

立法會
Legislative Council

LC Paper No. CB(2)516/07-08(02)

Ref : CB2/PL/FE

**Meeting of the Panel on Food Safety and Environmental Hygiene
on 11 December 2007**

Background Brief prepared by Legislative Council Secretariat

New Food Safety Legislation

Purpose

This paper provides a summary of the main discussions held at the meetings of the Panel on Food Safety and Environmental Hygiene (the Panel) in the 2006-2007 session relating to the Administration's proposal for enacting a Food Safety Bill.

Background

2. Currently, most food safety related rules and regulations in Hong Kong are contained in the Public Health and Municipal Services Ordinance (PHMSO) (Cap. 132). Under PHMSO, food for sale should be fit for human consumption. However, PHMSO only empowers the Administration to seize and remove food that is suspected to be unfit for human consumption but does not empower the Administration to prohibit the sale of problematic food items. Food imported into Hong Kong must comply with PHMSO and its subsidiary legislation, including the ban on addition of prohibited colouring matter and on sale of food containing prohibited chemicals (including malachite green), and metals, agricultural and veterinary chemicals exceeding the prescribed limits.

3. The Panel has all along monitored closely the work of the Administration in ensuring food safety in Hong Kong. Following a series of food safety incidents in November 2006 involving discovery of Sudan Red in certain poultry eggs imported from the Mainland and detection of veterinarian drug residues in turbot fish on the Mainland and malachite green and nitrofurans in freshwater fish samples collected at retail outlets in Hong Kong, the Panel held a series of meeting in the 2006-2007 session to discuss with the Administration the policies and measures to better safeguard food safety in Hong Kong. The Panel held the view that the Administration should review and improve comprehensively the food safety regulatory framework and to bring wholesalers, distributors and retailers under the regulatory framework.

Main discussions relating to the introduction of the Food Safety Bill

Proposed regulatory regime for imported poultry eggs

4. At its special meeting on 30 November 2006, the Panel was advised by the Administration that it had reached an agreement with the State General Administration for Quality Supervision, Inspection and Quarantine to strengthen control on the production, inspection and quarantine of poultry eggs supplied to Hong Kong. Under the agreement, the Mainland authorities would issue health certificates for poultry eggs and egg products exported to Hong Kong with effect from 1 January 2007. The Administration also advised members of its plan to enact legislation for regulating the importation of poultry eggs.

5. Members generally supported the Administration's proposal for regulating imported poultry eggs and passed a motion at the meeting urging the Administration to review comprehensively and improve the legal framework for the sake of enhancing its capabilities in handling food safety incidents.

6. In January 2007, the Administration briefed the Panel on its proposed legislative framework for regulating imported poultry eggs. The Administration proposed to amend the Imported Game, Meat and Poultry Regulations (IGMPR) (Cap. 132 sub. leg. AK) and Import and Export (General) Regulations (IEGR) (Cap. 60 sub. leg. A) to require all importers of poultry eggs to register with the Centre for Food Safety (CFS) and obtain permits for the eggs imported. CFS would require that all imported poultry eggs be accompanied with health certificates before issuing permits to these importers. The Administration would also explore setting up a separate mechanism to prevent distributors or retailers from procuring poultry eggs from non-registered importers or contaminating their stock during transportation or storage.

7. The Administration further proposed that any person who imported poultry eggs without permission or imported poultry eggs that failed to comply with the requirements would be liable to a maximum fine of \$50,000 and imprisonment of six months upon conviction. In addition, any person who failed to keep the documentation that accompanied imported poultry eggs also committed an offence and would be liable to a maximum fine of \$10,000 and imprisonment of three months upon conviction.

8. Apart from the work on establishing a legislative framework for regulating imported poultry eggs, CFS had implemented a number of measures to tighten up the import control of eggs including putting in place a voluntary registration scheme for egg importers and inviting all traders in the wholesale and distribution of poultry eggs to furnish relevant business information for publication on the Government website.

9. While members in general welcomed the Administration's measures and legislative proposal of regulating the import of poultry eggs, they considered that wholesalers, distributors and retailers should also be brought under regulatory control. They pointed out that, in the absence of legislation to subject all stakeholders at the import, wholesale and retail levels, the legislative amendments introduced to regulate the importers of poultry eggs would fail to assure the food safety of poultry eggs and to facilitate the tracing of source in case of food incidents.

10. Members also expressed the view that the Administration should put in place complementary measures to ensure food safety "from farm to fork". They considered that the Administration should conduct more inspections to registered poultry egg farms on the Mainland and carry out more sample testing of poultry eggs. Some members including Mr Vincent FANG and Dr Joseph LEE suggested that the Administration should consider extending the same control measures to other food products such as vegetables and fruits. Mr Tommy CHEUNG, however, expressed concern that the proposed penalties would be too severe, particularly to operators of small groceries.

11. The Administration explained that its proposal to amend IGMPR and IEGR was to expedite the process of regulating importers of poultry eggs. The Administration was considering introducing a more comprehensive regulatory framework to regulate all levels of supply chain of poultry eggs by the end of 2007.

Regulation of fish and aquatic products

12. While members were supportive of the Administration's proposal to apply the same model of regulating imported poultry eggs to regulate farmed aquatic products, some members were of the view that the Administration should enhance the source management to prevent the recurrence of food incidents and accord high priority to food surveillance and inspection of fish and aquatic products imported. Some other members suggested that the Administration should consider affixing seals to conveyance vessels to ensure the food safety of fish during delivery. Mr WONG Yung-kan pointed out that insufficient supply of fish by registered fish farms on the Mainland was the cause of the problem of freshwater fish being smuggled from unregistered fish farms on the Mainland.

13. The Administration explained that the Administration's proposed 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. 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.

Prohibition of the sale of unsafe food

14. Subsequent to the occurrence of a series of food incidents in November 2006, the Administration advised the Panel that a new piece of legislation would be enacted to empower it to make order to prohibit the sale of unsafe food. When the Panel discussed the Administration's follow-up actions taken in response to a spate of food complaints relating to the consumption of oilfish marketed as codfish in February 2007, the Administration reiterated its plan to introduce a new piece of legislation to empower it to make an order to prohibit the sale of a particular food item in circumstances where the distribution and sale of that particular food item in the local market was prejudicial or posed a potential risk to public health. Under the proposed legislation, the trade would be responsible for undertaking all the tasks specified in the order, such as removal of the products from market shelves, recall, disposal or destruction of the food concerned, etc.

15. While members welcomed the proposed mandatory food recall system, they pointed out that exercising control at the import, wholesale and retail levels was a passive measure to safeguard food safety. In the absence of a regulatory framework, it was not possible to put in place an effective source management. Mr Tommy CHEUNG expressed the view that the Administration should balance the interests of the public and small traders in drafting the legislative details of the food recall mechanism. He also raised concern about the arrangements of refunding money to the consumers if there was a provision on refunds under the proposed legislation.

16. The Administration explained that, while the existing legislation might have some deficiencies in food recall when there were food safety incidents, administrative measures and the trades' cooperation in this respect were also important. The trade was usually cooperative in suspending the sale of problematic food when necessary. The Administration advised that the scope of the new piece of legislation to prohibit the sale of problem food would include circumstances under which an order of mandatory prohibition of sale might be made, recipient to whom an order was to be directed and delivered, directives to be included in an order, enforcement and penalties and appeal mechanism.

Food Safety Bill

17. At the Panel meeting on 12 June 2007, members were advised that the Administration planned to introduce the Food Safety Bill to LegCo for scrutiny by the end of 2008. According to the Administration, the Food Safety Bill aimed at guaranteeing the supply of safe food in Hong Kong, empowering CFS to prohibit the sale of unsafe food on the market, and ensuring that effective and efficient systems were in place to monitor and respond to food safety problems for the protection of public health. The Bill also aimed at enhancing food traceability and placing the responsibility of the supply of safe food back onto the food traders.

18. Members expressed dissatisfaction that the Food Safety Bill would only be introduced during the next LegCo term and passed a motion urging the Administration to expedite the legislative progress of the new food safety legislation and introduce it to LegCo of the current term for scrutiny in order to ensure food safety for the public.

19. On 10 July 2007, the Administration advised members that it would consult the Panel on the details of the scope of the legislative proposal at the end of 2007. It was planned that the Food Safety Bill would be introduced to LegCo for scrutiny in the 2008-2009 session. Mr Tommy CHEUNG pointed out that the food trade's support to the new law was imperative for its effective implementation and considered that the Administration should strike a balance between the interests of the consumers and the trade in drafting the new legislation. He urged the Administration to consult the food trade fully on the Food Safety Bill.

Pre-statutory notification scheme for food importers and distributors

20. The Administration briefed members on 10 July 2007 on its proposal for launching a pre-statutory voluntary notification scheme for food importers and distributors pending the enactment of the Food Safety Bill. The Administration advised that, as part of the Food Safety Bill, the Administration would impose a new requirement mandating that all food importers and distributors register with CFS to facilitate the building up of a food importers register in Hong Kong by CFS. Members were informed that the Administration was in the process of preparing the necessary legislation for implementing this mandatory requirement.

21. Members noted that the pre-statutory voluntary notification scheme was modelled on the voluntary enrolment scheme for poultry egg importers implemented by CFS in December 2006 after the Sudan Red incident. The timetable for phased implementation of the scheme was as follows -

Time	Food Types
August 2007	Game, meat and poultry carcasses
September 2007	Live food animals/poultry
October 2007	Milk, milk beverage, cream and frozen confection
November 2007	Vegetables and fruits
December 2007	Fish and fishery products
2008	Other food categories

22. Some members queried the need to launch a pre-statutory voluntary notification scheme given that CFS should have the details of importers and distributors as they had been issued with business licences and permits from CFS for importing certain food items that were required under the law. The Administration explained that the requirement of applying for import permit from FEHD for certain food types and the implementation of the pre-statutory notification scheme were two separate regulatory systems. In considering the

implementation timetable of the voluntary pre-statutory notification scheme, the Administration had taken into account the food types for which applications for food import permits were presently required before importation.

23. Some members including Mr Tommy CHEUNG, Mr Fred LI, and Dr KWOK Ka-ki suggested that the Administration should consider providing incentives to attract food importers and distributors to join the voluntary notification schemes such as issuing a logo to retail outlets which sourced food items from registered importers and distributors for easy identification by the public.

24. Mr Vincent FANG pointed out that food traders might have concern over the notification scheme as information on food sources might be business secrets. He also expressed worries that the problem of the smuggling of food products would become more serious if it became too difficult for food importers to import food items after the enactment of the relevant legislation.

25. The Administration assured members that information provided by importers and distributors relating to their business secrets would not be disclosed and uploaded to website. The Administration would step up its efforts in combating the smuggling of food products from unauthorized/improper channels. FEHD and C&ED would enhance cooperation in taking joint actions against the smuggling of food products into Hong Kong.

26. At the briefing by the Secretary of Food and Health on the Chief Executive's Policy Address 2007-2008 on 12 October 2007, members were informed that the Administration was preparing the necessary legislation to make it mandatory requirement for food importers and distributors to register with CFS.

Latest developments

27. The Administration will brief the Panel on 11 December 2007 on the latest progress in its preparatory work for drafting the Food Safety Bill.

Relevant papers

28. A list of relevant papers and documents is in the **Appendix** for members' easy reference. The papers and documents are available on the Council's website at <http://www.legco.gov.hk/english/index.htm>.

Relevant Papers/Documents

<u>Meeting</u>	<u>Meeting Date</u>	<u>Papers/Motions Passed/Council Questions</u>
Legislative Council	2 November 2005	Motion on "Perfecting the food safety regulatory mechanism" moved by Hon WONG Yung-kan
	30 November 2005	Written question on "Recall of food unsuitable for human consumption" raised by Hon WONG Kwok-hing
	17 May 2006	Oral question on "Controlling import of fresh water fish" raised by Hon James TO
	28 June 2006	Oral question on "Food safety of vegetables and fruits" raised by Hon WONG Yung-kan
		Oral question on "Food safety of imported fruits" raised by Hon Fred LI
	20 December 2006	Written question on "Food safety of food imported from places other than the Mainland" raised by the late Hon MA Lik
	24 January 2007	Motion on "Fully safeguarding the safety of food supply to Hong Kong" moved by Hon Fred LI
	23 May 2007	Motion on "Safeguarding the safety of live and fresh food" moved by Hon TAM Yiu-chung
	4 July 2007	Written question on "Food safety" raised by Hon Fred LI
17 October 2007	Written question on "Smuggling of foodstuffs" raised by Hon LI Kwok-ying	
Panel on Food Safety and Environmental Hygiene	14 November 2006	Administration's paper - Paper No. CB(2) 304/06-07(02) Background brief prepared by LegCo Secretariat - Paper No. CB(2) 304/06-07(03)

		Minutes of meeting LC Paper No. CB(2) 593/06-07
30 November 2006	Administration's paper - Paper No. CB(2) 491/06-07(01)	Minutes of meeting LC Paper No. CB(2) 1170/06-07
9 January 2007	Administration's paper - Paper No. CB(2) 778/06-07(05) & (06)	Minutes of meeting LC Paper No. CB(2) 1074/06-07
2 February 2007	Administration's paper - Paper No. CB(2) 1006/06-07(01)	Minutes of meeting LC Paper No. CB(2) 1443/06-07
13 February 2007	Administration's paper - Paper No. CB(2) 1079/06-07(03)	Minutes of meeting LC Paper No. CB(2) 1256/06-07
12 June 2007	Administration's paper - Paper No. CB(2) 2092/06-07(03)	Minutes of meeting LC Paper No. CB(2) 2675/06-07
10 July 2007	Administration's paper - Paper No. CB(2) 2394/06-07(01)	Minutes of meeting LC Paper No. CB(2) 2676/06-07
12 October 2007 (Policy Briefing)	Administration's paper - Paper No. CB(2) 53/07-08(01)	Minutes of meeting LC Paper No. CB(2) 514/07-08