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the Administration)

Panel on Food Safety and Environmental Hygiene

Minutes of special meeting
held on Thursday, 30 November 2006, at 8:30 am
in Conference Room A of the Legislative Council Building

- Members present** : Hon Tommy CHEUNG Yu-yan, JP (Chairman)
Hon Fred LI Wah-ming, JP (Deputy Chairman)
Hon WONG Yung-kan, JP
Hon Andrew CHENG Kar-foo
Hon TAM Yiu-chung, GBS, JP
Hon Vincent FANG Kang, JP
Hon WONG Kwok-hing, MH
Dr Hon Joseph LEE Kok-long, JP
Dr Hon KWOK Ka-ki
- Members attending** : Hon Emily LAU Wai-hing, JP
Hon Abraham SHEK Lai-him, JP
Hon LI Fung-ying, BBS, JP
- Member absent** : Hon Alan LEONG Kah-kit, SC
- Public officers attending** : Dr York CHOW Yat-ngok
Secretary for Health, Welfare and Food
- Mrs Carrie YAU TSANG Ka-lai
Permanent Secretary for Health, Welfare and Food
(Food and Environmental Hygiene)
- Mr CHEUK Wing-hing
Deputy Secretary for Health, Welfare and Food
(Food and Environmental Hygiene)

Mr Eddy CHAN
Director of Food and Environmental Hygiene
Food and Environmental Hygiene Department

Dr MAK Sin-ping
Controller, Centre for Food Safety
Food and Environmental Hygiene Department

Clerk in attendance : Miss Flora TAI
Chief Council Secretary (2)2

Staff in attendance : Ms Alice LEUNG
Senior Council Secretary (2)1

Ms Anna CHEUNG
Legislative Assistant (2)2

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I. Detection of harmful substances in hen eggs, duck eggs and fish

Presentation by the Administration

Policy on safeguarding food safety

On invitation of the Chairman, Secretary for Health, Welfare and Food (SHWF) briefed members on the Administration's paper in regard to the measures and plans adopted by the Government to tackle the recent incidents about harmful substances found in hen and duck eggs and fish which was tabled at the meeting [LC paper No. CB(2)491/06-07(01)]. SHWF said that the Government's policy on safeguarding food safety in Hong Kong mainly focused on three areas - control at source, risk communication and promulgation of information, and communication and cooperation with the food trade.

2. As regards control at source, SHWF said that the Administration had enhanced its communication and co-operation with the Mainland authorities, including the State General Administration for Quality Supervision, Inspection and Quarantine (AQSIQ) and its local authorities. SHWF advised members that, at a meeting with AQSIQ held on 28 November 2006, the Administration and AQSIQ reached a consensus on the new measures related to the supply of eggs and fish to Hong Kong, the details of which were set out in paragraphs 14 to 16 of the Administration's paper. He said that, to complement the new measures to be implemented by the Mainland authorities, the

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Administration would consider enacting relevant legislation to put in place measures to regulate imported poultry eggs. In view that the current Public Health and Municipal Services Ordinance (Cap. 132) only empowered the Government to act on food that was unfit for human consumption, the Administration was considering amending the legislation to empower the Administration to order all wholesalers and retailers to stop selling problematic food when necessary. Details of regulation proposals were set out in paragraphs 17 to 21 of the Administration's paper.

3. On risk communication and promulgation of information, SHWF informed members that the Administration would ensure that accurate information on various food hazards and their public health risks were disseminated to the public. He added that the Administration maintained close communication with the food trade so as to seek its cooperation in promoting and ensuring food safety in Hong Kong.

Centre for Food Safety (CFS)

4. With regard to the work of CFS in future, SHWF said that CFS should enhance its work in four major areas of work. Firstly, CFS should strengthen its work in control at source and get hold of the information of food supplied by source countries/regions. In this respect, CFS should continue to maintain close communication with food monitoring authorities of the source countries e.g. AQSIQ and the local inspection and quarantine authorities in the Mainland. Secondly, when communicating with the public, CFS should state clearly in layman's terms about the risks in consuming the problem food so as to enable the public to make informed decisions on whether to consume such food or not. Thirdly, when there were food safety incidents in other places, CFS should step up its inspection of the problem food concerned that were available for sale in Hong Kong. Finally, if food samples were tested positive for certain chemicals/harmful substances that were either banned or in excess of the permitted levels in law, CFS should take immediate action to contact the food trade and the relevant authorities of the source countries/regions. When the relevant legislation was in place, CFS should also decide on whether suspension of the sale of the problem food concerned was necessary; and if so, inform the public of the Administration's decision immediately.

Regulation of poultry eggs and aquatic products

5. On the regulation of poultry eggs, Permanent Secretary for Health, Welfare and Food (Food and Environmental Hygiene) (PS/FEH) advised that, under the agreement reached between the Administration and AQSIQ on 28 November 2006, the Mainland authorities would issue health certificates for poultry eggs and egg products supplied to Hong Kong with effect from 1 January 2007. The health certificates would set out the same information as detailed on the egg packaging: the name, address and hygiene registration code of the manufacturer; name, address and list number of the farm; date of manufacture; and batch number, to ensure that the certificates were issued for the products concerned. Having regard to the new measures to be put in place in respect

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of poultry eggs supplied to Hong Kong, there was a need for the Administration to step up the control over imported poultry eggs through improper channels. For this purpose, the Administration would consider enacting legislation to put in place the measures to require poultry egg importers to register with CFS and to punish non-registered importers/distributors/retailers that imported poultry eggs without first registering with CFS. PS/FEH pointed out that, by sourcing poultry eggs from registered and listed egg farms, the Administration could know where the problematic eggs came from so that the Administration could simply ban the import of poultry eggs from that egg farm concerned instead of banning the import of all poultry eggs.

6. PS/FEH said that the Mainland authorities had taken a great effort in implementing the new measures, given that no registration system of egg farms was put in place at present and that egg farms were scattered around in various provinces in the Mainland. She added that, if members endorsed the proposed regulatory regime for imported poultry eggs, the Administration would also consider applying the same model to regulate farmed aquatic products.

Proposal of a mandatory food recall system

7. Referring to paragraph 20 of the Administration's paper, PS/FEH said that the Administration had consulted the Panel on Food Safety and Environmental Hygiene (FSEH Panel) on 14 December 2004 about the setting up of a mandatory food recall system but there was no consensus on the proposal. However, in view of the recent food incidents, the Administration was considering a legislative proposal to empower the Government to order all wholesalers and retailers to stop selling problematic food when there was occurrence of serious food incidents with grave impact. She added that the preliminary idea of the proposal was that the wholesalers and retailers would be ordered to remove the food from the shelves when necessary.

8. PS/FEH pointed out that, in view of the far reaching implication of the proposal, the Administration needed to consider when the proposed power might be exercised. For example, whether the power should be exercised when the food authorities abroad announced that a particular kind of food item was problematic or waited till the laboratory tests confirmed that the concerned food item contained harmful substances.

Fact Sheet

9. Members noted that the fact sheets on "A summary of press cuttings regarding detection of harmful substances in hen eggs and duck eggs from 12 to 29 November 2006" and "A summary of press cuttings regarding detection of harmful substances in fish from 17 to 29 November 2006" prepared by the Research and Library Services Division of the Legislative Council (LegCo) Secretariat had been issued to members [LC Paper No. FS9/06-07 & FS10/06-07].

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The Administration's responses to the Deputy Chairman's questions

10. PS/FEH briefly presented the Administration's responses to the Deputy Chairman's written questions [LC Paper No. CB(2)491/06-07(03)], as provided in the reply of HWFB dated 29 November 2006 tabled at the meeting. Regarding the question on the discovery of malachite green in freshwater fish supplied by Mainland registered freshwater fish farms, PS/FEH said that there were three fish samples found to contain non-permitted chemical substances/residues of chemical substances that exceeded the permitted levels in 2006. Of the three problematic fish samples, the test results of the two samples were announced on the same day when the test results were available, but the test result of the other sample was not published. PS/FEH explained that the Government might not always inform the public when problem food was found. If the Government could immediately take measures to solve the problem, public announcement would not be made so as to avoid unnecessary scares. She added that there was another fish sample taken at retail outlet found to contain non-permitted chemical substances on 29 November 2006.

The Administration's responses to Mr WONG Yung-kan's questions

11. PS/FEH briefly presented the Administration's responses to Mr WONG Yung-kan's written questions [LC Paper No. CB(2)491/06-07(02)], as provided in the reply of HWFB dated 29 November 2006 tabled at the meeting. As regards the question on the communication and notification mechanism between the Government and the Mainland in respect of food safety, PS/FEH said that, apart from the notification mechanism established at the central government level, the Health, Welfare and Food Bureau (HWFB) and Guangdong Food and Drug Monitoring Authority (GFDMA) signed the Guangdong - Hong Kong Food Safety Exchange and Cooperation Framework Agreement in April 2006. Under the Framework Agreement, GFDMA was responsible for co-ordinating the departments/authorities related to food safety in Guangdong province, and notifying the Administration of food incidents occurred in the Mainland.

12. On the question related to the incident of "Shendan" duck eggs, PS/FEH reiterated that "Shendan" duck eggs of the batch numbers which were found to be tainted with Sudan Red dye were not exported to Hong Kong and that "Shendan" duck eggs found in Yue Hwa Chinese Products Emporium Limited (Yue Hwa) were exported for exhibition. She informed members that HWFB had set up a steering group under her leadership to review the operation and structure of CFS.

Issues discussed

The Administration's regulation proposals

13. Mr WONG Kwok-hing said that he was supportive of the Administration's proposal of enacting a piece of legislation to put in place the two measures to regulate

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imported poultry eggs as stated in paragraph 18 of the Administration's paper. He asked whether the Administration was supportive of the proposal.

14. Ms Emily LAU said that she was supportive of the Administration's regulation proposal and that she would fully support the request of HWFB for additional resources to step up its enforcement of the regulations to control food safety in Hong Kong if the Bureau considered that there was such a need. Ms LAU further said that she hoped that SHWF would introduce the legislative proposal into LegCo as early as possible even if a consensus could not be reached at the Panel meeting. Dr KWOK Ka-ki shared similar views with Ms Emily LAU. Dr KWOK enquired about the legislative timetable of the regulation of imported poultry eggs.

15. In response, SHWF said that the Administration was inclined to take forward the proposal for enacting relevant legislation to safeguard food safety and to ensure that importers would import safe food from proper channels. PS/FEH added that the Administration would do its best to provide detailed legislative proposal to the Panel for discussion in January 2007.

16. Director of Food and Environmental Hygiene Department (DFEH) supplemented that, in formulating the regulatory measures of imported poultry eggs, reference had been made to the guidelines set by the World Health Organisation (WHO) in regard to avian influenza. As regards the regulation of aquatic products, he said that the Administration planned to consult the Panel during February to April 2007.

17. Mr Vincent FANG said that, while he was supportive of the new measures of regulating imported poultry eggs, he considered that fruits also posed health risk to the public. He asked whether the Administration would consider extending these new control measures to fresh fruits.

18. Dr Joseph LEE shared a similar view with Mr Vincent FANG. Dr LEE said that the Administration should consider whether similar source management measures including registration of importers and control at retailing outlets would be applied to other food products such as vegetables, milk and rice etc.

19. SHWF responded that, as stated in paragraph 19 of the Administration's paper, the Administration would assess the risk of other food products and consider introducing similar measures to other food products that had a higher health risk like aquatic products. He pointed out that, under the Public Health and Municipal Services Ordinance, food including fruits for sale must be fit for human consumption.

20. The Chairman said that he considered that a balance between the regulatory control on food products and a wider consumer choice of food should be maintained. As regards the new measures proposed for regulating imported poultry eggs, he said that he was supportive of the measures and enquired if the Mainland had implemented

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similar measures to its poultry eggs exported to other places.

21. PS/FEH replied that the new measures in respect of the Mainland's supply of poultry eggs to Hong Kong were not implemented across the board. She said that she was informed that only one to two overseas countries had requested the Mainland to put in place similar measures to the Mainland's poultry eggs exported to their countries.

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22. In view of the Administration's response, the Chairman asked if the Mainland authority had advised the Administration that similar measures had been put in place for poultry eggs exported to USA; and if so, whether those measures were more stringent than the presently proposed measures for the supply of poultry eggs to Hong Kong. PS/FEH replied that the Administration would provide such information to the Panel when it was available from the Mainland authority.

Proposal of a mandatory food recall system

23. Mr WONG Kwok-hing commented that exercising control at the import and retail levels was a passive measure to safeguard food safety and considered that source management in food chain was important in ensuring that imported food products were wholesome and fit for consumption. He pointed out that, in the absence of a regulatory framework, it was not possible to put in place an effective source management. He said that he was supportive of the proposal of introducing mandatory food recall system and asked whether the Administration had the plan to take forward the proposal.

24. SHWF responded that, while the existing legislation might have some deficiencies in respect of food recall when there were food safety incidents, administrative measures and the trades' cooperation in this regard were also important. He said that the Administration would continue to enhance its communication with the food trade and that the trade was usually co-operative in suspending the sale of problematic food when it was necessary. SHWF further said that, with the increase in the transparency of the Mainland authorities in handling food safety incidents and the public's concern on food safety in the Mainland, it was envisaged that more incidents would be revealed in future. In the light of this, the enactment of a piece of legislation on mandatory food recall system would be necessary. He advised members that the Administration would work out the principle of the legislation in respect of mandatory food recall mechanism and consult the Panel when details were available.

25. Referring to paragraphs 20 and 21 of the Administration's paper, Mr Andrew CHENG said that it was rather difficult, if not impossible, for the LegCo Members and the various stakeholders in the food trade to reach a consensus on the proposal of mandatory food recall system. In order to show the Government's resolve in ensuring food safety in Hong Kong, he urged the Administration to submit the legislative proposal as soon as possible even though such a consensus had not been reached.

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26. The Chairman said that the Administration should balance the interests of the public and small traders in drafting the legislative details of the food recall mechanism. The Administration should consult the food trade and seek its support of the proposed legislation. He also expressed concern about the arrangements of refunding money to the consumers if there was a provision on refunds under the proposed legislation.

27. In response to members' questions, SHWF said that the Administration had the plan to put forward the legislative proposal of mandatory food recall system. The Administration would consult the Panel and the food trade when it was ready to do so.

Centre for Food Safety

28. Regarding CFS's work on risk communication, the Deputy Chairman criticised that the risk advice on consuming the problem food given by CFS did not take into account the "cocktail" effect of several carcinogenic/harmful substances present in various problem food products such as malachite green in freshwater fish and Sudan Red dye in eggs. He questioned why the health risk of other groups of people had not been taken into consideration, such as the elderly, young children, pregnant women and patients with chronic illness. Dr Joseph LEE shared a similar view with the Deputy Chairman.

29. SHWF replied that CFS would communicate with the public clearly and in layman's terms so that the public could assess the risks involved in consuming certain food products. On the "cocktail" effect of consuming food products contained different harmful substances, SHWF stressed that the risk advice provided by CFS was made on the basis of the laboratory test results and with reference to scientific researches and international standards, notably the standards of the Codex Alimentarius Commission (Codex).

30. Controller of Centre for Food Safety (Controller/CFS) supplemented that the Administration had taken reference to Codex standards in providing information on the risk of consuming certain problematic food products. Under the Codex standards, the health risk was assessed on the basis of a daily permitted level of consumption which had taken into account the diet of a normal healthy person. She added that CFS was conducting a territory wide survey on food consumption level which would provide useful information as reference for assessing the risk in consuming a certain kind of food.

31. Mr TAM Yiu-chung said that, when the Panel discussed the proposal of the setting up of CFS, it was suggested that CFS should recruit experienced professionals in fisheries and agriculture to strengthen its surveillance at the origins of food and to enhance cooperation with the Mainland farms. He hoped that the Administration would consider seriously the suggestion.

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32. On the staff establishment of CFS, SHWF said that it comprised doctors, food experts, veterinarians and professionals in agriculture and fisheries. He further said that CFS would recruit 74 additional staff in 2006-2007. Of the 74 additional staff, 21 new staff had reported duty. It was planned that the number of additional staff to be recruited by CFS in 2007-2008 would be nearly the same as that of 2006-2007.

33. Referring to the recent food incidents, Mr Andrew CHENG said that it seemed that the media always took the lead in revealing food incidents and CFS relied on the media reports to take actions. He commented that CFS failed to perform its role in monitoring the safety of food products available in Hong Kong. On the incident of discovery of Sudan Red dye in duck eggs, Mr CHENG commented that, unlike the Mainland authorities, the Administration did not take the matter seriously. He expressed concern about the evasive and indecisive attitude of the Administration in handling food safety matters. He further said that he hoped that HWFB, the Food and Environmental Hygiene Department (FEHD) and CFS would make a critical review on recent food incidents.

34. SHWF responded that he could not agree with Mr CHENG's views that the Administration was evasive and indecisive in dealing with food safety issues. He stressed that the Government was committed to protecting public health and safeguarding food safety. He said that the Administration maintained close communication with AQSIQ and the local quality supervision and inspection authorities in the Mainland to enhance source management. SHWF pointed out that CFS conducted inspection and testing of food samples at the import, wholesale and retail levels every day, either under regular food surveillance programme, inspection of seasonal food items or targeted actions on food items that were found to be involved in food incidents occurred in other places, to ensure that food products supplied to Hong Kong were fit for human consumption.

35. As regards CFS's responses to recent food incidents, SHWF said that CFS's work in respect of risk communication had room for improvement. In this regard, CFS would be required to put more efforts to improve its communication to the public on information related to the risks in consuming certain food items and food incidents.

36. PS/FEH supplemented that the Administration had maintained a firm stance on food safety issues when discussing the supply of food from the Mainland. Citing freshwater fish as an example, PS/FEH pointed out that the Administration was firm that all freshwater fish supplied by registered fish farms in the Mainland were required to be accompanied with health certificates, when such requirement was not applied to freshwater fish imported from other countries/regions. She added that, while the permitted level of malachite green present in freshwater fish under the Hong Kong law was zero part per billion, some overseas countries would allow the presence of malachite green in fish at a low level.

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37. Dr KWOK Ka-ki commented that the public's confidence in the food safety regulatory framework had been undermined as CFS only took actions after food incidents were widely reported in the media. Referring to the recent incidents involving duck eggs and freshwater fish, he asked why CFS could not take proactive actions before the revelation of problem food by the media and questioned the effectiveness of the regular food surveillance programme.

38. SHWF responded that over 60 000 food samples were collected at the import, wholesale and retail levels for food sampling tests each year. The number of food samples taken was already quite large by international standard. He said that CFS had always put great efforts in its work on source management, risk communication and communication with the food trade. CFS would step up its efforts in these areas in future.

39. With regard to the considerations for deciding whether to make public the occurrence of a food incident, SHWF said that, in view that many members of the public would like to know more about the health risk in consuming certain food products so as to make more informed choices, a review in this respect would be necessary. He further said that, in future, when the test results of food samples confirmed that certain food products found to contain harmful substances that were either banned or in excess of the permitted levels, the Administration would make public the test results expeditiously.

40. On promulgation of health risk information, Mr Vincent FANG said that most members of the public did not really understand the risk involved in consuming certain food products. Referring to the recent incident of discovery of malachite green in freshwater fish, he opined that the Administration should explain clearly to the public that malachite green residues might be present in the environment of fish ponds and eating fish tainted with a low level of malachite green would only pose a very low risk to health. He opined that the suspension of supply of freshwater fish from the Mainland was resulted from the absence of clear official channels of disseminating information and caused misunderstanding by the Mainland fish farmers.

41. SHWF responded that CFS' risk advice would be stated clearly in layman's terms to facilitate the public's understanding in future. The Administration had the responsibility to let the public know whether the harmful substances/chemicals detected in certain food items were banned or exceeded the permitted level under existing legislation and also the risk in consuming the food items concerned. Regarding the official spokesmen in regard to food safety matters, SHWF said that the Controller of CFS and the staff representing CFS were the government officials responsible for communicating information to the public.

42. Mr WONG Yung-kan criticised that the fisheries and agriculture trade had no representation in the advisory committee set up under CFS e.g. Expert Committee on Food Safety. He said that the trade representatives could provide valuable input

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regarding the latest development of the fisheries and agriculture industry which would help CFS enhance its work in monitoring food origins. Mr WONG further asked if there would be a review on the work of CFS.

43. SHWF replied that there were trade representatives in the Expert Committee on Food Safety. As regards a review on the operation of CFS, he said that the Bureau had set up a steering group, under the leadership of PS/FEH, to review the work of CFS.

Proper and improper channels of imported poultry eggs and fish

44. Mr TAM Yiu-chung said that, though the proposed measures could ensure that food was wholesome and fit for consumption at the source of origin, they could not guarantee that food would not be contaminated during delivery. Mr TAM considered that the current measures put in place to ensure the food safety of live chickens during delivery were effective. He wondered whether similar measures, such as affixing a seal to the conveyance vehicles of live chickens, could be applied to other food products, particularly fish, imported to Hong Kong. The Chairman shared a similar view with Mr TAM.

45. SHWF responded that the Administration's proposal to put in place a registration system of importers of poultry eggs and aquatic products was the first step in strengthening the regulatory control on the food safety of imported food. The Administration aimed to step up control to ensure that there was appropriate supervision at every link of the supply chain under the regulation regime. He said that CFS and Customs and Excise Department (C&ED) would step up its enforcement actions to combat the activities of importing food products through improper channels.

46. PS/FEH supplemented that, in some places, video recorder was installed in the conveyance vehicles to monitor food products during transportation. The measures to ensure the safety of food during transportation were worthy of consideration by the food trade. Nevertheless, she said that the decision on the need to install any forms of equipment for monitoring the conveyance of food items during transportation should be left to the food trade.

47. DFEH supplemented that, all freshwater fish from Mainland registered farms imported to Hong Kong by sea were unloaded in the Wholesale Food Markets. FEHD and C&ED would check whether the fish was accompanied with health certificates issued by the relevant authorities and all the relevant documents such as consignments and export manifests. He said that, in the absence of health certificates and export manifests, fish would be held and detained for inspection and testing. They would record the information of the owner of the conveyance vessel and notify the relevant Mainland authorities of the case for their follow up. As regards the suggestion of affixing seals to conveyance vessels, DFEH said that further study on this issue with

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the Mainland authorities would be necessary.

48. The Deputy Chairman and Mr WONG KWOK-hing expressed concern about a newspaper report that Guangdong authority said that 60 tonnes of freshwater fish, which had not undergone inspection and quarantine, entered Hong Kong through improper channels every day. They enquired whether the Administration was aware of the situation.

49. DFEH responded that FEHD worked closely with C&ED to take joint actions to combat activities of smuggling fish to Hong Kong. They had taken joint actions in Cheung Sha Wan and Western Wholesale Food Markets in view of the reports that fish was imported and unloaded at the Markets. He pointed out that, under the existing legislation, it was not an illegal activity in Hong Kong for importing fish from non-registered fish farms. However, fish without health certificates and export manifests would be held and detained for tests.

50. The Deputy Chairman said that, according to the Administration's information, of the 15 freshwater grouper samples collected for testing, 11 samples were tested positive for malachite green. He asked if the fish samples were imported from registered fish farms and accompanied with health certificates.

51. Controller/CFS responded that a total of 79 freshwater fish samples had been collected for testing. Of these 79 samples, 59 samples were tested negative for malachite green; with 52 samples collected at import level and 7 samples at retail level. There were 20 freshwater fish samples tested positive for malachite green; with two samples taken at import level and 18 samples at retail level. Controller/CFS pointed out that, the test results of freshwater fish samples collected at the import level were so far satisfactory and that all fish samples taken at import level were from registered fish farms. In this regard, the current registration system of freshwater fish farms put in place was considered an effective measure in ensuring food safety of imported freshwater fish. Controller/CFS added that the Administration was considering enacting legislation to put in place a registration system of importers to address the problem of fish imported into Hong Kong through improper channels.

52. Responding to the Chairman's enquiry, Controller/CFS said that the tracing of the source of contaminated fish samples was still underway as fish traders at retail level procured fish from various sources.

53. Ms LI Fung-ying said that it was equally important for the Administration to put in place measures to monitor the registration system after its implementation. She cited the supply of freshwater fish as an example and pointed out that problematic fish samples had been found even there was a system of registered fish farms. She urged the Administration to discuss with the relevant Mainland authorities on the measures to combat activities of importing fish from illicit channels.

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54. SHWF said that ACSIQ would put in place a registration system where poultry egg farms were required to register and export of eggs must be accompanied with health certificates. To complement these measures, the Administration would introduce a registration scheme of importers of poultry eggs under which importers were required to register with CFS and only permitted to import poultry eggs from registered egg farms and the eggs were accompanied with health certificates. The Administration would consider applying the same mode of regulation to aquatic products.

55. PS/FEH supplemented that, when the registration system was in place, all traders were required to procure poultry eggs and freshwater fish from registered farms. Poultry eggs and freshwater fish imported from channels other than registered farms would be regarded as illegal and would be liable for prosecution.

56. Mr WONG Yung-kan said that many registered fish farms in the Mainland had associated subsidiary companies, which would set up some purchasing stations in various places to procure fish for supply to Hong Kong. He said that many of the fish samples found to contain malachite green were from this source. He considered that the problem of "illegal fish" could only be eradicated if the number of registered fish farms could be increased.

57. SHWF responded that there were about 60 registered fish farms in the Mainland at present. Regarding Mr WONG's comment that some of freshwater fish supplied by registered fish farms were originated from other sources, SHWF said that the Administration would look into the issue and discuss with the Mainland authorities.

58. In response to Dr Joseph LEE's question on the control of counterfeit or parallelly imported food items for sale at retailing outlets, SHWF said that, under the existing legislation, the Administration was empowered to seize and remove food that was suspected to be unfit for human consumption. Under the proposed measures as stated in the Administration's paper, importers of poultry eggs were required to register with CFS and to import poultry eggs from registered farms in the Mainland, which should be accompanied with health certificates. Importers importing food products from non-registered farms would be liable for prosecution and penalty after the relevant legislation came into operation. He reiterated that the Administration would consider applying the same mode of the proposed regulatory regime for poultry eggs to aquatic products.

59. Mr WONG Kwok-hing asked when the Mainland's supply of freshwater fish would be resumed. SHWF stressed that the Administration did not ban the importation of freshwater fish and it was purely the decision of the fish farms in the Mainland.

Inspection and testing of food samples

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60. Referring to the data on the sampling tests of freshwater fish as provided by Controller/CFS, the Deputy Chairman said that there were 20 fish samples which were found containing harmful substances that exceeded the permitted level. However, the test results of fish samples under regular surveillance programme usually were satisfactory. He enquired if there was problem in the existing regular surveillance programme.

61. Dr Joseph LEE expressed concern that CFS was rather passive in its work in inspection and sample testing of food products. He wondered whether there were any deficiencies in the regular food surveillance programme in respect of inspection and testing of food samples. He asked whether there were any international standards on the number of tests and the methods of sampling tests. Dr KWOK Ka-ki shared similar views with the Deputy Chairman and Dr Joseph LEE.

62. The Chairman said that, when the Panel discussed the proposal for the setting up of CFS, he had commented that the number of inspection and tests should be increased after CFS came into operation.

63. Responding to members' questions, PS/FEH reiterated that the Administration might not always inform the public when there were certain food samples tested positive of prohibited substances under regular food surveillance programme. She cited freshwater fish as an example and explained that if the Administration could immediately trace the source of origin and take measures with the Mainland officials to solve the problem, public announcement would not be made so as to avoid unnecessary scares.

64. DFEH supplemented that, under the regular food surveillance programme, food samples would be tested on its microbiological contents, colouring matters and a number of chemicals prohibited under the law. He pointed out that, in view of resources constraint, it would not be possible to conduct a test on all kinds of chemicals that might be present in food samples. He stressed that CFS was considering measures to improve its inspection and testing of food samples and would seek advice from the Expert Committee on Food Safety to improve its monitoring mechanism under regular food surveillance programme with a view to enhancing its work in safeguarding food safety in Hong Kong.

65. Dr Joseph LEE expressed concern that problem food might be mixed with food imported from registered farms for sale at retail outlets but the Administration did not put forward any measures to control food safety at retail outlets. He said that, in his view, CFS should step up its efforts on inspection and testing at retail level.

66. SHWF responded that it was neither an effective control measure nor an efficient use of resources to inspect and test samples of food products at all retail outlets. As compared with other overseas countries, the number of inspection and

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testing conducted by CFS was rather high with about 60 000 food samples collected for testing in a year. He said that Hong Kong was a free market and the trader could procure food products from many source countries/regions. In this respect, the Administration had to maintain a balance between regulating imported food and providing a wide food choice for consumers.

67. The Chairman said that, according to the newspaper report on the date of the meeting, chloramphenicol was found in salted jelly fish and sea cucumber. He enquired whether CFS had taken any actions and asked if CFS had worked out the priority of food products, based on risk assessment, for regulation.

68. In reply, Controller/CFS said that the Expert Committee on Food Safety set up under CFS was reviewing existing legislation and standards in respect of the regulation of food and would provide advice on the priority of food for regulation. She further said that CFS would follow up on the newspaper reports on salted jelly fish and sea cucumber.

69. On the regulation of imported poultry eggs, Mr WONG Yung-kan considered that the Administration should step up its inspection of food imports and prevent unsafe food from entering Hong Kong through improper channels pending the enactment of relevant legislation. SHWF replied that, prior to the enactment of legislation, the Administration would in the meantime consult the trade to consider the implementation of a voluntary registration system of importers as an administrative measure.

Communication with the Mainland authorities

70. Mr Vincent FANG said that, in his view, the Administration should communicate with Guangdong provincial government first in case of food safety problems involving food products from the Mainland. The relationship between the Hong Kong and Guangdong authorities would be jeopardised if the Administration always discussed with the central government in Beijing whenever there was a food safety issue. He added that he and the food trade were willing to assist Government to enhance its communication with Guangdong authority.

71. In response, SHWF said that when there were food incidents involved with food products imported from Guangdong, they would communicate with Guangdong authority. However, if the food products were from other places other than Guangdong, they would have to liaise with the state authorities in Beijing. Referring to the incident of the detection of malachite green in freshwater groupers, the Administration had communicated with Guangdong authority immediately.

72. PS/FEH supplemented that the Administration had maintained close communication with Guangdong authority. Referring to the recent food incidents associated with duck eggs and turbot, she pointed out that the Administration had to

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liaise with the central government in Beijing because the source of the problem food was not Guangdong.

73. The Chairman asked whether there was a mechanism in place at present that the Administration could communicate directly with the officials of Guangdong and Shenzhen authorities.

74. SHWF replied that the two sides maintained a close relationship and a point-to-point communication mechanism was in place. When there was a food incident occurred, the Hong Kong authority could communicate and check with Guangdong directly.

75. Ms Emily LAU said that there were newspapers reports that traders in the Mainland were reluctant to supply food products to Hong Kong because of Hong Kong's stringent import requirements for food. She asked whether the Administration had encountered any difficulties in its communication with the Mainland authorities in respect of food safety issues.

76. SHWF stressed that the Administration was always mindful of the interests of Hong Kong people in discussing food safety issues with the Mainland authorities. The Administration would continue to enhance its work in food safety and communication with the Mainland authorities.

Incident associated with "Shendan" duck eggs

77. As regards the incident that the Government did not immediately make public the availability of "Shendan" duck eggs for sale in Yue Hwa, SHWF said that a detailed account of the development of the case was provided in paragraphs 6 to 10 of the Administration's paper. In reviewing the case, he considered that FEHD should have notified the Bureau at the first instance, provided all the relevant information to the Bureau and discussed with the Bureau to decide whether the incident should be made known to the public. This particular incident demonstrated that there was a need for improvement in communication between HWFB and FEHD and that FEHD should enhance its sensitivity in handling food incidents. Nonetheless, SHWF stressed that this particular incident was the first case where communication between HWFB and FEHD had problem. Before the occurrence of this incident, FEHD could always make instant notifications to the bureau on major food incidents.

78. SHWF said that he had formally apologised to the public on 22 November 2006 for giving misleading information on the contaminated Mainland eggs sold in Hong Kong when he did not have a full picture of the incident. He further said that FEHD at that time intended to inform the public when full information about the incident was obtained, but this was proved to be a misjudgement. He emphasised that FEHD had learned a lesson and would improve the way of communication with the public in future. SHWF informed members that he accepted that FEHD's intent was

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to avoid giving confusing information as the information provided by Yue Hwa was incomplete and clarifications and verifications of information from the Mainland authorities were not yet available. He stressed that FEHD did not have any motive to hide any information from the public.

79. Dr KWOK Ka-ki pointed out that the account of the development on the incident on 17 November 2006 given by Yue Hwa and FEHD were different. According to newspaper reports, Yue Hwa said that the Administration only asked them to provide information on the place of origin and channel of export for the duck eggs concerned, but did not request them to surrender the duck eggs. However, according to the Administration's information, CFS had asked Yue Hwa to surrender the duck eggs kept at its warehouse but Yue Hwa would neither surrender the duck eggs nor provide details about the exporter and importer of the duck eggs immediately. He asked whether FEHD or Yue Hwa had not disclosed the fact. Dr KWOK said that, in his view, the incident was not a problem of mis-communication between the Bureau and FEHD. He opined that the Administration should provide full details on the account of the incident and the names of staff responsible for handling the incident in FEHD.

80. DFEH replied that, to the best of his knowledge, he had provided the detailed account of the development of the incident in the Administration's paper. He would not comment on newspapers reports.

81. DFEH said that, on 13 November 2006, in response to a Mainland media report about the discovery of Sudan Red in duck eggs from Hebei in the Mainland, CFS collected duck egg samples for testing at wholesale and retail levels. The egg samples collected by CFS were tested negative for Sudan Red. In the morning of 17 November 2006, he received notification from AQSIQ that certain egg products from Shendan Healthy Food Co. Ltd (Shendan Company) were found to contain Sudan Red dye. However, AQSIQ did not have any further details and said that they would revert to him when details were available. In the afternoon of 17 November 2006, he received confirmation from the Mainland authority that no problematic duck eggs of the same batch number had been exported to Hong Kong, but it was found that there was a batch of duck eggs exported abroad via Hong Kong in September 2006. This batch of duck eggs had been duly certified by AQSIQ.

82. DFEH further said that, after receiving this information, CFS followed the usual practice and contacted major local retailers and supermarkets in the afternoon of the same day to check whether they had any "Shendan" duck eggs for sale. All local retailers and supermarkets confirmed that no "Shendan" duck eggs were on sale. He stressed that Yue Wah only confirmed in the evening of 17 November 2006 that it had a batch of "Shendan" duck eggs in stock, which were kept in the warehouse and had not been sold. DFEH advised that CFS staff immediately carried out an inspection at Yue Hwa in the evening of 17 November 2006 and did not find any "Shendan" duck eggs on display for sale. CFS staff had immediately requested Yue Hwa to surrender

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all duck eggs and to provide import and export information about the duck eggs and the relevant documents for verification.

83. DFEH said that, under such circumstances when no "Shendan" duck eggs were available for public consumption and, in view of the need for CFS to verify the export channel of "Shendan" duck eggs with the Mainland authorities, FEHD considered it not necessary to disclose the information to the public immediately. He further said that it was only in the afternoon of 20 November 2006 that CFS staff were allowed access by Yue Hwa to collect about 1,200 duck eggs from Yue Hwa's warehouse and to obtain some relevant documents concerned indicating the name of an export and import company in Hong Kong but the information provided was still incomplete, in that it did not indicate the place of origin and channel of export for the duck eggs concerned. He stressed that it was not until the afternoon of 21 November that CFS received detailed information from Yue Hwa, which confirmed that the duck eggs were accompanied with an official authorisation. However, the batch of duck eggs concerned was only authorised for exhibition.

84. DFEH said that his decision of not making an instant report of the incident to SHWF and not making public of the incident was made on the grounds that he did not have sufficient information at that time and, that in his judgement, public health was not at risk. In reviewing the development of the incident, he said that he should have reported to SHWF and PS/FEH about the incident immediately even though information on the incident was incomplete. DFEH further said that, as the Director of FEHD, he was responsible for the management of the incident and he offered his apology to the public for causing so much concern. He also offered his apology to SHWF for the failure to report this incident to him in time as this had caused SHWF providing incomplete information to the media, which misled the public about the availability of Shendan duck eggs for sale in Hong Kong.

85. DFEH emphasised that, should a similar incident occur in future, the prime considerations on deciding whether to make public the incident would be the health risks posed to the public and the gravity of public concern, rather than the sufficiency of information in hand.

86. The Deputy Chairman said that, in his view, Dr Thomas CHUNG (Assistant Director of CFS (Food Surveillance and Control) and Dr HO Yuk-ying (Consultant of CFS (Community Medicine (Risk Assessment and Communication)) should also offer their apology, given that they were the officials representing CFS to answer media enquires and communicate with the public. The Deputy Chairman commented that the incident of "Shendan" duck eggs was not an isolated case. He criticised that CFS should not make a public announcement that no problematic eggs had been imported to Hong Kong based purely on the information provided by the Mainland authorities. He wondered whether CFS had considered the interest of the citizens who had bought Shendan duck eggs from Yue Hwa.

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87. In reply, SHWF said that DFEH had made an error of judgement in not making public the incident. He added that the Administration would conduct a review of the operation of CFS with a view to improving its risk communication and crisis management.

88. Ms Li Fung-ying said that she wondered whether CFS actually knew that some of the "Shendan" duck eggs kept by Yue Hwa had been sold to the public when Yue Hwa confirmed to CFS that it had "Shendan" duck eggs kept in its warehouse.

89. DFEH reiterated that he was only informed in the afternoon of 17 November 2006 that there was a transshipment of batch of "Shendan" duck eggs via Hong Kong for export to other countries in September. When CFS staff inspected Yue Hwa in the evening of 17 November 2006, they did not find any Shendan duck eggs on display for sale. He stressed that it was not until the afternoon of 21 November 2006 that CFS received detailed information from Yue Hwa. From the documents provided by Yue Hwa, it was found that there was a difference in the number of duck eggs seized (i.e. 1 200) and the number of duck eggs shown in the document (i.e. more than 2 000). It was then revealed that about 1 000 duck eggs had been sold to the market.

Motion passed by the Panel

90. The Deputy Chairman moved a motion reprimanding the FEHD's handling of the incident relating to egg products. Mr WONG Kwok-hing moved an amendment to the motion urging the Government to improve the legal framework for the sake of enhancing its capabilities in handling food safety incidents. The motion of the Deputy Chairman as amended by Mr WONG was as follows -

"本委員會譴責食環署在處理蛋類產品事件上出現嚴重失誤，尤其是在知悉有問題產品在本港市面銷售而不予即時公佈。本會促請政府全面檢討及改善法律配套提升其處理食物安全事故的能力，並促請食物安全中心立即改善公佈機制，當發現有問題產品在本港銷售時，必須盡快披露，讓公眾知悉。"

[English translation

"That this Panel reprimands the Food and Environmental Hygiene Department for its serious blunder in handling the incident relating to egg products, especially for not immediately informing the public about the sale of the problematic products in Hong Kong after its awareness of the situation; the Panel urges the Government to comprehensively review and improve the relevant legal framework so as to enhance its capabilities in handling food safety incidents; it also urges the Centre for Food Safety to immediately improve its announcement mechanism so that it will be obliged to disclose the cases and inform the public as soon as possible when problematic products are found to be on sale in Hong Kong."

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91. The Chairman invited members to vote on the amendment. All members present unanimously voted for the amendment. The Chairman declared that the Deputy Chairman's motion as amended by Mr WONG Kwok-hing was passed.

II. Any other business

92. There being no other business, the meeting ended at 11:27 am.

Council Business Division 2
Legislative Council Secretariat
27 February 2007