

For Discussion
25 October 2005

Legislative Council Subcommittee on
Public Health and Municipal Services Ordinance (Cap. 132)
Harmful Substances in Food
(Amendment) Regulation 2005

Introduction

This paper explains the background and reasons for making the Public Health and Municipal Services Ordinance (Cap. 132) Harmful Substances in Food (Amendment) Regulation 2005 and the implications on food safety if the amendment is revoked.

Background

2. On 16 August 2005, the Guangdong Entry-Exit Inspection and Quarantine Bureau in the Mainland decided to recall eel products destined for exports as a precautionary measure to ensure that all eel products for exports do not contain the chemical, malachite green. The Administration immediately took action and collected samples in local markets for testing. It was later found that malachite green was present in live eels, eel products and some freshwater fish.

3. Malachite green is a type of industrial dye that has been prohibited in fisheries products by the Mainland and other major agricultural economies. Tests conducted on animals suggested that malachite green might cause liver tumour in rats although there has yet no such conclusive evidence in human. Since existing legislation do not explicitly prohibit the presence of malachite green in food, the Administration proceeded to amend the First Schedule of the Harmful Substances in Food Regulations (Cap. 132, Sub. Leg. AF) (“the Regulations”) on 26 August 2005 to prohibit the presence of malachite green in all food sold in Hong Kong. The amendment has the effect to -

- (a) state explicitly that any person who imports, consigns, delivers, manufactures or sells for human consumption any food containing greater concentration of the substances

stipulated in the Regulations commits an offence; and

- (b) provide the legal means to control explicitly the use of malachite green in food, including live fish .

Implications of Revoking the Amendment

4. In the event that the Amendment is revoked, the Food and Environmental Hygiene Department would have to revert to its authority under sections 52 and 54 of Public Health and Municipal services Ordinance (Cap 132) to prove that the relevant food is not of the nature, substance or quality demanded by the purchaser, or that the food is unfit for human consumption in order to prohibit the sale of food containing malachite green in Hong Kong. The procedure would take more time and thus reduce the efficiency in taking enforcement actions.

5. In addition, the amendment regulations provide the legal means to control live fish as food with regard to the use of malachite green. The revocation, if materialised, would send a confusing message to the trade and public that the ban on using malachite green in food, including live fish, would no longer be in force. This would in our view create unfavourable effect to the public and deteriorate consumer's confidence in purchasing the relevant products.

Health, Welfare and Food Bureau
October 2005