

立法會
Legislative Council

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LC Paper No. CB(2)1488/08-09
(These minutes have been seen
by the Administration)

Panel on Food Safety and Environmental Hygiene

Minutes of meeting
held on Tuesday, 14 April 2009, at 2:30 pm
in Conference Room A 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 and V

Dr York CHOW Yat-ngok, SBS, JP
Secretary for Food and Health
- Item IV

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

Mr Terence CHAN Sing-sing
Executive Administrator (Accreditation)
Innovation and Technology Commission

Dr LAU Chau-ming
Assistant Government Chemist (Analytical & Advisory Services
Division)
Government Laboratory

Item V

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

Items VI and VII

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

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

Item VII

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

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

Staff in attendance : Miss Karen LAI
Council Secretary (2) 2

Ms Sandy HAU
Legislative Assistant (2) 5

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I. Confirmation of minutes
(LC Paper No. CB(2)1264/08-09)

The minutes of the meeting held on 10 March 2009 were confirmed.

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

(LC Paper No. CB(2)1312/08-09(01))

2. Members noted a letter dated 7 April 2009 from the Hong Kong Retail Management Association to the Administration and copied to the Panel regarding registration of small volume exemption products, and did not raise any queries.

III. Items for discussion at the next meeting

(LC Paper Nos. CB(2)1265/08-09(01) and (02))

3. Members agreed to discuss the following items proposed by the Administration at the next regular meeting scheduled for 12 May 2009 -

- (a) Provision of columbarium and garden of remembrance at Kiu Tau Road, Wo Hop Shek; and
- (b) Conversion of aqua privies into flushing toilets.

IV. Development of food testing industry in Hong Kong

(LC Paper No. CB(2)1265/08-09(03))

4. Secretary for Food and Health (SFH) briefed members on the Budget initiative to develop Hong Kong's food testing industry, details of which were set out in the Administration's paper.

5. Mr WONG Kwok-hing welcomed the Administration's plan to develop food testing industry in Hong Kong. Mr WONG asked how the Administration could ensure that the food testing performed by accredited private laboratories met international standards of practice.

6. Mr KAM Nai-wai noted that only an additional \$1.6 million per year would be provided to the Hong Kong Accreditation Service (HKAS) under the Innovation and Technology Commission (ITC) to strengthen its staffing support and for enhancing its accreditation service for food testing. Mr KAM queried whether such a sum was adequate to ensure that the food testing conducted by accredited private laboratories met international standards of practice. Mr KAM cited the recent contaminated drug incidents as examples of the lack of monitoring by the Department of Health to ensure compliance with the requirements of Good Manufacturing Practice by local pharmaceutical manufacturers. The Chairman raised similar concern.

7. Executive Administrator (Accreditation), ITC (EA(A), ITC) responded that before granting accreditation, HKAS would send a team of independent

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specialist experts to assess the competence of the applicant organisation in performing the activities to be accredited. To obtain accreditation, a food testing laboratory must be meeting the requirements of the International Standard ISO/IEC 17025 and be subject to rigorous on-site assessments and monitoring by the assessors. Performance of accredited organisations were monitored through periodic on-site re-assessments, surprise on-site surveillance visits, proficiency testing programmes, monitoring of changes, and feedback from users of the accredited services. Mandatory re-assessments were conducted one year after the granting of accreditation and at two-year intervals thereafter. Accredited laboratories were visited at least once a year and were required to participate in proficiency testing activity at least once every four years for each major sub-area of major disciplines.

8. EA(A), ITC further said that HKAS operated in accordance with the requirements of ISO/IEC 17011, including taking part in international and regional cooperation of accreditation bodies and the multilateral mutual recognition arrangements administrated by them. Under these multilateral mutual recognition arrangements, accreditation service provided by HKAS was subject to on-site assessments by overseas accreditation bodies once every four years. An independent Accreditation Advisory Board was also set up to monitor, review and provide advice to HKAS to ensure that the accreditation criteria for food testing laboratories in Hong Kong met local needs.

9. Assistant Government Chemist (AGC) also said that private laboratories undertaking outsourcing contracts from GL must be accredited by HKAS in the specific tests and maintain the accreditation status throughout the contract period. In addition, during the contract period, GL would implement a number of quality assurance measures including on-site audits and quality control means such as introduction of blind samples/split samples and control checks to monitor the performance of the contract laboratories including the quality of the test results.

10. In response to Mr WONG's further enquiry on the timeframe for developing food testing industry in Hong Kong, SFH said that strategies for developing such were being worked out by the Task Force on Economic Challenges (TFEC). SFH, however, pointed out that the Administration would kick start the initiative by providing additional funding to HKAS to enhance its accreditation service for local laboratories. In addition to the supporting service for laboratories provided by HKAS, GL would also assist by promoting the upgrading of private laboratories by sharing testing methods with them as well as conducting technical seminars, proficiency tests and inter-laboratory comparison studies on a more regular basis.

11. Dr Joseph LEE asked whether the Administration would subsidise private laboratories to apply for accreditation.

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12. SFH responded that at present, 13 local private laboratories had been accredited by HKAS for conducting various types of food tests. Other private laboratories might also enter the food testing market and obtain relevant accreditation from HKAS if there was sufficient market demand for their services. It was estimated that some 20 local laboratories would be accredited for a more comprehensive range of food tests in the coming few years due to the following -

- (a) with the progressive setting of legal standards for various harmful substances in food (e.g. preservatives, colouring matter, pesticide residues, veterinary drug residues, and other food additives) in the coming years and the commencement of the law to empower the authorities to prohibit the import and supply of food and order a food recall, as well as commencement of the nutrition labelling requirements on 1 July 2010, the demand for testing services by the food trade would increase substantially in the near future. It was estimated that some 2 000 000 tests might be required by the food trade each year when all the new food safety legislation had come into effect;
- (b) in addition to conducting food testing for local food importers and suppliers, private laboratories also had the potential to provide food testing services for food traders in the Mainland when much emphasis was now placed on food safety; and
- (c) GL planned to further outsource its regular food surveillance testing work from some 22 000 food tests in 2008-2009 to at least 77 000 food tests (about 50% of its regular food testing work) to accredited private laboratories in 2009-2010, the total contract sum of which would amount to some \$9 million. More food tests could be outsourced to the private sector if more local laboratories were accredited for a more comprehensive range of food tests.

13. EA(A), ITC supplemented that part of the additional \$1.6 million to be provided to HKAS each year would be used on inviting overseas experts to conduct assessments and encouraging traders to use accredited service to test food before putting the food on market shelves.

14. Mr Alan LEONG questioned whether Hong Kong was well positioned to develop food testing industry, given that large international testing laboratories, such as SGS, had already set up operations in many parts of the Mainland to provide service at a cost lower than the Hong Kong service providers. Mr LEONG considered that a better way forward was to expand the types of products for testing and certification in Hong Kong.

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15. SFH responded that with the progressive setting of legal standards of harmful substance in food in the coming years and the commencement of nutrition labelling requirements in July 2010, coupled with Hong Kong's geographical proximity to growing market in the Mainland, demand for food testing services in Hong Kong should increase substantially. At the outset, potentials clients were expected to mainly comprise local traders, local traders operating in the Mainland and Mainland traders. SFH further said that strengthening HKAS in providing accreditation service for a wider range of testing for consumer products, such as toys and textiles and garments, would be pursued next.

16. Mr LEONG further asked whether Hong Kong had enough chemists to develop a food testing industry. SFH responded that apart from local graduates, Hong Kong had the potential for attracting overseas chemists.

17. The Chairman sought information on the number of jobs to be created, arising from the development of food testing industry in Hong Kong. SFH advised that with two million food tests, about 350 jobs were estimated to be needed in the private food testing industry. About 120 of the new jobs were for professionals, whereas the remaining new jobs would be for diploma holders and non-skilled workers.

18. Mr Vincent FANG asked the following questions -

- (a) whether Hong Kong had the testing capacity to meet demand from traders upon the commencement of nutrition labelling requirements on 1 July 2010;
- (b) whether any work had been done by the Administration to promote the recognition of the food results provided by accredited private laboratories in Hong Kong by the Mainland authorities concerned; and
- (c) what mode would be adopted by GL to outsource its food testing work to accredited private laboratories.

19. SFH responded in the positive to Mr FANG's first question, as not all traders would need to engage private laboratories to conduct testing to find out the nutrition information of their prepackaged food before putting the food concerned for sale. For instance, many imported prepackaged food were already labelled with nutrition information, albeit in a format different from the prescribed format used in Hong Kong, and prepackaged food with annual sales volume not exceeding 30 000 units could apply for exemption under the Small Volume Exemption Scheme. Regarding Mr FANG's second question, SFH said that the Administration would exchange information on food safety standards and food testing methods with the Mainland authorities. As to Mr FANG's

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third question, AGC said that outsourcing of food testing work by GL would be allocated through tender. GL would assist those organisations interested in taking up the outsourcing contracts to obtain accreditation for the specified tests.

20. The Chairman urged GL not to outsource the some 77 000 food tests to just one or two accredited private laboratories, to avoid monopolisation. SFH pointed out that although there were at present 13 accredited private laboratories, only five of them were accredited in the tests to be outsourced by GL. The Chairman asked whether the outsourcing contracts would be awarded to the five accredited laboratories. SFH responded that awarding of outsourcing contracts would be on project basis and would be based on tender price.

21. Mr Tommy CHEUNG asked about the work which GL would undertake following the outsourcing of at least 77 000 food tests (about 50% of its regular food testing work) to accredited private laboratories in 2009-2010.

22. SFH responded that the resources thus released from the outsourcing of food testing work by GL would be deployed to conduct method development for new tests, to provide new testing services in support of food legislation to enhance food safety, to conduct testing work involving litigation and to assist in contract management.

23. Mr Tommy CHEUNG requested discussing the impact of the development of food testing industry in Hong Kong on the food surveillance work carried out by the Centre for Food Safety of the Food and Environmental Hygiene Department (FEHD) at the next regular meeting in May 2009. SFH responded that the Administration would be in a position to do so in June or July 2009, after TFEC had met to finalise the way forward on the development of food testing industry in Hong Kong.

V. Proposal to create one supernumerary post of Administrative Officer Staff Grade B in the Food and Health Bureau
(LC Paper No. CB(2)1265/08-09(07))

24. SFH introduced the Administration's paper seeking members' views on the proposal to create a supernumerary post of Administrative Officer Staff Grade B (AOSGB) (D3) in the Food Branch of the Food and Health Bureau (FHB) for a period of four years to take forward the Food Safety Bill and related legislation (the proposal).

25. Mr Tommy CHEUNG said that the Liberal Party did not see the justification for the creation of a new Deputy Secretary (DS)(Food)2 post. Mr CHEUNG pointed out that despite the transfer of the social welfare policy portfolio to the Labour and Welfare Bureau on 1 July 2007, FHB had since created several permanent directorate posts, such as an additional Permanent

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Secretary and one Under Secretary. Mr CHEUNG further said that if FHB did not see the need to create a new Deputy Secretary (Food) 2 post in the past to take forward various important legislation, such as the Prevention and Control of Disease, the Fixed Penalty (Smoking Offences) Bill, the Food Business (Amendment) Regulation 2008, Food and Drugs (Composition and Labelling) (Amendment: Requirements for Nutrition Labelling and Nutrition Claim) Regulation 2008 and the Public Health and Municipal Services (Amendment) Bill 2008, the Liberal Party could not see why FHB now needed to create a new DS(Food)2 post just to take forward the Food Safety Bill and related legislation. Mr CHEUNG stressed that not supporting the proposal should not be taken to mean that the Liberal Party did not attach great importance to strengthening food safety.

26. SFH explained that increasing public concern over food safety and public health had rendered it necessary for FHB to respond promptly to a food incident or an outbreak of avian influenza. The normal work of the Permanent Secretary, the DS and Principal Assistant Secretaries (PASs), including those whose work was not directly related to the crisis, must give way, in many cases for a sustained period of time. The progress of work of the Food Safety Bill and other ongoing legislative work was often affected in this way. In short, given the complexity and urgency of the wide range of issues under the food safety and environmental portfolios of the Food Branch, which had been further aggravated in the light of the recent food incidents and events, it was beyond the capacity of the existing DS(Food) to continue to handle these issues properly while taking forward the work of the Food Safety Bill and the various related legislation at the same time.

27. SFH further explained that there was a pressing need to take forward the Food Safety Bill to strengthen the existing food regulatory regime. Hence, it was imperative that a supernumerary DS post at the AOSGB level should be created to take forward the Food Safety Bill and related subsidiary legislation, and to handle the associated work of liaising with the relevant departments and the Mainland and overseas authorities in implementing an appropriate new regulatory regime. Otherwise, the excessively heavy workload of the existing DS(Food) could not be eased and the progress of the relevant legislative work would be impeded in the absence of an additional officer at a sufficiently senior level.

28. Mr WONG Kwok-hing expressed support for the proposal. Mr WONG asked whether creating a new DS(Food)2 post was adequate to cope with the workload of the Food Branch and why the proposed new post was only for a period of four years. Mr WONG considered that given the increasing heavy workload of the Food Branch brought about by heightened public concern over food safety, consideration should be given to making the proposed new DS(Food)2 post a permanent one.

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29. SFH replied in the affirmative to Mr WONG's first question. As regards Mr WONG's second question, SFH said that this was because the time needed to complete the legislative work of the Food Safety Bill was envisaged to be four years. Details of the major tasks to be carried by the proposed new DS(Food)2 in taking forward the Food Safety Bill in the coming four years were set out in paragraph 19 of the Administration's paper.

30. Mr KAM Nai-wai said that although the Food Branch of FHB had a full team, i.e. headed by an Administrative Officer Grade A1 (D8) officer, designated as the Permanent Secretary for Food and Health (Food), and supported by DS(Food) ranked at Administrative Officer Grade Staff Grade B1 (D4) level, three PASs ranked at Administrative Officer Staff Grade C (D2) level and nine Assistant Secretaries, its performance was not satisfactory as evidenced by the occurrence of numerous food incidents over the past few years. Mr KAM queried whether creating a new DS(Food)2 would help to improve the performance of the Food Branch in safeguarding public health.

31. SFH responded that given the complexity and urgency of the wide range of issues under the food safety and environmental hygiene portfolios of the Food Branch, the existing staff establishment of the Food Branch could not be said to be excessive. In fact, the existing staff establishment of the Food Branch was barely adequate to cope with the heavy workload arising from the policy and legislative issues under both the food safety and environmental hygiene portfolios while at the same time steering and overseeing the legislative work on the Food Safety Bill and the related legislation. Hence, there was the need for an additional DS(Food) post to address the bottleneck situation at the DS level in handling a large volume of important and complex duties.

32. The Chairman requested the Secretariat to compile a comparison of the directorate staff establishment between FHB and the Labour and Welfare Bureau for members' information.

33. Dr Joseph LEE said that he in principle supported the proposal. Dr LEE suggested that FHB should provide a yearly report on the progress of work of the proposed new DS(Food)2. Dr LEE further asked whether additional non-directorate staff would be created to assist the new DS(Food)2.

34. SFH responded that the Policy Agenda promulgated by the Chief Executive each year would set out the progress of on-going initiatives. SFH further said that the proposed new DS(Food)2 would be supported by the existing PASs and non-directorate staff in the Food Branch and one additional Personal Secretary (PS) I post. The PS I post would be created for a period of four years.

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35. Mr Alan LEONG said that the Civic Party in principle supported the proposal. Mr LEONG asked whether consideration had been given to re-deploying staff within FHB to take up the proposed new DS(Food)2 post.

36. SFH responded that as the new DS post was a senior position, it was not possible to re-deploy staff from FEHD or Agriculture, Fisheries and Conservation Department to take up the legislative work of the Food Safety Bill. It was also operationally not possible for the existing directorate officers in the Bureau to take up the same without adversely affecting the discharge of their current duties.

37. Mr TAM Yiu-chung said that the Democratic Alliance for the Betterment and Progress of Hong Kong was supportive of the proposal.

38. The Chairman expressed reservation about the proposal, as with the appointment of Under Secretary for Food and Health (USFH), frequency of directorate officers of FHB attending meetings of committees of the Legislative Council (LegCo) had been much reduced. The Chairman further asked whether the term of office of the proposed new DS(Food) 2 would be cut short if the Food Safety Bill could commence earlier than mid 2013 as planned.

39. SFH responded that the fact that directorate officers of FHB now attended fewer meetings of LegCo committees did not mean their workload had been lessened as they had to undertake all preparatory work, including drafting of papers, to support him or USFH in attending these meetings. SFH further said that if the Food Safety Bill could commence earlier than mid 2013, consideration would be given to reviewing the term of office of the proposed new DS(Food)2 post.

40. In closing, the Chairman said that the Democratic Party had yet to come to a view on whether or not to support the proposal, albeit Mr KAM Nai-wai had strong reservation about the proposal.

VI. Implementation of concessionary measures for public market tenants and licensed hawkers in the Budget
(LC Paper Nos. CB(2)1265/08-09(04) & (05))

41. USFH briefed members on FEHD's arrangements for implementing the concessionary measures in the Budget relating to public market tenants and licensed hawkers.

42. Mr WONG Kwok-hing said that providing public market tenants with a 20% rental reduction for three months from 1 April 2009 to 30 June 2009 was too little, and should at least be extended to one year. Mr Vincent FANG and Mr Tommy CHEUNG also said that providing a 20% reduction to the fixed

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pitch fee from 1 April 2009 to 30 June 2009 was too little, and should be extended to one year.

43. Mr WONG Kwok-hing asked about the arrangements for deducting rentals to public market tenants.

44. Assistant Director (Operations) 2, FEHD responded that the rental reduction was reflected in the rental notices to tenants, the issuance of which had been made in late March 2009. Such arrangements would, however, not be applied to fixed pitch hawker licensees. Fixed pitch hawker licensees who renewed their licences before 1 April 2009 and whose renewed licences became valid within the period from 1 April 2009 to 30 June 2009 would receive a 20% refund of the fixed pitch fees for that period by cheque. For those fixed pitch licensees whose licences had to be renewed within the concessionary period, refund would be arranged by batches on a monthly basis upon renewal and settlement of the fee payment. The purpose of this arrangement was to ensure that the amount of concession received by each fixed pitch hawker licensee tallied with the validity period of their licences.

45. Mr WONG Yuk-man expressed dissatisfaction about the Administration only providing a 20% concession to public market rentals and fixed pitch fees for three months, despite a motion passed by the Council on 12 November 2008 urging the Government to waive the rentals of all food markets, government markets and shopping arcades for one quarter and waiving the hawkers' licence fees for one year and another motion carried at this Panel on 18 December 2008 urging the Government to waive hawker licence fee for one year and public market rental for two quarters.

46. USFH explained that the reason for providing a 20% concession to public market rentals and fixed pitch fees for three months was to implement the concessionary measures announced by the Financial Secretary (FS) in his Budget speech on 25 February 2009 that the Administration would provide a 20% rental reduction for most government properties and short term tenancies of government land for three months.

47. Mr Alan LEONG said that the Civic Party was very disappointed about the Administration's decision to only provide a 20% concession to public market rentals and fixed pitch fees for three months, which fell far short of Members' demands to enable public market tenants and licensed hawkers to tide over this difficult period.

48. In closing, the Chairman said that the Panel found the concessionary measures for public market tenants and licensed hawkers unacceptable. The Chairman requested USFH to convey members' views on the matter to FS for consideration.

VII. Follow-up discussion on review on hawker licensing policy

(LC Paper Nos. CB(2)782/08-09(03), CB(2)1265/08-09(06) and CB(2)1314/08-09(01))

49. USFH advised that 27 holders of Itinerant (Frozen Confectionery) Hawker Licences (small ice cream vendors) had indicated that they would not surrender their licences under the Voluntary Surrender Scheme (VSS). One former licence holder had passed away. As such, the Administration proposed to advance the expiry date of the VSS for such licences, i.e. 31 December 2009. Applications for 31 new Itinerant (Frozen Confectionery) Hawker Licences would be invited in the coming two to three weeks so that they could be issued by mid June 2009. USFH further advised that arising from the 50% increase in tobacco duty, consideration was being given to allowing licensed newspaper hawkers to sell other dry goods. USFH also sought members' support on the policy direction with regard to hawker licensing set out in LC Paper No. CB(2) 782/08-09(03), so that FEHD could proceed with the necessary follow-up actions.

50. Mr WONG Kwok-hing urged the Administration to issue more new Itinerant (Frozen Confectionery) Hawker Licences, as according to the Dairy Products Beverage & Food Industries Employees Union (the Union), 135 people had indicated interest to join the trade.

51. USFH responded that the Administration would actively consider further increasing the number of new Itinerant (Frozen Confectionery) Hawker Licences after the summer season. By then, there would be clearer indications on whether the market could absorb more small ice cream vendors and whether their operation would give rise to environmental hygiene problems or obstruction to public passageways.

52. Mr Vincent FANG urged the Administration not to delay the issue of more new Itinerant (Frozen Confectionery) Hawker Licences until after the summer season, but to expeditiously issue 100 new such licences to provide job opportunities to low-skilled persons in this difficult period. The Administration should let the market decide whether it had capacity to accommodate 100 additional street ice cream vendors. The Chairman, Mr Tommy CHEUNG and Mr WONG Kwok-hing echoed Mr FANG's views. Mr WONG further said that the Union had identified over 100 locations in Hong Kong for small ice cream vendors to do business.

53. USFH responded that, should there be unanimous support from the Panel for the issue of more new Itinerant (Frozen Confectionery) Hawker Licences, the Administration was willing to increase such new licences by 20 to 30.

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(*Post-meeting note:* Subsequent to the meeting, the Administration decided to issue 61 new Itinerant (Frozen Confectionery) Hawker Licences, thus increasing the total number of such licences from the existing 27 to 88.)

54. Mr FANG further urged the Administration to allow licensed newspaper hawkers to allocate a larger proportion of their stalls to selling goods other than newspapers and magazines.

55. USFH responded that the Administration was open-minded on the types of goods that could be sold by licensed newspaper hawkers, provided that they were not wet goods. FEHD would meet with the hawker associations concerned on 17 April 2009 to discuss the matter.

56. Mr Tommy CHEUNG asked how soon could licensed newspaper hawkers sell other dry goods in their stalls. In response, Deputy Director of Food and Environmental Hygiene (Environmental Hygiene) said that neither the type of goods that licensed newspaper hawkers could sell in their stalls nor the percentage of their stall for selling good other than newspapers and magazines was prescribed by law. Hence, relaxations could be effected through administrative means as soon as the hawkers concerned reached a consensus among themselves, and provided that there was no objection from nearby fixed pitch hawker licensees.

57. The Chairman urged the Administration to re-consider according priority to registered assistants in the allocation of vacant pitches and allowing succession and transfer of itinerant hawker licences to be in line with the arrangements for fixed pitch hawker licences.

58. In closing, the Chairman said that the Panel supported the policy direction with regard to hawker licensing set out in LC Paper No. CB(2) 782/08-09(03) and unanimously requested the Administration to issue 100 new Itinerant (Frozen Confectionery) Hawker Licences. The Chairman further requested the Administration to provide a paper on the responses to applications for such new licences. The Chairman further said that the Panel agreed that a holistic approach should be adopted in formulating hawking policy, having regard to its cultural, economic and social relevance. As the matter went beyond the purview of the Panel, the matter might be more appropriately followed up by other Panel(s), say, the Panel on Commerce and Industry.

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59. There being no other business, the meeting ended at 5:00 pm.