

立法會
Legislative Council

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LC Paper No. CB(2)1487/08-09
(These minutes have been seen
by the Administration)

Panel on Food Safety and Environmental Hygiene

Minutes of meeting
held on Tuesday, 20 January 2009, at 2:30 pm
in the Chamber of the Legislative Council Building

- Members present** : Hon Fred LI Wah-ming, JP (Chairman)
Hon Andrew CHENG Kar-foo
Hon TAM Yiu-chung, GBS, JP
Hon Tommy CHEUNG Yu-yan, SBS, JP
Hon Vincent FANG Kang, SBS, JP
Hon WONG Kwok-hing, MH
Dr Hon Joseph LEE Kok-long, JP
Hon Alan LEONG Kah-kit, SC
Hon KAM Nai-wai, MH
Hon WONG Yuk-man
- Members absent** : Hon WONG Yung-kan, SBS, JP (Deputy Chairman)
Hon Cyd HO Sau-lan
Dr Hon LEUNG Ka-lau
- Public Officers attending** : Items IV - VI

Prof Gabriel M LEUNG, JP
Under Secretary for Food and Health

Items V and VI

Ms Alice LAU Yim, JP
Deputy Director of Food and Environmental Hygiene
(Environmental Hygiene)

Item IV

Mr Owin FUNG
Principal Assistant Secretary for Food and Health (Food) 3

Dr LEE Siu-yuen
Assistant Director (Food Surveillance & Control)
Food and Environmental Hygiene Department

Ms CHU Lan-ying
Assistant Director (Operations) 3
Food and Environmental Hygiene Department

Item V

Ms Eliza YAU
Principal Assistant Secretary for Food and Health (Food &
Health) Special Duties

Mr LO Fu-wai, JP
Assistant Director (Operations) 1
Food and Environmental Hygiene Department

Dr LEUNG Siu-fai
Assistant Director (Fisheries)
Agriculture, Fisheries and Conservation Department

Item VI

Mr Francis HO
Principal Assistant Secretary for Food and Health (Food) 2

Ms Rhonda LO Yuet-yee, JP
Assistant Director (Operations) 2
Food and Environmental Hygiene Department

Clerk in attendance : Miss Mary SO
Chief Council Secretary (2) 5

Staff in attendance : Ms Alice LEUNG
Senior Council Secretary (2) 6

Ms Sandy HAU
Legislative Assistant (2) 5

I. Confirmation of minutes
(LC Paper No. CB(2)655/08-09)

The minutes of the meeting held on 9 December 2008 were confirmed.

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

(LC Paper No. CB(2)575/08-09(01))

2. Members noted a letter dated 29 December 2008 from 食物環境衛生署工會大聯盟 on the review on the operation of the Pest Control Section of the Food and Environmental Hygiene Department (FEHD) (LC Paper No. CB(2)575/08-09(01)).

III. Items for discussion at the next meeting

(LC Paper Nos. CB(2)671/08-09(01) and (02))

3. Mr WONG Kwok-hing proposed to invite 食物環境衛生署工會大聯盟 to give views on the review of the operation of the Pest Control Section under FEHD at the next regular meeting scheduled for 10 February 2009. The Chairman said that the focus of the discussion should be on the impact of the review on environmental hygiene. Members agreed.

4. Members further agreed to discuss the issue of "Review on hawker licensing policy" proposed by the Administration in February 2009.

(Post-meeting note: As 食物環境衛生署工會大聯盟 informed the Legislative Council (LegCo) Secretariat that it would not send representatives to attend the meeting on 10 February 2009, discussion on the "Review of the operation of Pest Control Section under FEHD" was replaced by "Finding of poultry carcasses in New Territories".)

IV. Sulphur dioxide in beef

(LC Paper No. CB(2)671/08-09(03))

5. At the invitation of the Chairman, Under Secretary for Food and Health (USFH) briefed members on the measures taken by the Administration in monitoring the use of sulphur dioxide in beef.

6. Mr WONG Kwok-hing said that retailers who used sulphur dioxide in frozen meat to make the colour of the meat look fresher for sale as fresh meat should be made a separate offence from that under the Preservatives in Food Regulations (Cap. 132BD) prohibiting the sale of fresh, chilled or frozen meat containing sulphur dioxide.

7. USFH responded that any person using sulphur dioxide in frozen meat for sale as fresh meat would be committing an offence under regulation 3 of Cap. 132BD.

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8. Assistant Director of Food and Environmental Hygiene (Operations 3) (AD/FEH (Operations 3)) supplemented that in view of the recent intelligence on suspected use of sulphur dioxide in frozen meat for sale as fresh beef, FEHD blitz operations were being conducted since 23 November 2008 to monitor the situation. No outlets inspected were found using sulphur dioxide in frozen meat for sale as fresh beef, although some beef samples taken from these outlets were tested to contain sulphur dioxide. Prosecution was in hand to bring the offenders to court. Upon conviction, five demerit points would be registered against the licence of the offender. If a licensee accumulated 15 demerit points within a period of 12 months, his/her licence would be suspended for seven days.

9. The Chairman said that faking chilled or frozen meat for sale as fresh meat might constitute an offence under the Trade Description Ordinance (TDO) (Cap. 362) which prohibited "false trade description" as applied to goods. The Chairman urged the Food and Health Bureau (FHB) to take the matter up with the Customs and Excise Department (C&ED) to better protect consumers.

10. Mr WONG Kwok-hing suggested that FEHD should distribute leaflets on the legal consequence of selling fresh, chilled or frozen meat containing sulphur dioxide to operators of fresh provision shops as well as market stalls selling meat, so as to deter them from breaking the law.

11. USFH responded that FEHD staff had all along been reminding operators of fresh provision shops as well as market stalls selling meat that it was illegal to add sulphur dioxide in meat for sale. Opportunity had also been taken by FEHD staff to remind all some 800 operators concerned during its recent and ongoing blitz operations to combat such illegal act.

12. Mr WONG Kwok-hing said that to better protect consumers, FEHD should publicise those outlets convicted of selling meat containing sulphur dioxide.

13. AD/FEH (Operations 3) responded that FEHD would revoke the fresh food provision licence if the licensee was found guilty by the court for using sulphur dioxide in frozen meat for sale as fresh meat. Press release would be issued to inform the public. AD/FEH (Operations 3) further said that 11 fresh food provision licences were revoked by FEHD in the past three years for using sulphur dioxide in frozen meat for sale as fresh meat.

14. The Chairman noted from paragraph 8 of the Administration's paper that the prosecution figures in relation to the use of sulphur dioxide in meat were 12 cases (with seven involving beef) in 2006 and 13 cases (with nine involving beef) in 2007, and 10 cases (with eight involving beef) from January to September 2008. The Chairman further noted from paragraph 9 of the same that 38% of the samples collected contained sulphur dioxide. In the light of this, the Chairman queried whether the lack of live cattle supply from the Mainland

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was the major reason for the rise in using sulphur dioxide in frozen beef for sale as fresh beef.

15. USFH responded that the Administration had always been concerned about the illegal use of sulphur dioxide by meat traders. The Administration would keep in view the market situation and continue the surveillance and enforcement in relation to the use of sulphur dioxide in meat. In addition to regular routine surveillance, FEHD would continue to step up surprise inspections to all retail outlets selling beef and to take samples for testing sulphur dioxide, for closer monitoring of the situation and for sanctioning malpractices. USFH further said that a clearer picture on the prevalence of using sulphur dioxide in beef would come to light after inspections to all retail outlets selling beef had been made.

16. Regarding the supply of live cattle imported from the Mainland, Principal Assistant Secretary for Food and Health (Food) 3 said that there was no indication of shortage of such supply at the retail level for the time being. The daily supply of live cattle imported from the Mainland averaged around 80 recently and some live cattle were usually left unsold at the wholesale market every day. For example, there were over 100 live cattle left unsold at the wholesale market on 19 January 2009.

17. In closing, the Chairman urged FHB to follow up with C&ED on the latter's taking enforcement action against people falsifying frozen beef for sale as fresh beef under TDO.

V. Amendments to the Food Business Regulation to prohibit extraction of seawater for keeping live seafood
(LC Paper Nos. CB(2) 671/08-09(04) and (05))

18. USFH briefed members on the Administration's plan to amend the Food Business Regulation (FBR) (Cap. 132X) to prohibit extraction of seawater from specified areas for keeping live fish or shell fish for sale for human consumption, details of which were set out in the Administration's paper (LC Paper No. CB(2)671/08-09(04)).

Proposed prohibition areas for extraction of seawater for keeping live seafood

19. Mr Tommy CHEUNG said that he was supportive of the Administration's proposal to amend FBR to prohibit extraction of seawater from specified areas for keeping live fish or shell fish for sale for human consumption. Mr CHEUNG, however, pointed out that according to the seafood traders at the Lei Yue Mun area, long pipes were used to abstract seawater outside the Sam Ka Tsuen Typhoon Shelter where the water quality of the waters was satisfactory. Abstracted seawater then underwent filtration and disinfection

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before being used for keeping live fish and shell fish intended for human consumption. In the light of this, Mr CHEUNG asked whether consideration could be given to not including the coastal strip of waters immediately outside the Sam Ka Tsuen Typhoon Shelter into the proposed prohibition areas for abstraction of seawater for keeping live seafood.

20. USFH responded that according to the data collected by the Environmental Protection Department (EPD) on marine water quality in Hong Kong, a consistently high level of *E. coli* was detected in areas close to Lei Yue Mun in recent years. In response to the claims made by some seafood traders in the Lei Yue Mun area that the water quality of the coastal strip of waters immediately outside the Sam Ka Tsuen Typhoon Shelter was satisfactory and should therefore be excluded from the proposed prohibition areas, FEHD engaged a laboratory accredited under the Hong Kong Laboratory Accreditation Scheme to ascertain the water quality of that coastal strip in accordance with the general protocol for marine water testing adopted by EPD in September 2008. Laboratory findings were that the average *E. coli* content of seven of the 10 locations tested ranged from 629 to 990 per 100 ml and exceeded the statutory limit for fish tank water, which was "*E. coli* less than 610 per 100 ml and absence of pathogenic organisms". The *E. coli* counts at the remaining three locations ranged from 529 to 552 per 100 ml and were close to the statutory limit. On this basis, the Administration considered that the proposed prohibition areas mentioned in paragraph 8 of the Administration's paper should remain unchanged.

21. USFH further said that under the current licensing requirements/conditions and market tenancy conditions of FEHD, all licensed food premises and market stalls were required to install and maintain proper filtration and disinfection facilities to filter and disinfect water used for keeping live fish or shell fish intended for human consumption. The fact that seafood traders in Lei Yue Mun area filtrated and disinfected the seawater they used was not a sufficient ground for exempting them from the proposed prohibition.

22. Dr Joseph LEE asked whether the locations where the seafood traders at the Lei Yue Mun area extracted their seawater from were covered in the marine water testing conducted by EPD and by an accredited laboratory in September 2008.

23. Deputy Director of Food and Environmental Hygiene (Environmental Hygiene) (DD/FEH(EH)) responded that seafood traders at the Lei Yue Mun area generally obtained seawater along the coastal strip of waters immediately outside the Sam Ka Tsuen Typhoon Shelter, whereas the locations which EPD and the accredited laboratory collected samples for marine water testing were further away from the coastline. If the *E. coli* count of water testing samples taken further away from the coastline was high, logically the count could only

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be higher for water extracted along the coastal strip as the latter location was closer to possible sources of pollution such as sewage outlets.

24. The Chairman asked whether the coastal strip of waters immediately outside the Sam Ka Tsuen Typhoon Shelter was within the boundaries of Victoria Harbour as defined under the Interpretation and General Clauses Ordinance (Cap. 1). USFH replied in the positive.

25. Mr Andrew CHENG expressed support for the Administration's legislative proposal. Mr CHENG was, however, of the view that the demarcation of the proposed prohibition areas should extend to the areas along the shoreline of Yau Tong where the maximum values of *E. coli* ranged from 181 to 610 per 100 ml as indicated in Annex B of the Administration's paper.

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26. USFH responded that areas along the shoreline of Yau Tong were not included in the proposed prohibited areas for abstraction of seawater because the maximum level of *E. coli* threat did not exceed the statutory limit and there were very few seafood restaurants or sales outlets in Yau Tong. Nevertheless, USFH agreed to consider Mr CHENG's suggestion.

27. Mr WONG Kwok-hing urged the Administration to expeditiously proceed with the necessary legislative amendments to better protect public health. Mr WONG further asked whether consideration would be given to requiring people to obtain seawater nearby the water monitoring stations where the maximum values of *E. coli* were below 25 per 100 ml as indicated in Annex B of the Administration's paper, so as to prevent people from using long pipes to extract seawater along the shoreline where the *E. coli* content was invariably high.

28. USFH advised that the prohibited areas would include areas that were (a) between the high water level and low water level of the shoreline and (b) within 50 metres seaward from the low water level of the shoreline. Hence, after commencement of the proposed prohibition, it was unlikely that people could use pipes to abstract seawater along the shoreline without breaching the law.

29. DD/FEH(EH) supplemented that FEHD staff inspected market fish stalls and wholesale premises once every eight weeks and conducted regular inspections to supermarkets, fresh provision shops and restaurants in accordance with a risk-based inspection system to ensure that operators comply with the requirements and conditions. Verbal and written warnings were given for non-compliance. Repeated breaches of requirements and conditions might lead to cancellation of licence/permit or termination of tenancy. In addition to routine inspections, fish tank water samples were collected from all licensed food premises, including supermarkets and seafood stalls, for *E. coli* and *Vibrio cholerae* testing. Under a risk-based surveillance programme implemented since January 2004, while the normal frequency of testing for *E. coli* for each

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premise remained at once every eight weeks, the action level was set at 180 per 100 ml. This provided an early alert signal to premises with deteriorating quality of fish tank water or failing disinfection system so that remedial measures could be carried out in a timely manner. Upon receipt of any report exceeding this action level, FEHD staff would inspect the premises concerned within three working days to advise the operators to carry out proper maintenance work. Thereafter, follow up samples would be taken within one week for both *E. coli* and *Vibrio cholerae* testing. If the test results of the follow up samples remained unsatisfactory, FEHD staff would continue to conduct site inspections and take samples until the irregularities were rectified. In addition, at least one separate sample would be taken from each premises for *Vibrio cholerae* testing between May and September every year. Once the presence of highly infectious *Vibrio cholerae* was detected in a water sample, FEHD would close the premises concerned on health hazard grounds under the authority conferred by section 128C of the Public Health and Municipal Services Ordinance (Cap. 132).

Penalty level

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30. Mr Andrew CHENG was also of the view that imposing a maximum fine of \$10,000 and imprisonment for three months for extracting seawater from specified areas was too lenient and should be increased. Dr Joseph LEE expressed a similar view. USFH explained that the proposed penalty level was the same as that for contravening the existing section 10A on the control of water quality for keeping live fish or shell fish intended for human consumption. Nevertheless, he agreed to consider members' suggestion.

Quality Seawater Assurance Scheme

31. Mr Vincent FANG asked whether the Administration would make the voluntary Quality Seawater Assurance Scheme (QSAS), implemented since January 2006, mandatory to ensure the quality of fish tank water complied with prescribed legal standards.

32. USFH responded that the Administration considered that the most effective means to ensure the quality of seawater supplied for keeping live fish or shell fish for sale for human consumption was to control the supply of seawater at source. Hence, the Administration's plan to introduce new provisions to FBR to prohibit extraction of seawater from specified areas for keeping live seafood. The Administration was mindful that an operator might be genuinely unaware of the source of the seawater supplied or delivered to him. The operator would only be held responsible if it could be proved that he knew or had reason to believe that such seawater was extracted from a prohibited area but continued to use it for keeping live fish or live shell fish in the course of food business. The Administration had explored other options such as centralising seawater supply, designating seawater abstraction spots for seawater

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suppliers, and regulating or licensing seawater suppliers and trucks for delivery of seawater. These options were not considered effective or feasible because they were not financially viable, or they carried significant resource implications or enforcement difficulties.

33. USFH further said that supply of quality fish tank water should not be a constraint upon the implementation of the proposal to prohibit extraction of seawater from specified areas for keeping live seafood. According to a survey conducted by the Administration on the source of water used by seafood restaurants or sales outlets, 222 of the 285 respondents indicated that they prepared their own synthetic seawater using marine salts and tap water. Of the remaining 63 respondents, half of them indicated that they utilised seawater supplied by Accredited Quality Seawater Suppliers (AQSSs) whereas the other half used synthetic seawater and bought seawater from AQSSs. At present, there were a total of 17 accredited AQSSs, including the outlets of Fish Marketing Organisation at Aberbeen, Cheung Sha Wan and Kwun Tong.

Enforcement

34. In response to Dr Joseph LEE's enquiry on how the Administration would enforce the proposed legislative amendments, USFH said that FEHD would issue advisory letters and distribute publicity materials to the trade before and after enactment of the legislative amendments to remind them of the new provisions. Signs would be erected at extraction black spots to warn against illegal seawater extraction. Surveillance and surprise checks would be conducted and enforcement actions taken on detection of offences.

35. Mr Tommy CHEUNG asked whether vehicles transporting seawater would be regulated under the proposed legislative amendments. USFH responded that the proposed legislative proposal would prohibit the extraction, use, supply and delivery of seawater from prohibited areas for keeping live fish or shell fish intended for sale for human consumption.

36. The Chairman asked whether it would be mandatory for seafood traders to obtain seawater from AQSSs after the enactment of the legislative proposal.

37. USFH responded that seafood traders would not be required to buy seawater from AQSSs after the enactment of the legislative proposal. Any one could extract seawater for keeping live seafood as long as the waters were not obtained from prohibited areas and the quality of water did not fall below the statutory standard.

Legislative timetable

38. The Chairman asked whether the legislative amendments to prohibit extraction of seawater from specified areas would be made by way of negative

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vetting. USFH replied in the positive. USFH further said that the proposed legislative amendments would come into effect upon gazettal in either late March/early April 2009.

39. Mr Tommy CHEUNG suggested holding another meeting to listen to the views of the seafood traders at the Lei Yue Mun area prior to the gazettal of the proposal.

40. USFH responded that the Administration was willing to fix a commencement date that fell after the negative vetting period, so that the Legislative Council would have time to scrutinise the subsidiary legislation.

Conclusion

41. In closing, the Chairman said that the Panel supported the Administration's proposal in principle. Some members, however, expressed concern about the demarcation of the proposed prohibited areas for abstraction of seawater on the operation of the seafood traders at the Lei Yue Mun area and the low penalty level for abstracting seawater from prohibited areas.

VI. Licensing of tobacco hawkers

(LC Paper No. CB(2)671/08-09(06))

42. USFH briefed members on the Administration's recommendation to issue fixed pitch hawker licences to former holders of Tobacco Hawker's Licence (THL)/Tobacco Retailer's Licence (TRL) issued by C&ED, details of which were set out in the Administration's paper.

43. Members noted a submission from 煙草梗檔檔主聯席(LC Paper No. CB(2)708/08-09(01)).

44. Members urged FEHD to expedite issuing fixed pitch hawker licences to former holders of THL/TRL to allow them to operate in the existing eight tobacco trading sites set out in Annex 2 of the Administration's paper.

45. Assistant Director (Operations) 2, FEHD responded that FEHD was now consulting relevant departments on the proposed provision of fixed hawker pitches at the eight tobacco trading sites. If no adverse comment was received, the proposal would be submitted to the Central and Western District Council (CWDC) for consideration. If the sites were considered not suitable for fixed hawker pitches, FEHD would consider allowing eligible tobacco traders to carry on with their business at vacant fixed hawker pitches. Eligible persons would be required to submit their applications within six months after receiving FEHD's invitation, or they would be deemed to have given up the opportunity to apply for licence.

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46. In response to Mr WONG Yuk-man's enquiry on when a decision on issuing fixed pitch hawker licences to former holders of THL/TRL could be made, USFH said that the Administration aimed to consult CWDC by March 2009 to obtain its support.

47. Mr KAM Nai-wai urged FEHD not to take enforcement action against former holders of THL/TRL for hawking in public places prior to issuing fixed pitch hawker licences to this group of people. DD/FEH(EH) responded that no enforcement action would be taken against former holders of THL/TRL for hawking at their existing sites during consultation with this Panel and CWDC.

48. Mr Tommy CHEUNG asked whether licensees of the eight tobacco trading sites would be allowed to sell goods other than cigarettes and tobacco. Mr CHEUNG further asked whether priority for applying the fixed pitch hawker licences to operate in the eight tobacco trading sites could be given to immediate family members of former holders of THL/TRL.

49. DD/FEH(EH) responded that subject to the views of CWDC, the Administration had no objection to allowing licensees of the eight tobacco trading sites to sell goods other than cigarettes and tobacco, so long as the goods were not wet goods. DD/FEH(EH) replied in the negative to Mr CHEUNG's second question. She pointed out, however, that FEHD might consider exercising discretion to issue licences to current operators at the existing tobacco trading sites if they could prove their relationship with the former holders of THL/TRL.

50. Mr WONG Kwok-hing said that although former holders of THL/TRL would not be required to return their licences upon issuance of fixed pitch hawker licences, FEHD should ask these former holders of THL/TRL if they were willing to donate their tobacco licences, which were of historical value, to the Hong Kong Museum of History (HKMH). USFH responded that FHB would be happy to follow up with the Home Affairs Bureau if former holders of THL/TRL voluntarily came forward to donate their tobacco licences to HKMH.

51. In closing, the Chairman suggested that the Panel should write to CWDC expressing the Panel's unanimous support for the Administration's recommendation to issue fixed pitch hawker licences to former holders of THL/TRL. Members agreed.

52. There being no other business, the meeting ended at 4:25 pm.