

立法會
Legislative Council

LC Paper No. CB(2)873/07-08
(These minutes have been seen
by the Administration)

Ref : CB2/PL/FE

Panel on Food Safety and Environmental Hygiene

Minutes of meeting
held on Tuesday, 11 December 2007, at 2:30 pm
in Conference Room A of the Legislative Council Building

Members present : Hon Tommy CHEUNG Yu-yan, SBS, JP (Chairman)
Hon Fred LI Wah-ming, JP (Deputy Chairman)
Hon WONG Yung-kan, SBS, JP
Hon Andrew CHENG Kar-foo
Hon TAM Yiu-chung, GBS, JP
Hon Vincent FANG Kang, JP
Dr Hon Joseph LEE Kok-long, JP
Hon Alan LEONG Kah-kit, SC
Dr Hon KWOK Ka-ki

Member attending : Hon Bernard CHAN, GBS, JP

Member absent : Hon WONG Kwok-hing, MH

Public officers attending : Item IV, V and VI

Food and Health Bureau

Dr York CHOW Yat-ngok
Secretary for Food and Health

Mrs Stella HUNG
Permanent Secretary for Food and Health (Food)

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Ms Olivia NIP
Deputy Secretary for Food and Health (Food)

Mrs Angelina CHEUNG
Principal Assistant Secretary for Food and Health (Food) 1

Item IV and V

Food and Environmental Hygiene Department

Mr CHEUK Wing-hing
Director of Food and Environmental Hygiene

Dr Constance CHAN Hon-ye
Controller, Centre for Food Safety

Item V

Food and Environmental Hygiene Department

Dr Philip HO Yuk-yin
Consultant (Community Medicine) (Risk Assessment and
Communication), Centre for Food Safety

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. Confirmation of minutes
[LC Paper No. CB(2)514/07-08]

The minutes of the special meeting held on 12 October 2007 were confirmed.

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II. Information paper(s) issued since the last meeting

2. Members noted that an e-mail from the Hong Kong Dietitians Association (HKDA) enclosing its press release on a survey conducted by HKDA and Hong Kong Nutrition Association (HKNA) on the proposed food labelling scheme had been issued to members since the last meeting [LC Paper No. CB(2)484/07-08(01)].

III. Items for discussion at the next meeting

[Appendices I and II to LC Paper No. CB(2)516/07-08]

3. Members agreed to discuss the following items proposed by the Administration at the next regular meeting scheduled for 8 January 2008 -

- (a) amendment to the Colouring Matter in Food Regulations;
- (b) introduction of a composite licence for the manufacture and sale of various types of ready-to-eat food items; and
- (c) rationalisation of the time limit for prosecutions against unauthorised building works in premises licensed by the Food and Environmental Hygiene Department (FEHD).

IV. Food Safety Bill

Briefing by the Administration

4. The Secretary for Food and Health (SFH) briefly highlighted the salient points of the paper on the "Proposed Food Safety Bill" provided by the Administration [LC Paper No. CB(2)516/07-08(01)]. The key features of the Food Safety Bill (the Bill) were summarised as follows -

(a) Authority of the Bill

The Director of Food and Environmental Hygiene (DFEH) would be the Food Safety Authority (FSA) under the new legislation. FSA would be empowered to make regulations under the Bill within the ambit of the Bill.

(b) Definition of "food"

The Administration proposed to broaden the definition of "food" under the Bill to cover live fish, live amphibian as well as ice. In order that the food safety standards under the Public Health and

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Municipal Services Ordinance (PHMSO) (Cap. 132) were also applicable to these new food types as defined in the Bill and, for the sake of consistency, consequential amendments to the definition of "food" under PHMSO would be made.

(c) Mandatory registration scheme for food importers and distributors

There would be a provision under the Bill requiring mandatory registration of all food importers and distributors with FSA. Only food importers who had registered with FSA would be allowed to import food into Hong Kong. The registration requirement would equally apply to food coming from overseas and locally produced.

(d) Record-keeping requirement

Under the Bill, all food importers and distributors were required to keep records of the business from which they obtained their food and the business to which they supplied their food. The record-keeping requirement would also apply to all food retailers but they would only be required to keep records of the source of their food. The Administration was considering preparing a standard form to facilitate food trade's compliance with the record-keeping requirement.

(e) Specific import control for food types

The Administration proposed to include in the Bill various import control measures for different food types, according to their risk level. The details of the Administration's proposals in respect of control over the various food types, subject to consultation with the food trade, were set out in Annex B to the Administration's paper.

(f) Prohibition of import and sale of problem food and mandatory recall

FSA would be empowered to issue an order to prohibit the import or sale of problem food and to issue a recall order, where FSA had reasonable grounds to believe that the food concerned posed a serious health hazard to the public.

(g) Food Safety Appeals Board

A new Food Safety Appeals Board would be established under the Bill to hear appeals from any person who felt aggrieved by the decision of FSA.

5. SFH said that it was recognised internationally that the food trade should

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bear the primary legal responsibility for ensuring food safety. He stressed that, in drafting the proposal for the Bill, the Administration had taken into account the need for tighter control and the trade's concerns about over-regulation which would result in higher compliance cost, and hence higher food price and reduction in food choice. He informed members that the Administration's plan was to introduce the Bill into the Legislative Council (LegCo) in the 2008-2009 session.

6. Members noted that the LegCo Secretariat had prepared a background brief entitled "New food safety legislation" for members' reference [LC Paper No. CB(2)516/07-08(02)].

Legislative timetable

7. The Deputy Chairman said that he had awaited the Bill for a long time to enhance food safety in Hong Kong and called on the Administration to expedite the legislative process for the early implementation of the Bill

8. Mr WONG Yung-kan shared similar views with the Deputy Chairman. He said that members belonging to the Democratic Alliance for Betterment of Hong Kong and Progress of Hong Kong (DAB) were supportive of the Bill.

9. SFH responded that, having regard to the complexity and the scope of the Bill, it would be impractical for the Administration to submit the Bill to LegCo for scrutiny in this session. He said that, with members' support, the Administration would pass the drafting instructions of the Bill to the Department of Justice. He undertook that the Administration would do its best to provide all the necessary information to facilitate future scrutiny work of the Bill. SFH further said that the Administration would start consultation with the food trade, particularly the small and medium sized food traders.

10. The Chairman said that he was supportive of the introduction of the Bill to enhance the food safety in Hong Kong. He further said that, given that there were only several months left before the end of the current session, Members would not have sufficient time to scrutinise the Bill. He, therefore, considered that it was appropriate for the Administration to submit the Bill to LegCo for scrutiny in the 2008-2009 session. The Chairman urged the Administration to consult fully the trade and to take the views of the trade into consideration when drafting the new Bill. To assist Members to scrutinise the Bill expeditiously, he hoped that the Administration could provide the details of the implementation of the Bill to the Panel before the end of the current term, if practicable, so as to allow more time for Members as well as the food trade to study the Bill.

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Definition of "food"

11. Referring to the Administration's paper on the proposal to broaden the definition of "food" under the Bill, Mr Alan LEONG asked whether the definition of "food" would be amended to cover other food types when the risk level of the food concerned had increased and posed health risk to the public. SFH responded that the Administration would first bring under special regulation food items which had a higher food safety risk or of wide public concern such as poultry eggs and farmed aquatic products. He advised that the Bill would be drafted in a way that would enable the Administration to place food products which needed special regulation under the ambit of the Bill in the swiftest way in accordance with changes in environment and needs. The Administration would consider addition of other food types for special regulation under the Bill when the risk level of the food concerned had increased.

12. In response to the Chairman's and Dr Joseph LEE's questions, SFH confirmed that FEHD would be the law enforcing department of the new food safety law. On the question relating to the definition of "food", DFEH supplemented that the examples of live fish and ice mentioned in paragraph 3 were examples of food products which were of high risk or wide public concern that were not being regulated because the definition of "food" in the existing Cap. 132 did not cover these food products. As explained in paragraph 8, the definition of "food" in the existing Cap. 132, as set out in Annex A to the Administration's paper, did not include live fish (except shell fish), live amphibian and water (except aerated water, distilled water, water from natural springs, either in its natural state or with added mineral substances and water placed in a sealed container for sale for human consumption). He said that, to address the deficiencies, the Administration proposed to broaden the definition of "food" under the Bill to cover live fish, live amphibian as well as ice.

13. On the Administration's proposal to regulate ice, the Chairman enquired whether ice suppliers were required to conduct laboratory test on ice that they manufactured and whether food premises were required to conduct laboratory test of the water that they used for making ice.

14. In response, DFEH said that, to ensure food safety of ice, it was good manufacturing practice for the trade to conduct tests on the ice they produced. When ice was subject to control under the new food safety law, the Centre for Food Safety (CFS) would collect samples of ice for testing under its regular food surveillance programme. He further pointed out that, under the Bill, there would be provisions to require all food importers and distributors to register with FSA and to keep records of the business from which it obtained its food and the business to which it supplied the food. Nevertheless, the Administration would propose that licensed restaurants and other food businesses licensed under the Food Business

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Regulation (Cap. 132X) be exempted from the requirement of registration with FSA. He stressed, however, that these licensed restaurants and food businesses were still required to comply with the requirement of keeping records of the business from which they obtained their food.

15. On the Administration's response, the Chairman said that he was worried that food business operators might have difficulty in complying with the statutory requirement of keeping three-month's business records. He reminded the Administration to consult the food business, in particular restaurants, on the Bill.

Mandatory registration and record-keeping requirements

16. Mr WONG Yung-kan expressed worries that the market would be monopolized by large-sized supermarket chain stores after the enactment of the Bill. He was concerned that small food business operators might have difficulty in complying with the statutory registration and record-keeping requirements laid down in the Bill and find it impossible to continue with their business.

17. SFH explained that the registration for food importers and distributors would be for a period of three years, subject to renewal. The initial thought for the level of registration fee would be about \$200 for three years. He also pointed out that the proposed Bill would improve the food regulatory regime, thereby boosting consumers' confidence in the food trade and creating a favourable business environment for long-term development.

18. Referring to paragraph 15 of the Administration's paper, Mr Alan LEONG said that there were some 6 400 importers and 9 600 distributors in the food trade. However, only some 800 importers and 400 distributors had registered with FEHD under the voluntary registration scheme for food importers and distributors as at 30 November 2007. He asked whether the Administration had analyzed the reason why the rate of registration was so low.

19. DFEH said that, in the absence of statutory requirement, the trade lacked the impetus to come forward for registration and the Administration had difficulty getting hold of the necessary information to reach out to all food importers and distributors. However, the Administration would enhance its publicity efforts in encouraging food importers and distributors to register with FEHD.

20. Controller, CFS (Controller/CFS) supplemented that the pre-statutory notification scheme for poultry egg and game/meat/poultry was well participated by the importers and distributors concerned. However, she agreed that the response of importers and distributors in the fish trade to the pre-statutory notification scheme was unsatisfactory. In this respect, CFS would engage in more communication with the relevant trade associations to solicit their assistance in promoting the voluntary

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notification scheme and to understand the trade's difficulties and needs in complying with the new requirements under the Bill.

21. Noting that the response of food importers and distributors to the pre-statutory notification was not very satisfactory and the Bill would not be introduced LegCo until the 2008-2009 session, Dr Joseph LEE asked what other measures would be implemented by the Administration to ensure food safety in Hong Kong prior to the enactment of the Bill. He also asked whether the Administration would consider providing any incentives to encourage importers and distributors to register with CFS.

22. SFH responded that CFS conducted inspection and testing of food samples at import, wholesale and retail levels under food surveillance programme to ensure that food on sale in Hong Kong was fit for human consumption. CFS had stepped up its efforts in improving its communication to the public on information related to the risks in consuming certain food items and food incidents. Over the past two years, the Administration had also implemented several new administrative measures including the pre-statutory notification schemes to better safeguard food safety in Hong Kong. SFH said that, given that Hong Kong imported most of its food from the Mainland, the Administration maintained close communication with the relevant Mainland authorities to enhance source management. He quoted the example of the establishment of the system of registered Mainland farms for exporting poultry eggs, vegetables and fruits to Hong Kong and pointed out that it helped greatly in ensuring the safety of food imported from the Mainland.

23. DFEH supplemented that the Administration would strengthen its communication with the relevant trade associations to publicise the pre-statutory notification scheme and encourage more importers and distributors to register with CFS. Regarding the suggestion of providing incentives to promote the voluntary notification scheme, DFEH said that the food trade had the primary responsibility for ensuring food safety. However, the Administration would welcome any good suggestions from Members in this respect.

24. As regards the application of record-keeping requirement to food retailers, the Deputy Chairman said that some retailers, for example, small grocery stores might purchase a large amount of low-priced food products from supermarket chain stores for sale. He expressed concern that the Administration might have difficulty in tracing the source of food products on sale in these grocery stores. In response, SFH reiterated that there would be provisions requiring food importers and distributors to keep records of the business from which they obtained the food products and the food business to which they supplied the food. The record-keeping requirement on the source of food would also apply to all food retailers.

25. Mr Alan LEONG asked whether a food trader would be charged for breaching both PHMSO and the new food safety legislation for the commission of

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an illegal act. SFH responded that food importers or distributors would commit an offence for contravening the new food safety legislation if they failed to register with FSA prior to importation of food. If their food products were found unfit for consumption, they would also be liable for a contravention under PHMSO.

26. The Chairman expressed concern over the impact of the Bill on licensed food premises. He quoted an example where the food sold by a licensed siu mei/lo mei shop was found unsafe for consumption and the licensed shop concerned also failed to keep business records. He said that, apart from committing offences under the Bill and PHMSO, the licensed shop would also be awarded a number of demerit points under the Demerit Points System (DPS) implemented by FEHD for each offence of breaching legislative provisions on food safety and environmental hygiene under Cap. 132 and its subsidiary legislations. The licence of a food premise would be suspended or cancelled if it had accumulated a certain level of demerit points within a specified period of time.

27. SFH said that a food trader might face more than one prosecution if he was in breach of two different statutory provisions. It would depend on the circumstances of each case. However, he assured members that the Administration would review and rationalise the provisions of the existing PHMSO and the Bill to avoid any overlapping in these two pieces of legislation.

Import control for food types

28. On import control measures, the Chairman sought clarification from the Administration whether the public would commit an offence under the new legislation for bringing in food into Hong Kong. SFH responded that the Bill would propose to exempt import of certain food types by bona fide travellers for non-commercial use from the import requirements.

29. Mr Alan LEONG commented that the enactment of the Bill was only a small part of the concept of "from farm to table". He asked what other control measures would be implemented by the Administration to safeguard food safety after the enactment of the Bill. SFH responded that, given that about 95% of food consumed in Hong Kong were imported from other countries/places, it was very difficult, if not impossible, to implement the concept of "from farm to table". In strengthening import control, the Administration had to strike a balance between upholding Hong Kong's status as a gourmet paradise and safeguarding food safety in Hong Kong. SFH said that the Bill would help strengthen the management of every part in the whole food supply chain through a new regulatory approach, including imposing a registration scheme on food importers and distributors. Accompanied by other regulatory measures such as mandatory recall of problematic food and the requirement of health certificates for the import of certain food items, the new law could provide a more comprehensive food safety regime for imported food.

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30. Mr Vincent FANG pointed out that the price of food products had increased by about 30% to 40% in 2007. He said that the food trade was concerned about the impact on the cost of the trade, which would inevitably have implication on the retail prices of food products. He was concerned as to how the Administration could eradicate the problem of smuggling of food products from non-registered sources and enforce the new legislation if food products imported from improper channels were mixed up with those procured from registered farms. Dr Joseph LEE expressed similar view with Mr Vincent FANG.

31. SFH responded that the Administration was also concerned about the situation of increase in food prices. The Administration had endeavoured to minimise the possible impact on the trade arising from the enactment of the Bill. SFH reiterated that the registration fee for food importers and distributors was low. He added that, although registration fee would be charged on the basis of full-cost recovery, the cost of monitoring food safety of food products was borne by the Government. Citing the food safety regulatory regime in the European Union countries as an example, he advised that the food trade had to pay for the cost of inspections and food tests conducted by the food safety authorities there.

32. Regarding the problem of smuggling of food products from improper channels, SFH said that, under the present legislation, it was rather difficult to trace the source of problem food if the food products imported from non-registered farms were mixed up with those food items imported from registered farms. He stressed that food safety in Hong Kong relied upon the tripartite cooperation of the Government, the food trade as well as the public. Intelligence and information provided by the food trade and consumers was important in eradicating the smuggling activities. Should the food trade and consumers have any information on the food suspected of being imported from improper channels, they should report to FEHD for follow up. SFH stressed that both FEHD and the Customs and Excise Department (C&ED) would work closely to combat the activities of smuggling of food items from non-registered food sources.

33. DFEH said that the implementation of the mandatory registration scheme for food importers and distributors would help combat smuggling activities of food products from non-registered sources. He reiterated that, under the Bill, there would be a mandatory requirement for all food importers and distributors to register with FSA. Only food importers who had registered with FSA would be allowed to import food into Hong Kong. The registration requirement applied equally to food coming from overseas and locally produced. There would also be a provision in the Bill to require all food importers, distributors and retailers to keep records of the business which would facilitate traceability of the problem food. DFEH added that C&ED had recently set up a task force to strengthen cooperation among departments in combating the smuggling activities of food products.

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Other issues discussed

Food Safety Appeals Board

34. Dr Joseph LEE asked whether FSA would suspend the enforcement of its order pending the decision of the Food Safety Appeals Board if a food trader had lodged an appeal against FSA's order. DFEH responded that the purpose of setting up the Food Safety Appeals Board was to provide a channel of redress for food traders who felt aggrieved by the decision of FSA. The details of appeal procedures had yet to be worked out. However, making reference to the appeal procedures for the appeal boards set up under other legislation, the order would most probably be enforced whilst an appeal had been made to the Food Safety Appeals Board.

Detection of prohibited substances in food products

35. On the recent media reports about the detection of veterinary drug residues in some canned pork luncheon meat manufactured on the Mainland, Mr Vincent FANG said that the sole agent of the concerned food product had voluntarily recalled the affected food product and the food traders had also removed the affected food product from the shelves. He, however, commented that the information provided by CFS in its press release on the test results of the samples of the problem food involved in food incidents was confusing. In the case of canned luncheon meat concerned, CFS advised in its press release that the presence of nitrofurans or malachite green in food was unacceptable and consumption of these chemicals over a prolonged period might cause cancer. However, CFS also stated that the levels of nitrofurans and malachite green detected were low, and normal consumption should not pose serious health risks to consumers.

36. Mr WONG Yung-kan also commented that the incident reflected the deficiency of the existing legislation that the Administration lacked the legal power to prohibit the sale of problem food and to order a recall of the food concerned from the market. He hoped that the Administration could expedite the legislative process for the early implementation of mandatory food recall mechanism. He asked whether the problem food recalled from the market would be kept in a store or would be returned to the overseas supplier.

37. In response to the questions raised by Mr Vincent FANG and Mr WONG Yung-kan, SFH explained that the purpose of risk communication was to convey food surveillance results to the public to enable them to make informed choices. In this respect, information on food safety should be disseminated in a clear, open, and timely manner to facilitate the public's understanding of the health risk of consuming certain food products. SFH said that, when prohibited substances were detected in a food product, the food product concerned must be recalled for the sake of protecting public health and safeguarding food safety. As in the case of the food

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incident relating to canned pork luncheon meat, the Administration had liaised with the Mainland authorities. The sole agent of the concerned product had initiated a recall and stopped selling the affected products.

38. Referring to the recent incident of the discovery of carcinogenic potassium bromate in potato chips imported from the United States (the US) by the Mainland authorities, the Deputy Chairman pointed out that, while potassium bromate was prohibited for use on the Mainland, Hong Kong did not have regulation over its use. He asked whether the Administration would review the food safety standards adopted in Hong Kong and bring them in line with international standards after the enactment of the new Food Safety Bill.

39. SFH responded that CFS staff monitored closely food incidents occurred in overseas daily and assessed whether they would have any impact on food products on sale in Hong Kong. When there was a food incident occurred in overseas, CFS staff would trace and find out whether such problem food was on sale in Hong Kong and collect samples of the problem food for testing. He advised that, when there were food incidents in the past, the trade had been very cooperative and food traders were willing to remove the problem food product from shelves. As regards food standards, SFH informed members that the Administration planned to introduce legislative amendments to the subsidiary legislations regulating the use of preservatives and veterinary drug residues. There would be clear provisions on the use of preservatives and their maximum permitted limits of use in the Amendment Regulation.

Development of fisheries and agriculture industries

40. Mr WONG Yung-kan said that the Mainland authorities had provided assistance to help the Mainland's fisheries and agriculture industries to improve their food quality and productivity of their food produce, for example, loan scheme or training courses. He enquired about the measures or assistance that the Administration would render to local fisheries and agriculture industries. SFH responded that the Agriculture, Fisheries and Conservation Department (AFCD), Vegetables Marketing Organization and Fish Marketing Organization were providing assistance to local farmers to improve their food produce. AFCD had introduced the Accredited Farm Scheme and a voluntary registration scheme for local vegetable and fish farms. AFCD also offered technical assistance to local farmers to help them convert to organic farming and gave guidance on the proper use of pesticides to local farmers. SFH said that he would welcome any other suggestions in this respect provided by Mr WONG.

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V. Labelling scheme on nutrition information

Presentation by the Administration

41. SFH briefed members on the proposed nutrition labelling scheme for prepackaged food, with details as set out in the Administration's paper [LC Paper No. CB(2)516/07-08(03)]. He said that the aims of introducing a nutrition labelling scheme for prepackaged food were to assist consumers to make healthy food choices, to encourage food manufacturers to apply sound nutrition principles in the formulation of food which would benefit public health, and to regulate misleading or deceptive labels and claims. SFH further said that, under the current proposed scheme, all prepackaged food were required to label energy, trans fat plus six core nutrients, namely protein, carbohydrates, fat, saturated fat, sodium and sugars on their food labels, as well as any nutrient for which a claim was made. However, when a claim was made on the amount of cholesterol or the amount and/or type of fat, then the amount of cholesterol, monounsaturated fat and polyunsaturated fat should also be declared.

42. SFH pointed out that, given that Hong Kong imported about 60% of its prepackaged food from overseas, imposition of regulation over food labelling would have certain impact on the number and variety of imported food. The Administration had to strike a balance in facilitating consumers' right to make informed food choices and maintaining the variety of food choices. As such, the Administration decided to relax the requirements on labelling format, that was, allowing the labelling of energy in either kilocalorie or kilojoule format and the labelling of nutrients in either per 100 g/ml or per serving format. The Administration also proposed to adopt some facilitation measures for the trade including exemption of certain types of prepackaged food from the nutrition labelling requirements and small volume exemption. Under the proposed small volume exemption scheme, food products with annual sales volume of 30 000 units or below would be exempted from the nutrition labelling requirements.

43. Members noted that the LegCo Secretariat had prepared a background brief entitled "Labelling scheme on nutrition information" and issued an email from HKDA enclosing its press release on a survey conducted by HKDA and HKNA on the proposed food labelling scheme for members' reference [LC Paper Nos. CB(2)516/07-08(04) and CB(2)484/07-08(01)].

(Post-meeting note: The Secretariat had circulated the press releases on the labelling scheme issued by the Consumer Council and Hong Kong Medical Association for members' reference vide LC Paper No. CB(2)601/07-08(01) on 12 December 2007.)

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Requirements on labelling of core nutrients

44. Dr KWOK Ka-ki said that he was supportive of the introduction of the nutrition labelling scheme for prepackaged food and welcomed the inclusion of trans fat into the proposed scheme. He, however, was disappointed with the Administration's proposal that cholesterol, calcium and dietary fibre were not included in the current proposal. Referring to Annex I to the Administration's paper, he pointed out that the US and Canada required the labelling of these three core nutrients. Dr KWOK further said that the public was concerned about the health effect of cholesterol and asked whether the Administration had any concrete justifications for taking out cholesterol from the proposed scheme. Noting that infant/follow-up formulae, food for infants and young children and other foods or special dietary uses were regulated under different Codex Alimentarius Commission (Codex) standards, he enquired about the information in this respect.

45. Dr Joseph LEE expressed similar view with Dr KWOK Ka-ki. Noting that the Administration's explanation given in its paper for taking out cholesterol from the proposed nutrition labelling requirements was that saturated fat and trans fat were more important risk factors for cardiovascular disease, he asked whether the Administration would include cholesterol or other nutrients into the labelling scheme should they become high risk factors in the future.

46. SFH explained that, given that over 60% of prepackaged food in Hong Kong was imported from other countries/places, the Administration had to strike a balance between facilitating consumers' right to make informed food choices and maintaining variety of imported food. The Administration had reviewed and studied the subject of nutrition labelling over the past years. He added that, whenever he paid visits to the relevant food regulatory authorities in overseas, he exchanged views with them in respect of nutrition labelling requirements. SFH pointed out that only the US and Canada required the labelling of cholesterol in food. He also advised members on the latest development of the nutrition labelling requirements by Codex, which took a very similar approach as that being proposed by the Administration in its current proposal. Codex had planned to put the issue of the inclusion of trans fat, saturated fat, sodium and sugars on top of its basic labelling requirements (i.e. energy and three core nutrients, namely protein, carbohydrates and fat) into the agenda for discussion in its coming meeting in the next session. Cholesterol was not on Codex's agenda for nutrition labelling.

47. As regards trans fat, SFH advised that the adverse health effect of trans fat had been internationally recognised. Trans fat elevated low-density cholesterol ("bad" cholesterol) and lowered high-density lipoprotein cholesterol ("good" cholesterol). Excessive intake of trans fat might lead to clogging of arteries and increase the risk of coronary heart disease and strokes. Therefore, inclusion of trans fat in the proposed nutrition labelling scheme would enable consumers to make

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informed choices in their purchase of food.

48. Dr Joseph LEE enquired about the definition of prepackaged food in the legislation. He said that there was a variety of prepackaged food on sale in retail outlets, e.g. vegetables, biscuits, "health food" products and pharmaceutical products. He wondered how the Administration could control the labelling requirements of such a variety of prepackaged food, particularly those so called "health food" products.

49. DFEH responded that prepackaged food indeed meant any food which had been packaged when presented to consumers for sale. On the regulatory control of pharmaceutical products, DFEH advised that the Pharmacy and Poisons Ordinance (Cap. 138) controlled products for the treatment, or prevention, of a specific disease or disease symptom and the Chinese Medicine Ordinance (Cap. 549) controlled products which composed of Chinese medicines as active ingredients. For the "health products" which were neither pharmaceutical products nor products composed of Chinese medicine, they would fall outside the ambit of these two ordinances, but would be regulated by PHMSO which prohibited the sale, possession for the purpose of sale, of any food which was not fit for human consumption. Therefore, the safety of "health food" products for human consumption purposes was already subject to control.

50. Mr Alan LEONG said that the Civic Party was supportive of the introduction of nutrition labelling scheme. He, however, commented that the Administration did not provide any information on how to set the threshold of trans fat contained in food that could be claimed as free of trans fat. He pointed out that, in the US, the regulation allowed trans fat level of less than 0.5 g per serving to be labelled as free of trans fat. Nonetheless, in Canada, food products with less than 0.2 g of trans fat per serving could be labelled as free of trans fat. In response, DFEH said that the Administration would consult the food trade and make reference to overseas standards in this respect before making any decision on the matter.

Requirements on labelling format

51. The Deputy Chairman pointed out that Australia and New Zealand required the labelling of nutrients in both per 100 g/ml and per serving formats. Noting that the proposed nutrition labelling requirements were the same as that in place in Australia and New Zealand, he asked why the Administration did not follow the requirements on labelling format adopted by these two countries.

52. Echoing the view of the Deputy Chairman, Mr Alan LEONG pointed out that, while per serving format would facilitate easy understanding of the nutrition information by consumers, per 100 g/ml format would facilitate the public in

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making a food choice as they could compare the nutrients of the food products with ease. He suggested the Administration to consider requiring that a daily dietary consumption table be affixed on the packages of prepackaged food to facilitate consumers making an informed food choices to suit their health needs.

53. In response to the views expressed by the Deputy Chairman and Mr Alan LEONG, SFH explained that there was no standard format for expression of energy and nutrient value in the food labels among different jurisdictions. Having regard to the large number and variety of imported food in Hong Kong, stipulation of a rigid format for expression of energy and nutrient value would necessitate re-labelling of the food products of certain countries and might impact on food choices. In view of this, the Administration considered that some flexibility in the labelling format should be allowed. SFH stressed that the Administration would continue the work on nutrition labelling education so as to educate consumers on how to read food labels.

54. DFEH clarified that the Administration did not follow the nutrition labelling requirements adopted by Australia and New Zealand. He stressed that the current proposal was worked out by the Administration after taking into consideration various factors including the principles adopted by Codex, local public health needs, compliance cost for the food trade, implication on food choices and overseas regulatory regimes etc. DFEH pointed out that there would not be a form of labelling that could accommodate the different labelling practices of different countries; should Hong Kong require the labelling of energy and/or nutrients in both formats, food labels of food products imported from the US and Canada had to be re-labelled as the US and Canada only required the labelling in per serving format. There would also be impact on food imported from the Mainland and Japan given that they allowed the labelling of energy and/or nutrients in either per 100g/ml format or in per serving format.

55. As regards Mr Alan LEONG's suggestion, DFEH explained that requiring prepackaged food to provide dietary daily consumption labels was not in line with international practice. Given the small size of Hong Kong market, there would be impact on the number and variety of imported food available for sale if Hong Kong required the labelling of daily dietary consumption table.

56. The Chairman said that, having regard to different labelling methods being adopted by different jurisdictions, he considered that the current proposal of providing flexibility in the labelling format put forward by the Administration was appropriate.

57. Mr WONG Yung-kan said that DAB was supportive of the Administration's proposed nutrition labelling scheme. He said that he recalled that the Administration had conducted a regulatory impact assessment (RIA) on the

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introduction of nutrition labelling scheme and asked whether the Administration would conduct a similar study on the current proposal.

58. SFH responded that FEHD had conducted a RIA on nutrition labelling and examined a range of options for implementation including energy plus three, five, seven or nine core nutrients. The results of the study concluded that, with the exception of the option to regulate only energy plus three core nutrients, all the other options would present substantial net benefits to Hong Kong through savings in the health care bill. He said that the Administration would consider the need to conduct a study to assess the effectiveness of the scheme after its implementation in Hong Kong.

Duration of grace period

59. Members noted that the Administration's plan was to submit the relevant Amendment Regulation to LegCo for negative vetting in early 2008 which would provide for a two-year grace period.

60. Dr KWOK Ka-ki said that the Administration should legislate expeditiously for the labelling scheme on nutrition information. He further said that he thought that most of prepackaged food had a shelf life of not more than two years, so he considered that the duration of grace period should be shortened to six months. SFH explained that, having regard to the fact that the shelf life of most prepackaged food was longer than one year, the Administration proposed to grant a two-year grace period. This would allow the trade to have sufficient time to liaise with their trading partners and prepare for re-labelling of their products where necessary.

61. Mr Vincent FANG said that the food trade was supportive of the Administration's proposal to introduce a nutrition labelling scheme for prepackaged food. He, however, pointed out that, notwithstanding the Administration's proposal for a two-year grace period before enforcing the requirements on nutrition labelling, the food trade still had some difficulties to comply with the labelling requirements. To facilitate compliance by the trade, he hoped that the Administration would prepare the relevant guidelines for reference of the trade when the legislation was enacted. He cited the issuing of the Labelling Guidelines on Food Allergens, Food Additives and Date Format as an example and commented that the Guidelines were only available nearly one year after the enactment of the Food and Drugs (Composition and Labelling) (Amendment) Regulation 2004.

62. SFH said that the Administration undertook to issue the relevant guidelines on nutrition labelling requirements for the food trade's reference when the relevant Amendment Regulation came into operation.

63. The Deputy Chairman said that he could not agree with the food trade's view that it was difficult for them to comply with the labelling requirements.

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Referring to the nutrition label of a prepackaged biscuit manufactured by a local food factory, he remarked that the label had listed out 15 nutrients contained in the biscuits. He held the view that the duration of grace period should not exceed two years and considered that a one-year grace period would be more appropriate.

64. Dr Joseph LEE said that he would not have any objection to the proposed two-year grace period as long as it had taken into account the interests of all parties concerned and was considered practicable by the trade.

65. In response to members' views on the length of the grace period, DFEH said that the proposal put forward by the food trade in respect of grace period was three years. After taking into consideration that the packaging of most of food products would be changed in about two years time, the Administration considered that the current proposal of providing a two-year grace period was appropriate.

66. On the Administration's response, the Chairman pointed out that, under the proposal put forward by the Administration in 2005, there would be a two-year grace period before the implementation of Phase I of the proposed scheme and Phase II would be implemented two years after the implementation of Phase I. He expressed concern about the difficulties to be encountered by the small and medium sized food traders in compliance with the statutory labelling requirements.

Small volume exemption under the proposed scheme

67. On the Administration's proposal for implementing a small volume exemption scheme for food products under the scheme, the Deputy Chairman and Dr KWOK Ka-ki commented that the proposed 30 000 units of annual sales volume for import exemption by the Administration was too lax. They both pointed out that, with a population size over 300 million, the small volume import exemption allowed in the US was limited to 100 000 units. The Deputy Chairman queried how the Administration could monitor and enforce the requirement of annual sales volume of the food imported. Dr KWOK also asked about the administrative cost incurred in implementing such exemption scheme and whether the cost incurred would be borne by the importers concerned.

68. Mr TAM Yiu-chung said that he doubted if the proposed small volume exemption was feasible for implementation, particularly under circumstances where there were more than one food importers of a food product. He also expressed concern about the application procedures for small import volume exemption.

69. On members' views and concern, DFEH said that, in deciding on the volume of annual sales of food to be exempted, the Administration had considered various options of annual sales volume of food to be exempted under the scheme, for example, 10 000, 20 000, 30 000 and 50 000. Taking into consideration that an annual sales volume of 70 000 units, as proposed by the food trade, to be exempted

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under the scheme would cover about 90% of small-volume food products imported, the Administration considered that it was appropriate to set the limit of the annual sales volume at 30 000 units. DFEH further said that, for the same brand of food, there would not be too many importers and normally only several large food traders were involved. Under the proposal, small volume exemption would be subject to approval by DFEH under a pre-registration system. The food traders would have to report to FEHD the sales volume of the food items on a monthly basis. Once the sales volume had exceeded the limit of 30 000 units per year, then all food products currently being put on the market would have to be labelled in strict accordance with the legal requirements.

70. With regard to the implementation of the small volume exemption by retail outlets, DFEH said that the Administration's initial thinking was that food products exempted under the small volume exemption scheme would have to be separately identified when they were put on the market, either by placing them in a designated shelf or putting special labels on them to show that the food was exempted from the nutrition labelling requirements. Staff of FEHD would conduct audit check for enforcement purpose.

71. The Chairman said that he supported the proposed small volume exemption as it could strike a balance between the public's right to choice and the interests of the trade. He pointed out that the same food product might be manufactured in different countries/places and food importers might import the food product concerned from different countries/places. He asked whether the same food product manufactured from different countries/places would be counted as different types of food products under the proposed small volume import exemption.

72. Controller/CFS responded that, according to their understanding from the food trade, the same food product that was manufactured in different countries might vary in size, weight and food taste. In view of this, the Administration was inclined to count them as different food products under the exemption scheme.

VI. Creation of an Administrative Officer Staff Grade "C" post in the Food Branch of the Food and Health Bureau

Presentation by the Administration

73. Citing the proposals for enacting the new Food Safety Bill and introducing a nutrition labelling scheme for prepackaged food in Hong Kong as examples, SFH advised members that the workload of the Food Branch of the Food and Health Bureau (FHB) arising from the work on the policy formulation, monitoring and legislative work in respect of food safety had increased substantially. He also pointed out that the work schedule of the implementation of the new policy initiatives were very tight. To strengthen regulation and control at source in respect

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of imported food, FHB had also stepped up its communication and cooperation with the relevant Mainland and overseas authorities over the past years. SFH added that the Administration planned to submit the current staffing proposal to the Establishment Subcommittee (ESC) of the Finance Committee for consideration at its meeting on 16 January 2008.

74. Permanent Secretary for Food and Health (Food) (PS(Food)) referred members to the detailed job descriptions of the two existing Principal Assistant Secretaries (PASs) set out in Annexes I and II to the Administration's paper [LC Paper No. CB(2)516/07-08(05)]. She briefly highlighted the various duties of the existing two PASs and advised that there was at present only one permanent PAS post (i.e. PAS (Food)1) responsible for food safety, agriculture and zoonotic diseases. PS(Food) said that the workload was very heavy and became even more onerous as there was a series of food incidents and food supply problems over the past years such as the detection of malachite green in fish and pesticide residues in vegetables, sale of oil fish and shortage in supply of live pigs and cattle, etc. Given the increasingly heavy workload within the food portfolio, it was clearly beyond the capacity of one D2 officer to tackle effectively all the issues relating to the food safety portfolio.

75. PS(Food) further said that, with the strengthening of directorate support, there would be three permanent posts of PAS in the Food Branch to focus on the food safety and environmental hygiene portfolios and respond to unexpected events, such as food incidents and food supply problems. To even out the distribution of workload, the duties and responsibilities of the three PASs would be re-shuffled, with details of which set out in Annexes IV to VI to the Administration's paper respectively.

Discussion by members

76. Dr KWOK Ka-ki said that, while he had no objection to the proposed creation of a permanent post of AOSGC in FHB, he wondered whether the Bureau would consider creating a supernumerary post with a fixed duration of time to cope with the increase in workload arising from the formulation and implementation of new policy initiatives. He pointed out that there were cases in which the Administration proposed to create supernumerary posts for a fixed tenure to cope with the additional work.

77. The Chairman said that the Liberal Party always took a prudent stance in scrutinising any staffing proposal put forward by the Administration. He considered that the Bureau should seek to cope with the additional workload through the creation of a supernumerary post for a fixed period of time, say two years. The Administration could then review the continued need of the post before deciding on the way forward for the post taking into account the outcome of the review. The Chairman pointed out that, as compared with that of the then Welfare,

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Health and Food Bureau, the portfolios of FHB had been reduced substantially. Despite this, the number of Permanent Secretary in FHB remained unchanged. He was of the view that the Bureau should provide strong justifications for supporting its need to create a permanent directorate post.

78. SFH clarified that the whole team of staff responsible for the portfolio of welfare in the Bureau had been redeployed to other Bureau. He explained that the work and workload of the staff in the Food Branch of FHB had not been reduced correspondingly after the restructuring of bureaux. He pointed out that a lot of legislative work was underway such as the Food Safety Bill and the Amendment Regulation relating to the introduction of nutrition labelling scheme. The Bureau was also following up the work of the two former Municipal Councils, some of which had been dragged on for a long time and there was a pressing need to speed up the work. SFH said that, given that Hong Kong imported over 90% of its food from the Mainland and overseas, promoting food safety in Hong Kong was a unique and complicated task. The Food Branch of FHB was required to formulate and oversee implementation of policies to tackle the increasing and complex food safety issues both locally, cross-border and overseas. The work they had been doing in this respect included strengthening the networking and liaison with the relevant Mainland authorities on issues relating to imported food, and reviewing and developing proactive and comprehensive regulatory systems to enhance food safety. Moreover, food safety issues had become a subject of concern to people around the world and it was expected that more and more food safety-related problems would emerge in the future. SFH stressed that there was a need to create a permanent post to strengthen the directorate support in the Food Branch, so that the Branch could take forward and monitor effectively the new policy initiatives.

79. The Chairman remained unconvinced by the Administration's explanation. He said that the Liberal Party had reservation about the current staffing proposal. He, however, would consider giving his support to the Administration's proposal if the post was to be created as a supernumerary one for a duration of two years.

80. Mr TAM Yiu-chung said that DAB had always been prudent in considering the Administration's staffing proposals, particularly proposals for the creation of permanent directorate posts. However, taking into consideration that the creation of the post would enhance the Bureau's work in respect of food safety in Hong Kong, members belonging to DAB were supportive of the current staffing proposal.

81. While Mr WONG Yung-kan was supportive of the staffing proposal, he asked whether the three PASs in the Food Branch of FHB would be posted out of the Bureau in the future. He also enquired about the progress of work for the long-term development of the fisheries industry and the Administration's plan in taking forward the proposals formulated.

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82. The Deputy Chairman expressed support of the staffing proposal. He said that he was aware that some of the work had been long overdue (e.g. a review of the operation of wet public markets and the policy on hawking activities) and hoped that the Bureau could expedite its work in these aspects without further delay. Mr Alan LEONG said that the Civic Party was also supportive of the Administration's proposal for the creation of the permanent post.

83. SFH responded that, having regard to the workload of the Bureau, he did not see, at this stage, the possibility of redeploying the three PASs in the Food Branch to other bureaux or departments. On the development of fisheries industry, SFH said that the outcome of the study conducted by the Committee on Sustainable Fisheries would be available in mid 2008. The Administration planned to discuss with the Panel the outcome of the study in the fourth quarter of 2008.

84. While expressing support for the current staffing proposal, Dr Joseph LEE commented that the Administration's paper failed to provide concrete justifications for the creation of a permanent post of AOSGC in FHB. He considered that the Bureau should quantify the volume of work/additional work to be taken up by the PASs when it submitted its proposal to ESC for endorsement. In response, SFH said that the factors that had to be taken into consideration in determining whether there was a need to create a permanent post of ASOGC in the Food Branch were the nature of work, the workload and the scope and level of responsibility of the post rather than the number of items of the duties and responsibilities alone.

85. Dr KWOK Ka-ki considered that it was equally important to have sufficient support in front-line staff to conduct inspection of food at import, wholesale and retail levels. He enquired whether the Administration would have any plan for increasing the front-line staff in CFS to increase the number of food samples collected for tests under food surveillance programme. SFH responded that CFS was set up under FEHD to enhance food safety regulatory work in May 2006. Additional resources had been provided to CFS for the creation of new posts and related departmental expenses for enhancing food import control and related work in the current financial year. Details of the major initiatives and expenditures on food safety and environmental hygiene under the management of FEHD for the coming year would be provided in the Financial Secretary's Budget Speech.

VII. Any other business

Dates of the overseas duty visit to France and the United Kingdom (the UK)

86. Members were informed that four Panel members had indicated their interest in joining the overseas duty visit to France and the UK and they preferred to conduct the duty visit during the Easter break in late March 2008. Members were

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also informed of the advices of the relevant Consulate Generals in Hong Kong on the dates of the overseas duty visit.

87. Noting the Consulate Generals' advices, members agreed that the overseas duty visit be conducted from 23 March to 30 March 2008 (i.e. leaving Hong Kong on 23 March 2008 and arriving Hong Kong on 30 March 2008). Members further agreed that the House Committee's permission to undertake the proposed duty visit would be sought at its meeting scheduled for 14 December 2007.

88. There being no other business, the meeting ended at 4:45 pm.

Council Business Division 2
Legislative Council Secretariat
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