland China and Taiwan, Hong Kong would only become a dumping ground for GM food not approved to be sold in other countries if Hong Kong did not have any GM labelling requirements. She urged the Administration to introduce legislation to implement a stringent and mandatory labelling system for GM food in order to safeguard public health.

Produce Green Foundation

17. Ms LAU Yuen-ye, Executive Secretary of Produce Green Foundation, said that as there was no scientific evidence that GM food would do no harm to human

Action

health, the Administration should seriously consider introducing a mandatory labelling system. She added that the Administration's reasons for not introducing such a system were not justified. Ms LAU pointed out that GM food labelling was already the prevailing trend of the international community, as seen from the fact that many countries including China, South Korea, Japan, Australia, New Zealand and EU had already implemented mandatory GM food labelling systems. Hong Kong would be lagging far behind if it still had to wait until the Codex Alimentarius Commission (Codex) had reached a consensus on GM food labelling.

18. As regards the concern about financial implications of introducing a labelling system, Ms LAU Yuen-yee said that according to the regulatory impact assessment (RIA) on the labelling of GM food, the economic costs to the food trade in implementing mandatory labelling only ranged from HK\$25 million to HK\$130 million. The maximum possible impact on the overall food prices would be between 0.03% and 0.1% in terms of household expenditure. The costs, if to be shared out by consumers, would only range from HK\$4.2 to HK\$21.7 per person.

19. Ms LAU Yuen-yee said that some people were allergic to certain food ingredients and they needed to know whether any GM food products contained such ingredients. Ms LAU also expressed concern about the threat posed to organic farming, as GM ingredients might be inadvertently used in the farming process in the absence of a GM labelling system. She said that the current proposal of implementing voluntary GM food labelling was against public expectation which was in support of mandatory GM labelling.

20. Ms LAU Yuen-yee further said that the Administration's proposal on regulatory control of GM food only covered prepackaged food. She proposed that the Administration should also look at GM labelling for seeds and animal feeds, which was important to organic farming. She suggested that the Administration should also study the issue of legal liability in connection with GM contamination caused to organic farms by, for example, GM seeds/pollens.

*Green Women Current - Tuen Mun Yan Oi Tong Women's Development Centre
[LC Paper No. CB(2) 1906/02-03(01)]*

21. Ms CHEUNG Yuet-fung expressed support for introducing a mandatory GM food labelling system to protect consumers' right to know and enable them to make informed choices. She said that many housewives had worries about the health impact of GM food, as the long-term effect of consumption of GM food on human health was still uncertain. She was of the view that consumers should not be used as guinea-pigs for testing the safety level of GM food. She added that the Administration should not have used excuses such as the lack of international consensus and the financial impact on the trade to defer implementing mandatory GM food labelling. She considered that Hong Kong should put in place a mandatory GM food labelling system to safeguard public health and protect consumers' right to know.

Action

Hong Kong Organic Resource Centre
[LC Paper No. CB(2) 1891/02-03(01)]

22. Dr Jonathan WONG, Director of Hong Kong Organic Resource Centre, expressed support for introducing a requirement of pre-market safety assessment for food containing GM ingredients. However, he stressed that no conclusion on the health impact of GM food could be drawn even though the food passed the assessment. He explained that given the limits of existing science knowledge, the long-term impact of GM food on ecosystems, biodiversity and human health had yet to be assessed.

23. Dr Jonathan WONG welcomed the proposal of issuing a set of guidelines on the labelling of GM food by the Administration. However, he opposed the proposal that the trade would only be encouraged to adopt voluntary labelling in accordance with the guidelines. He pointed out that implementing a GM labelling system would not incur extra testing cost to the food trade since they had to go through the proposed pre-market safety assessment anyway. To meet the labelling requirement for GM food, the food trade only needed to set out in food labels the outcome of the assessment. He said that GM labelling would ease the worries of consumers and also let organic food processors know whether the ingredients they used contained any GM material. The labelling requirement would also enable scientists to trace the long-term effects of GM ingredients in food products. Dr WONG urged the Administration to introduce a comprehensive, stringent and mandatory GM food labelling system as soon as possible.

Greenpeace
[LC Paper No. CB(2) 1836/02-03(06)]

24. Mr SZE Pang-cheung, Campaigner of Greenpeace, said that further to his presentation of views on GM labelling at the last meeting, he would like to add the following points after having read the full consultancy report on RIA on labelling of GM food -

- (a) Voluntary labelling would mean status quo. As the RIA had pointed out, some members of the trade had doubts as to whether food importers or distributors would voluntarily label their products as containing GM ingredients. There were companies which had already indicated that they would not introduce any changes to their products under a voluntary labelling system;
- (b) Mandatory GM food labelling had already been implemented in some 30 places and there were adequate laboratory facilities to perform tests on GM ingredients. So far, it was not known whether any economy or food traders/manufacturers had been negatively impacted by the implementation of GM food labelling;

Action

- (c) RIA had pointed out that for most manufacturers, the cost implications were unlikely to be significant and if the costs were to spread over a longer period of time (more than one year), the actual impact on the company's revenues and profits might not be significant. Moreover, only the food exporters would be affected, and they represented only about 3% of the trade; and
- (d) In the past four years, Greenpeace had surveyed 80 local food manufacturers and agents, of which 49 had confirmed in writing that they did not use GM ingredients and three had undertaken to avoid using GM ingredients. As GM labelling would not incur extra costs to these food traders, it was only fair to them by requiring their counterparts using GM ingredients to label their products as containing GM ingredients.

25. Mr SZE Pang-cheung informed members that Greenpeace had written to local food manufacturers in January and September 2002 and many of them had responded positively to the introduction of mandatory GM labelling. He said that extracts of the trade's responses were set out in the submission of Greenpeace.

Discussion

26. Ms Cyd HO expressed support for introducing a mandatory GM food labelling system. She said that the Administration's proposal on regulatory control of GM food was too limited in scope as it only targeted prepackaged food. She pointed out that the deputations were much more progressive in bringing up issues like liability of GM contamination and GM labelling of seeds/animal feeds for discussion. She agreed with the deputations that it was also necessary to tighten the control of animal feeds which affected the safety of the food chain.

27. Ms Cyd HO requested representatives of the Consumer Council to elaborate on "traceability" and whether any study had been conducted in this respect. Ms LAU Yin-hing from the Consumer Council said that EU was developing traceability rules for GM ingredients which applied to GM ingredients throughout production, processing and distribution. In this connection, the Consumer Council would follow up the development of the traceability rules and provide the relevant information to the Administration for reference. Ms LAU explained that traceability/product tracing could help identify any problem that might occur, so that appropriate control measures could be put in place to prevent recurrence of the problem. Traceability emphasised detailed record keeping of the GM ingredients used at each stage of the food production process, and suppliers of GM ingredients were obliged to pass the information to their clients.

28. Ms Cyd HO asked representatives of the Hong Kong Food Science & Technology Association Limited to explain why it considered a transitional period of five to ten years necessary for implementing a mandatory GM labelling system in

Action

Hong Kong. She asked what difficulties the food trade envisaged would arise in implementing the system, bearing in mind that many of the countries exporting food to Hong Kong probably had put in place GM labelling systems.

29. Mrs Becky CHEUNG responded that the food trade was concerned about the re-labelling and re-packaging costs incurred as a result of mandatory labelling. She pointed out that the packaging of food products would usually be reviewed and re-designed once every two to three years. The costs associated with changing the labels on packages could be reduced if sufficient time was allowed for existing stocks to be sold out before implementing new labelling requirements. Ms Cyd HO considered that implementation of GM labelling should not be delayed merely to allow time for the trade to sell existing stocks. She was in favour of the adoption of a "Yes / No" principle for GM labelling as this would be simpler in implementation.

30. Mr WONG Yung-kan asked Mrs Becky CHEUNG what difficulties were anticipated if a mandatory GM labelling system was introduced say, five years later. Mrs Becky CHEUNG responded that the greatest problem laid in the tracing of the origin or suppliers of ingredients. For example, when local retailers/manufacturers bought ingredients from the Mainland through an exporter, very often it was not known which farm or factory had produced the ingredients. Moreover, laboratories which provided GM testing services were limited in Hong Kong. She said that while the food trade was supportive of introducing GM labelling, such a system should not be introduced in one or two years before the practical problems were solved.

31. Mrs CHAN Wong Shui clarified that the Administration was only proposing to introduce a mandatory labelling system on nutrition information, but not on the GM content in food products, about five to ten years later. She commented that five years was unreasonably long for putting in place a mandatory GM labelling system in Hong Kong. She pointed out that some local food manufacturers (such as Vitasoy) had already indicated that they would be able to comply with GM labelling requirements if the system was to be introduced. Mrs CHAN stressed that further delay in implementing a GM labelling system in Hong Kong would undermine the competitiveness of local food manufacturers and Hong Kong would become the dumping ground for GM food.

32. Mr WONG Yung-kan urged the Administration to set a time frame for implementing mandatory GM labelling which was necessary to safeguard public health and protect consumers' interest. He said that the Democratic Alliance for the Betterment of Hong Kong was in support of a mandatory GM labelling system. He agreed with the Consumer Council that further delay in implementing a mandatory GM labelling system would undermine the competitiveness of Hong Kong. He added that manufacturers or retailers should buy products from suppliers who could provide information on the GM content of the products. He believed that the trade should be able to comply with GM labelling requirements.

Action

33. DS(FEH) said that the Administration had made reference to the experience of overseas countries such as Canada in proposing a time frame of between 5 to 10 years for the implementation of a mandatory nutrition labelling system. The Administration would welcome any counter-proposals from the trade on shortening the proposed transitional period from voluntary to mandatory labelling. As regards GM labelling, DS(FEH) said that the Administration's priority was to address the safety of GM foods, and had proposed to introduce legislation to impose a requirement of pre-market safety assessment for food containing GM ingredients. The purpose was to ensure that only GM food that had passed the safety assessment could be sold in Hong Kong. DS(FEH) explained that in drawing up the proposal, the Administration had taken into account the conclusion drawn by the World Health Organization that the use of modern biotechnology did not result in food becoming inherently less safe than that produced by conventional means. He added that the Administration also planned to introduce legislation requiring the mandatory labelling of allergic substances and details of food additives used.

34. DS(FEH) further said that the Administration well recognised consumers' right to know and, to encourage the trade to adopt labelling of GM food, the Administration would issue a set of labelling guidelines. He explained that given the current economic situation, the Administration intended to adopt a "gradual approach" to address the public concern about the labelling of GM food in order to avoid causing adverse impact to the small and medium sized enterprises.

35. Ms Cyd HO requested the Consumer Council to provide further information on the certification system in relation to GM ingredients. She said that the food trade should not be over-worried about the liability problem under a mandatory GM labelling system. She believed that in drafting the relevant legislation, the Administration could put in place safeguards specifying that the liability related to GM labelling should lie with the ingredient suppliers, provided that buyers had obtained recognised certification on the ingredients.

36. Mrs CHAN Wong Shui responded that "ISO" was an example of these certification systems, and the extent of recognition of a certification system by the community would depend on how stringent the system was implemented. Ms LAU Yin-hing said that under a voluntary GM food labelling system, the trade also had to exercise stringent control on the use of GM materials. She gave the example of the recall in US of food products which had been found containing GM corn containing unapproved GM materials. She said that in this incident, substantial costs had been incurred to the trade.

37. Mr SZE Pang-cheung pointed out that under the proposed mandatory pre-market safety assessment scheme, the extra procedures on measures which the trade had to adopt (and the costs thus incurred) would, to a certain extent, overlap with those required under a mandatory labelling system. Mr SZE reckoned that the financial implications incurred to the trade for complying with mandatory requirements might not be as much as the trade had estimated. He considered that

Action

since the implementation of the proposed mandatory safety assessment would inevitably incur costs to the Administration and the trade, the Administration should take one step further and introduce a mandatory labelling system which would bring more benefit to the community.

38. Mr SZE Pang-cheung also agreed with the Consumer Council that delay in implementing a GM labelling system would undermine the competitiveness of local food manufacturers. He pointed out that there were precedents that locally manufactured food products without information on their GM content had been returned when they were exported to countries which had implemented mandatory GM labelling. He said that since many of our neighbouring places had implemented mandatory GM labelling, Hong Kong would lose its competitive edge if it still failed to put in place such a system.

39. Referring to paragraph 30 of the Consumer Council's submission, Mr LEUNG Fu-wah requested the Council to explain further its stance on negative labelling. Ms LAU Yin-hing explained that some manufacturers might label their food products as "GM free" to indicate that they were totally free of GM content. However, the Consumer Council suggested that such labels should not be used because adventitious or unintended presence of GM materials in products was very often unavoidable and could occur during cultivation, handling, storage and transport. As it would be very difficult for manufacturers to prove that their products were absolutely GM free, it was undesirable for them to label their products as non-GM.

40. Mr SZE Pang-cheung agreed with the Consumer Council that the use of negative labelling should be avoided. He pointed out that as there was always the possibility of unintentional mixing of GM and non-GM crops, a truly "GM free" status was very difficult, if not impossible, to attain. He said that such labelling was misleading to consumers.

41. Mr SZE Pang-cheung pointed out that EU had also adopted a "Yes / No" principle for GM labelling while allowing adventitious presence of GM materials to a level of 1%. He said that such level of adventitious presence of GM materials was acceptable to food manufacturers and also detectable by laboratory testing. In view of the smooth implementation of the mandatory GM labelling system in EU which adopting a threshold of 1%, Mr SZE said that a similar GM labelling system should be introduced in Hong Kong.

42. The Chairman requested the Administration to explain the legislation on negative labelling introduced in different countries. Consultant (Community Medicine) (C(CM)) said that the level of adventitious presence of GM materials allowed in different GM labelling regimes was different. For countries (such as members of EU) which considered that their food trade was able to exercise stringent control in the production process and prevent adventitious presence of GM materials in their products, they adopted a threshold of 1%. He pointed out that different countries had adopted different legislation on negative labelling. Some countries

Action

such as Thailand prohibited labelling of negative claims while some demanded that companies had to substantiate negative claims with certified documents. He added that instead of making negative claims such as "no GM ingredients" and "non-GM", some products displayed labels claiming that efforts had been made by the manufacturers to ensure such products were non-GM.

43. In response to Mr LEUNG Fu-wah, Mrs Becky CHEUNG said that Hong Kong Food Science & Technology Association Limited had been set up for five years and its executives included academic staff in the field of food science from local universities. The Association had some 200 members, including the small and medium sized importers. She said that the views she presented were collected from some of the members of the Association. Mrs CHEUNG reiterated that the Association did not oppose the introduction of mandatory GM labelling, but considered that such system should only be introduced after the practical problems had been resolved.

44. Mr Tommy CHEUNG drew members' attention to the submissions made by the Hong Kong Food Council and HKRMA, which shared similar views with the Administration's on the labelling of GM food.

45. The Chairman informed the meeting that the Administration would proceed to consult the public, the food trade and concerned organisations on its proposals on nutrition labelling and the regulation of GM food. He called on the deputations to actively put forward their views and comments to the Administration. He requested the Administration to revert to the Panel at the beginning of the next legislative session on the way forward regarding the proposals.

Adm

V Progress report on outside seating accommodation
[LC Paper No. CB(2) 1836/02-03(08)]

46. DS(FEH) briefed members on the progress in processing outside seating accommodation (OSA) applications since the implementation of the scheme in March 2002. He said that as at the end of March 2003, FEHD had received a total of 246 applications under the OSA scheme, of which 41 applications had been approved and another 65 had been issued with Letter of Requirements pending compliance by the applicants. He added that 90 applications had either been found to be unsuitable or subsequently withdrawn by the applicants. The remaining 50 applications were still being processed. DS(FEH) further gave an account of the difficulties generally encountered by the applicants as detailed in paragraph 5 of the Administration's paper.

47. Mr Tommy CHEUNG said that the Administration's paper had only given the average time for approving an application, and he wished to know the shortest and longest time taken for granting approval. He also requested the Administration to explore whether there was room for shortening the average processing time in order to enhance the business environment of the trade. Referring to the 90

Action

rejected/withdrawn applications, Mr CHEUNG asked whether the applicants were informed of the outcome only after a long time.

48. Deputy Director (Environmental Hygiene) (DD(EH)) responded that the average time for approving an application was 4.9 months. In general, the applicants took about 3.5 months to do the necessary work to comply with the licensing requirements, and the departments concerned took about 1.5 months to process the applications. DD(EH) advised that FEHD had already put in place measures to facilitate operators in obtaining OSA approval and to expedite the processing of applications. DD(EH) said that among the 90 rejected/withdrawn applications, 62 cases had been found unsuitable for setting up OSA for various reasons including -

- (a) local objections raised by district organisations such as District Councils (DCs) and local residents;
- (b) objections raised by landowners concerned;
- (c) impact on pedestrian/vehicular traffic;
- (d) causing obstruction to emergency vehicular access and fire services installation; and
- (e) the proposed OSA involved unauthorised building works.

49. DD(EH) said that whenever an application was found unsuitable, FEHD would inform the applicant concerned as early as possible. He advised that the time for processing the applications ranged from 2 to 7 months. In some cases, removal of unauthorised building structures was required, resulting in longer processing time of the applications.

50. DD(EH) further informed members that in February 2003, 19 applications had been received for setting up OSA in Lan Kwai Fong. With the cooperation of the relevant DC, a "mock run" had been conducted in March allowing the applicants to set up the applied OSA on a trial basis. During the "mock run", the relevant DC and government departments concerned conducted an on-site visit to observe whether the OSA operation had posed any problems. In April 2003, the relevant DC discussed the outcome of the "mock run" and decided to support 10 of the 19 applications. DD(EH) said that FEHD would issue the Letter of Requirements to the 10 applicants concerned as soon as possible. DD(EH) added that the Administration would continue to expedite the processing of OSA applications, especially those proposed to be set up at tourist spots.

51. Mr Tommy CHEUNG said that consumers preferred to dine outdoor especially in the midst of the atypical pneumonia outbreak. He asked whether FEHD had any advice to the applicants on what they could do to speed up processing of their applications.

Action

Adm

52. DD(EH) explained that the Administration constantly reviewed and streamlined the OSA application procedures with a view to expediting the processing of the applications. He said that the departments concerned also had the consensus that the applications should be processed as soon as possible. In response to Mr CHEUNG's comments, he agreed to explore the possibility of further shortening the processing of the applications.

53. Mr Tommy CHEUNG asked whether an application would be rejected if the proposed OSA was annexed to a building with unauthorised building structures which, however, would not impact on the safety of the proposed OSA and the applicants had no right to remove such structures.

54. DD(EH) explained that the departments concerned had exercised flexibility in processing applications involving the existence of unauthorised building works. For example, in one case the Administration had allowed the proposed OSA to be set up farther away from the restaurant premises so that the unauthorised building structures above it would not pose any risk to patrons of the OSA. He added that the Buildings Department (BD) had to be consulted in cases involving the existence of unauthorised building works.

55. In response to Mr Tommy CHEUNG, Assistant Director (Operations)1 confirmed that BD was applying the new procedures for processing revised plans in connection with OSA applications. The adoption of the new procedures had shortened the processing time.

56. Dr David CHU considered the procedures for approving OSA too cumbersome, and the Administration should relax the control on the operation of OSA and make reference to the experience of other places which did not impose licensing requirements on OSA. He suggested that the Administration should allow OSA to operate unless there were complaints that such operation caused nuisance or obstruction. He believed that OSA operators would make efforts to avoid posing nuisance to nearby residents and road users.

57. DS(FEH) responded that while Dr CHU's suggestion would provide greater flexibility for the trade, it could also lead to enforcement difficulties and complaints about unfairness in the control of food businesses. He said that it was most important for the Administration to ensure that its regulatory framework was business friendly whilst at the same time capable of protecting public health. He stressed that the Administration had to ensure the safety of the public and that the proposed OSA would not cause any obstruction. DD(EH) added that local objections raised by DCs or landowners concerned had accounted for many of the rejected cases. He pointed out that the Administration was obliged to take into account their views and concerns.

Action

58. Mr Tommy CHEUNG considered that sometimes local objections were based on fears or worries. Given the successful experience of the "mock run" conducted in Lan Kwai Fong, he suggested that any OSA applications which met objections from DCs could be allowed to operate on a trial basis in the first place. He said that this might prove to the relevant DCs that the operation of the proposed OSA would not pose serious problems. Dr David CHU expressed support for Mr CHEUNG's suggestion.

59. DS(FEH) responded that when there were local objections to a particular application, FEHD and Home Affairs Department would meet with representatives of the relevant organisations to understand their concerns and invite the applicants to address these concerns. DD(EH) pointed out that FEHD would not stop processing an application just because it was opposed by DCs or local bodies. He said that the Administration would examine the opposing grounds and would only reject those applications which failed to meet the stipulated requirements and conditions. He agreed to discuss with DCs and explore if the "mock run" tried out in Lan Kwai Fong could be applied in other districts.

60. In response to Mr LEUNG Fu-wah, DD(EH) agreed to provide information on the seating capacity of the OSA approved so far and the number of additional staff hired for the OSA.

Adm

61. The Chairman requested the Administration to take into account members' views and explore how to further facilitate operators in obtaining OSA approval and to expedite the processing of applications.

VI Any other business

Overseas duty visit to Australia and Japan in July 2003

62. The Chairman said that the overseas duty visit to Australia and Japan originally scheduled for April 2003 was proposed to be conducted from 19 to 29 July 2003. He said that a circular on the visit would be issued to members shortly.

63. The meeting ended at 12:45 pm.