

立法會
Legislative Council

LC Paper No.CB(2)2591/10-11
(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, 12 July 2011, at 2:00 pm
in Conference Room A of the Legislative Council Building

Members present : Hon Tommy CHEUNG Yu-yan, SBS, JP (Chairman)
Hon WONG Yung-kan, SBS, JP (Deputy Chairman)
Hon Fred LI Wah-ming, SBS, JP
Hon TAM Yiu-chung, GBS, JP
Hon Vincent FANG Kang, SBS, JP
Hon WONG Kwok-hing, MH
Dr Hon Joseph LEE Kok-long, SBS, JP
Hon KAM Nai-wai, MH
Dr Hon LEUNG Ka-lau
Hon Alan LEONG Kah-kit, SC
Hon WONG Yuk-man

Members absent : Hon Andrew CHENG Kar-foo
Hon WONG Sing-chi

Public Officers attending : Item III
Prof Gabriel M LEUNG, JP
Under Secretary for Food and Health

Miss Gillian LAM Yuk-ting
Principal Assistant Secretary for Food and Health
(Food) 1 (Acting)

Dr LEE Siu-yuen, JP
Assistant Director (Food Surveillance and Control),
Centre for Food Safety
Food and Environmental Hygiene Department

Item IV

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

Miss Gillian LAM Yuk-ting
Principal Assistant Secretary for Food and Health
(Food) 1 (Acting)

Dr Constance CHAN Hon-ye, JP
Controller, Centre for Food Safety
Food and Environmental Hygiene Department

Dr HO Yuk-yin, JP
Consultant (Community Medicine) (Risk Assessment
and Communication)
Food and Environmental Hygiene Department

Item V

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

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

Dr Constance CHAN Hon-ye, JP
Controller, Centre for Food Safety
Food and Environmental Hygiene Department

Dr HO Yuk-yin, JP
Consultant (Community Medicine) (Risk Assessment
and Communication)
Food and Environmental Hygiene Department

Item VI

Prof Gabriel M LEUNG, JP
Under Secretary for Food and Health
Mr Owin FUNG Ho-yin
Principal Assistant Secretary for Food and Health (Food) 3

Dr Thomas SIT Hon-chung
Assistant Director (Inspection and Quarantine)
Agriculture, Fisheries and Conservation Department

Mr Clive LAU Siu-ki
Senior Agricultural Officer (Regulatory)
Agriculture, Fisheries and Conservation Department

Attendance : Item III
by invitation

Fung Kwai Tong Eggs Merchant Association

Mr YOUNG Kam-yim
Chairman

Clerk in : Mrs Sharon TONG
attendance Principal Council Secretary (2)

Staff in : Mr Jove CHAN
attendance Senior Council Secretary (2) 8

Ms Mina CHAN
Council Secretary (2) 5

Ms Michelle LEE
Legislative Assistant (2) 7

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I. Confirmation of minutes
(LC Paper No. CB(2)2107/10-11)

The minutes of the meeting held on 17 May 2011 were confirmed.

II. Information paper(s) issued since the last meeting
(LC Paper Nos. CB(2)2095/10-11(01), CB(2)2215/10-11(01),
CB(2)2252/10-11(01) and CB(2)2295/10-11(01))

2. Members noted that the following papers had been issued since the last meeting -

- (a) a letter dated 13 June 2011 from Hong Kong Columbarium Merchants Association on review of columbarium policy;
- (b) an information note provided by the Administration on the order under section 78B of the Public Health and Municipal Services

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Ordinance (Cap. 132) on 21 June 2011 to prohibit the import of ITAMACHI KING OOLONG Tea Drink into Hong Kong with effect from 12:00 noon on 22 June 2011 until further notice;

- (c) a letter dated 23 June 2011 from Yau Tsim Mong District Council on regularization of recycling shops; and
- (d) a letter dated 23 June 2011 from Yau Tsim Mong District Council on regularization of feeding wild birds in urban public places and licensing of pigeon raising.

III. Imported Game, Meat, Poultry and Poultry Egg Regulation under the Food Safety Ordinance

(LC Paper Nos. CB(2)1730/10-11(05) and CB(2)2305/10-11(01))

Views of deputation

Fung Kwai Tong Eggs Merchant Association

3. Mr YOUNG Kam-yim presented the views of Fung Kwai Tong Eggs Merchant Association. Mr YOUNG expressed concerns about the exclusion of liquid egg in the proposed legislation. He said that apart from avian influenza virus, other viruses might exist in liquid eggs. The importers had little knowledge on how they could distinguish whether the liquid eggs had been pasteurized and the handling of contaminated liquid eggs. Mr YOUNG added that there would be possibility of contamination when the eggs were en route to Hong Kong which took more than 40 and 20 days from the United States and Europe respectively.

The Administration's response to the views expressed by deputation

- 4. Under Secretary for Food and Health ("USFH") responded as follows -
 - (a) Currently, if there was food incident involving non-pasteurized liquid eggs, the Centre for Food Safety ("CFS") would trace their places of origin. The registration and record-keeping requirements laid by the Food Safety Ordinance (Cap. 612), which would commence on 1 August 2011, would facilitate the tracing process. Furthermore, the Director of Food and Environmental Hygiene was empowered to make an order to request the suppliers concerned to recall the problematic products supplied to the market, if necessary;

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- (b) it was the importers' responsibility to confirm whether the liquid eggs were pasteurized. They might ask the exporters for health certificates issued by competent authorities for the liquid eggs. The Administration had provided a list of competent authority for the importers' reference;
- (c) CFS had adopted the international preventive concept of Hazard Analysis and Critical Control Points and carried out risk management and control process at every stage of the food chain from farm to table, with focus on high risk areas. The proposed regulation targeted at controlling the highly pathogenic avian influenza virus, which could hardly spread without poultry as its host. Therefore, there was very limited chance for liquid eggs to be contaminated by avian influenza virus during transportation; and
- (d) for the possible contaminations by other viruses, there were food safety control measures over the entire supply chain with health certificates issued by the authority in exporting countries and the food surveillance by CFS when they arrived in Hong Kong.

Discussion

5. Mr WONG Kwok-hing expressed regret that the Administration did not adopt the views of the trade to include pasteurized frozen or liquid eggs in the proposed regulation. He commented that the Administration should provide 100% public health protection in the proposed regulation.

6. USFH responded that it was not feasible for any authority to achieve zero risk. He stressed that traders were responsible to confirm whether the liquid eggs were pasteurized and the Administration would liaise with overseas authorities and sample the imported eggs. USFH added that under the risk management approach, it was unnecessary to include pasteurized liquid eggs as scientifically avian influenza virus could not survive under high temperature during pasteurization. It was also inappropriate for CFS to deviate the control measure of pasteurized liquid eggs from the international practice without a sound scientific basis.

7. The Deputy Chairman enquired whether the Administration would require the poultry eggs importers to acquire health certificates issued by the competent authorities of exporting countries and how the certificates would facilitate their business. USFH replied in the affirmative. He said that the proposed regulation required the importers to acquire and produce health

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certificate for game, meat, poultry and poultry eggs. He complimented the Deputy Chairman for his assistance in coordinating previous liaison between the Administration and the Mainland authorities to introduce administrative measures to control the food safety of poultry and poultry eggs imported from the Mainland. USFH further said that the proposed amendment was to extend these measures to cover other foreign countries and places. These measures would also facilitate the business of importers who had acquired the health certificate as they would be able to trace the source in case of food incident.

8. The Deputy Chairman and Mr Vincent FANG expressed concern about private import of poultry eggs from the Mainland into Hong Kong that the source of eggs could hardly be traced in case of food incident. They enquired whether the proposed regulation would restrict people from privately bringing into Hong Kong poultry eggs for trading purpose or require them to acquire health certificate otherwise. Mr YOUNG Kam-yim echoed Mr FANG's view that media had reported the smuggling of poultry eggs from Shenzhen to Hong Kong for a short period in early 2010 when the official supply of poultry eggs was unstable. He considered that it might happen again when the proposed regulation was implemented. He hoped that the Administration would closely monitor the situation and strike the smuggling activities to protect the interest of the trades.

9. USFH responded that, under the proposed regulation, importing poultry eggs into Hong Kong for private consumption was allowed if the quantity was 15 kilograms or below. The Customs and Excise Department ("CED") would inspect and take out enforcement actions if poultry eggs were found being imported in a large quantity. USFH said that there was no evidence showing a trend of increasing smuggling of poultry eggs from the Mainland to Hong Kong. Smuggling of poultry eggs was illegal and law enforcement actions with CED would be taken to protect the public health.

10. Mr Vincent FANG queried whether it was genuinely no additional financial implication brought to the importers by the proposed regulation. Mr YOUNG Kam-yim expressed worry that the inspection fee charged by the Mainland authorities would affect the cost of eggs and smuggling might happen again. Mr FANG enquired about the costs of the export health certificates and import permits, and the lead-time for the issuance of the documents.

11. USFH and Assistant Director (Food Surveillance and Control), CFS responded that -

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- (a) the cost of an import licence application form was HK\$1.3 to cover one lot of goods;
- (b) the cost of export health certificate varied from no charge to around HK\$20 per one lot of goods, depended on the issuing countries; and
- (c) it took one day to a few days for the authorities of overseas countries to issue their export health certificate.

12. USFH added that under the current administrative arrangement, health certificates were already required for poultry eggs imported from the Mainland. The Administration had also consulted the Consulate Generals of other countries where poultry eggs were imported from as well as the importers and they had agreed that the cost implication would be minimal. USFH stressed that the Administration would undertake stringent control against smuggling activities.

13. In response to the Chairman's enquiry on the legislative timetable, USFH advised that the proposed legislation would be submitted to the Legislative Council ("LegCo") near the end of 2011.

IV. Implementation of the Nutrition Labelling Scheme (LC Paper Nos. CB(2)2305/10-11(02) and (03))

14. USFH briefed the Panel on the implementation of the Nutrition Labelling Scheme ("the Scheme") which came into effect on 1 July 2010 as detailed in the Administration's paper.

15. Mr WONG Kwok-hing was delighted to note from the Administration's paper that the Scheme had not brought undue impact on consumer choices of new prepackaged food and the compliance cost of the trade. Regarding the level of a nutrient contained in a food, Mr WONG found that some soy milk claiming "low sugars" actually had a very sweet taste. He enquired about the definition of "low sugars" claim in a food and asked whether there was stringent regulation over nutrition claims of food. He queried why there had been no prosecution cases since the implementation of the Scheme.

16. USFH explained that a food product with not more than five grams of sugar per 100 grams or 100 millilitres would be defined as containing "low sugars". Regarding those "less sweet" claims, given the sense of taste

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depended on subjective factors of human feelings perception, it had been thoroughly discussed during the scrutiny of the Food and Drugs (Composition and Labelling) (Amendment: Requirements for Nutrition Labelling and Nutrition Claim) Regulation 2008 and agreed that it could not be defined in the legislation the claims of such perceived taste. However, with intensive public education and publicity activities launched by the Administration, the public would understand how to make use of the information in nutrition labels to make healthier food choices. As regards the issue of prosecution, USFH pointed out that of the 111 non-compliant cases, 47 were found without either nutrition labels or complete "1+7" core nutrients label and 33 were found to be inaccurate in the nutrition labels and nutrition claims after chemical analysis. Where such irregularities were identified, CFS would issue letters to the traders concerned requiring explanations within 21 days. If their explanations were not accepted by CFS, warning letters would be issued requiring actions to comply with the requirements of the Scheme within 60 days. For traders who failed to do so, CFS would initiate prosecution. USFH advised that as traders had been co-operative so far, no prosecution had been mounted.

17. Mr WONG Kwok-hing suggested that "taste" of food be defined in the legislation in order to prevent consumers from being misled by taste claims. USFH responded that while there was already a clear definition of "low sugars" claim in the legislation, it was difficult to define in the legislation whether something tasted too sweet or salty. USFH stressed that the Administration would give consumers correct messages about healthy food choices through education and publicity programmes.

18. Mr Fred LI said that the Hong Kong Nutrition Association had recently conducted a joint study on nutrition labelling information with the students of the University of Hong Kong and the Chinese University of Hong Kong. It was found that some prepackaged food claiming "less sweet" actually contained higher amount of sugars than the "low sugars" condition. As there was currently no regulation over food products with claims based on "taste", Mr LI suggested that the Administration should verify the accuracy of taste claims of food and make known those misleading cases to the public. Not only could it enhance consumers' understanding on nutrition labelling information, but could also deter manufacturers from abusing such statements. Mr LI also asked how the Administration performed the checking of the 16 245 prepackaged food products under the Scheme and verified the annual sales volume of food products applying small volume exemption ("SVE").

19. USFH said that the Administration had covered the education on taste claims such as "less sweet" and "light fat" in the public education and

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publicity programmes and had been carrying out inspections and taking samples for chemical analysis to ensure the accuracy of the nutrition labels and nutrition claims of food products. The Administration would also continue to co-operate with the Consumer Council, which could provide tremendous assistance in public education with its recognition and publicity capability. As regards SVE, USFH explained that the Administration would, notify traders when the aggregate sales volume had reached 70% and 90% of the 30 000 units level. The SVE Scheme had operated for one year and run smoothly so far. The Administration would further explore with the trade on how to increase the transparency of the SVE Scheme with a view to facilitating traders to keep track of the sales volume of their food products.

20. Controller, CFS advised that as at 24 June 2011, CFS had checked 16 245 prepackaged food products with 111 found not complying with the Scheme. Most of them were examined by visual checking to ascertain whether they complied with the statutory "1+7" labelling requirements. She said that in the first year of the operation of the Scheme, inspection was particularly focused on the food products with nutrition claims such as "low sugars" and "low fat". CFS would select 500 prepackaged food products each year for chemical analysis. Currently, about 470 prepackaged food products had been tested by chemical analysis to verify the accuracy of the nutrition labels and nutrition claims. Of the 111 non-compliant cases, 33 were identified by chemical analysis with discrepancy between the result of the actual nutrient content and that stated on the nutrition label. Concerning the SVE Scheme, Controller, CFS explained that apart from the requirement of monthly reporting of sales volume at the importer's and manufacturer's level, site inspection at importers and retailers would also be conducted by CFS on the food products applying for SVE. Retailers might be requested to provide receipts for verification.

21. Mr Fred LI further pointed out that the joint study showed that only 17% of the respondents were aware of the "3 Low, 1 High" healthy eating principle (i.e. low sugar, low fat, low salt/sodium and high fibre). In view of this, Mr LI suggested that the Administration should enhance the public education in this regard.

22. Mr Vincent FANG said that the trade considered the 21-day enquiry period necessary as the traders concerned could be allowed more time to look into the matter before the food product in question was required to be withdrawn from the shelves. Mr FANG expressed concern about the impact of the Scheme on consumer choices, particularly for people with food allergies. He sought statistical information supporting the Administration's claim that the Scheme had not brought undue impact on consumer choices,

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and asked how the food products that were found not complying with the Scheme would be handled. Mr FANG also requested the Administration to clarify whether the food products sold by hawkers, such as peanut candies, were considered prepackaged food and regulated under the Scheme. He queried whether there were adequate manpower resources undertaking enforcement actions.

23. For the food products that were found not complying with the Scheme, USFH advised that most of them already had their irregularities rectified by the traders concerned so that they turned out to be allowed for sale continuously. USFH said in view of the concern raised in the past discussions by the Panel that the trade would need a grace period to make necessary adjustments during the early stage of implementation of the Scheme, a 21-day enquiry period followed by warning letter requiring rectifications within 60 days if explanation was not accepted was arranged for the trade in the first year of the operation of the Scheme as a flexible enforcement approach. Only if the trader failed to do so, the non-compliant food product would then have to be taken off the shelves and prosecution actions would be taken. USFH pointed out that traders had been co-operative so far and only 111 non-compliant cases had been identified after the Scheme had been implemented for one year. As the traders were now familiar with the nutrition labelling requirements, the 21-day enquiry period was thus considered no longer necessary and strong response to this arrangement was not received from the trade.

24. Regarding Mr Vincent FANG's concern about the impact of the Scheme on food choices for people with allergies, USFH said that according to the Chairman of The Hong Kong Allergy Association ("Allergy HK"), the Scheme had not brought a negative impact on food prices and choices for people with allergies. Allergy HK indicated that for people with food allergies, their food choices hinged on whether the food product contained substances that would cause allergy and its country of origin.

25. Mr Vincent FANG pointed out that supermarkets would not allow the food products for which warning letters had been issued by the Food and Environmental Hygiene Department ("FEHD") to remain on shelves. The 21-day enquiry period was thus considered necessary for the trade to verify the test result from the Administration. The Chairman also asked whether the 21-day enquiry period could be retained to facilitate the trade's compliance with the Scheme.

26. Controller, CFS advised that the Administration had consulted the trade before the implementation of the Scheme, and the trade agreed that the

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21-day enquiry period would be arranged as a flexible enforcement measure for traders to explain any irregularities identified in the first year of its implementation. As the Scheme had operated for one year, it was considered that the trade was familiar with the statutory requirements and hence CFS should issue a warning letter to the trader concerned upon detection of irregularity. This practice would also be consistent with the enforcement actions taken against other non-compliant cases relating to general-labelling.

27. Noting that the Scheme had been implemented effectively for one year, Mr Alan LEONG asked when the Administration would consider the food safety matters relating to trans fat, genetically modified food and organic food.

28. USFH advised that the Scheme had already covered the prepackaged food with trans fat. The Agriculture, Fisheries and Conservation Department ("AFCD") had mounted a large-scale publicity campaign a few months ago in promoting organic farming and organic farmers' markets, and the activities were well received. The Administration hoped to gauge the market's response and allow more time for the trade to be accustomed to the labelling scheme for organic products by using non-legislative approach. USFH pointed out that as there was still a lack of international consensus on labelling of genetically modified food, it was difficult for the Administration to devise the regulatory framework on genetically modified food labelling. However, the Administration would keep a close eye on the discussion of genetically modified food at the international level and public concern about the consumption of genetically modified food.

29. Mr Alan LEONG enquired whether there would be a mechanism enabling the consumers to become aware of the amount of trans fat that they would take in from non-prepackaged food, such as bread and cakes sold at bakeries.

30. USFH responded that CFS had set up two working groups to develop two sets of guidelines for the trade to promote manufacturing foods containing lower levels of sodium, sugar and fat (including trans fat). Thorough discussion and consideration would be required on whether more information could be provided about the amount of trans fat in non-packaged food at the levels of retailers and food service establishments, as well as the feasibility and coverage of food labelling scheme for trans fat. Though there was an overseas example in the United States where trans fat had been banned from restaurants in New York City, it was difficult for restaurants in Hong Kong to indicate in their menus the amount of trans fat contained in the food they sold given that there was a wide variety of dishes in Hong Kong.

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31. While expressing appreciation for the Administration's efforts in promoting and implementing the Scheme, Mr WONG Yung-kan queried whether the Scheme had reduced the food choices for consumers. He was concerned whether the community had become more knowledgeable of the Scheme and hence getting healthier in their eating habits.

32. USFH said that apart from CFS, the Consumer Council had carried out independent study on public awareness of the Scheme. The Bauhinia Foundation Research Centre had also conducted a survey recently on the public's knowledge and attitude towards the Scheme, and its result was found satisfactory. As suggested by Mr Fred LI, the Department of Health ("DH") would continue to enhance public awareness of "3 Low, 1 High" healthy eating principle. USFH also pointed out that an independent consultant was commissioned to find out the quantity of different types of prepackaged food products available in various retail outlets before and after the commencement of the Scheme. The consultant had completed the fieldwork of the last phase of the survey project in April 2011 and was analyzing the data collected. According to the preliminary figures available at this stage, the food choices had increased since the implementation of the Scheme. The survey was expected to be completed in the second half of 2011, and the Administration would report to the Panel when the result was available.

33. On whether the eating habits of the public had changed due to the implementation of the Scheme, USFH said that the Surveillance and Epidemiology Branch, Centre for Health Protection of DH would conduct survey regularly on behavioural risk factors collecting information on health-related lifestyle and behaviours of the public. USFH stressed that behavioural changes required long term efforts, and could not be identified immediately after the implementation of the Scheme. However, the Administration would sustain its efforts by launching education and publicity programmes on nutrition labelling to consolidate the efforts on motivating behavioural changes among the public at large.

34. The Chairman requested the Administration to reconsider retaining the 21-day enquiry period, and suggested including those 21 days into the grace period of 60 days.

V. Regulation on pesticide residues in food
(LC Paper Nos. CB(2)2305/10-11(04) and (05))

35. USFH and Consultant (Community Medicine) (Risk Assessment and Communication) of FEHD briefed members on the proposed Regulation on

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Pesticide Residues in Food ("proposed Regulation") to be made by the Director of Food and Environmental Hygiene under section 55 of the Public Health and Municipal Services Ordinance (Cap. 132) as detailed in the Administration's paper and the Powerpoint presentation.

(Post-meeting note: The softcopy of the Powerpoint presentation materials was issued to members vide LC Paper No. CB(2)2356/10-11(01) on 12 July 2011.)

36. Mr WONG Kwok-hing noted that risk assessment would be conducted on pesticide residues in food which are not included in the list of Maximum Residue Limits ("MRLs")/Extraneous Maximum Residue Limits ("EMRLs"). He queried whether such an approach would create loopholes in regulation. Mr WONG also asked how the Administration would regulate food products which were claimed to be green food to avoid misleading consumers.

37. USFH noted that there had been increasing number of food products which were claimed to be green food. He stressed that irrespective of the claims, all food for human consumption needed to comply with the proposed Regulation. In other words, the presence of pesticide residues in food at levels exceeding the MRLs/EMRLs will contravene the proposed Regulation. For pesticide residues which were outside the list of MRLs/EMRLs, USFH explained that the proposed risk assessment approach would cater for new pesticides which were found to be acceptable from public health perspective but not yet included in the list of MRLs/EMRLs. This had addressed the views of the trade, overseas food safety experts and the Panel over the rapid development of new technologies and new pesticides. Members of the trade could also apply to the Director to add the new MRL to the list if it had been established by Codex or other jurisdictions. The above proposal was considered pragmatic without compromising food safety.

38. In response to Mr WONG Kwok-hing's comments, USFH said that as new pesticides and new applications on crops keep emerging, the list of MRLs/EMRLs would be updated regularly.

39. The Deputy Chairman commented that members of the trade might not know which and how pesticides were applied to food crops in the Mainland. He would like to know the time and cost needed for carrying out tests on the pesticides in the list. He added that some imported chilled fish were found to become rotten quickly after the packaging materials were removed, and enquired whether the Administration would conduct tests on additives found in live aquatic products. He supplemented that the local agricultural trade had expressed support for the proposed Regulation.

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40. USFH invited the Deputy Chairman to provide more details of the aforementioned chilled fish to CFS for further study. He said that as some pesticides shared similar characteristics, multi-residue testing had become the common practice and hence there was no need to conduct separate tests for each of the 342 pesticides in the list. The Administration had also maintained close liaison with the Mainland authorities in formulating the list of MRLs/EMRLs. He was pleased to note that the local agricultural trade welcomed the proposed Regulation. The Administration would seek the views of the public in the coming two months via public consultation and table the proposed Regulation at LegCo towards the end of 2011.

VI. Pesticides (Amendment) Bill

(LC Paper Nos. CB(2)2305/10-11(06) and (07))

41. The Chairman advised members that a submission from Mr Paul MELSOM on the subject matter (as detailed in LC Paper No. CB(2)2360/10-11(01)) was received and tabled at the meeting.

(Post-meeting note: Mr Paul MELSOM's submission was issued to members vide LC Paper No. CB(2)2360/10-11(01) on 13 July 2011.)

42. USFH briefed members on the proposed Pesticides (Amendment) Bill as detailed in the Administration's paper.

43. The Deputy Chairman enquired about the number of farmers who had received trainings on the use of pesticides. He further asked how the inspection on the use of pesticides was carried out. USFH responded that the major users of pesticides in their business duties included local farmers, sports turf management personnel, and pest control companies and workers. The percentage of pest control workers who had received training on the use of pesticides had increased from 10% in 2007 to 59% in 2010. In addition, all pesticides for sale must have proper labels with details on directions for use, safety precautions, first aid instructions and warning phrases.

44. Senior Agricultural Officer (Regulatory) of AFCD supplemented as follows -

- (a) AFCD had been providing technical advice and support on safe and proper use of pesticides to local farmers. There were about 1 900 vegetable farms at present. Officers of AFCD visited each farm every two to three months to provide advice to farmers on the use of pesticides and other agricultural techniques;

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- (b) in the last three years, AFCD had conducted 47 training courses for local farmers on the use of pesticides and more than 1 600 farmers had attended. AFCD also provided technical support and advice to local farmers via the co-operative societies; and
- (c) there were sporadic cases where some farmers were found using small amount of unregistered pesticide bought from the Mainland without permit. AFCD had carried out prosecution accordingly. The maximum penalty was a fine of HK\$50,000 and imprisonment for one year. The number of such cases was very small.

45. Mr KAM Nai-wai said that the trade welcomed the proposed Bill, particularly the improved approach to regulate the pest control industry as the originally proposed statutory user control scheme would have serious impact on the trade. He asked whether there would be clear guidelines and mandatory code of practice for the trade. Mr KAM also suggested that the Administration should provide incentives to encourage pesticide applicators to receive training by ensuring that relevant training courses were reimbursable under the Continuing Education Fund ("CEF").

46. USFH noted the concern of the trade over the earlier suggestion to introduce mandatory licensing and registration schemes. This was the reason why the Administration now proposed an improved approach, including the introduction of codes of practice to provide specific guidance on the use of pesticides to different sectors of the trade. Since different types of pesticides were used by different workers/companies, a total of four sets of code of practice were developed for the sectors of pest control companies, pest control workers, sports turf management personnel and local farmers respectively. In response to Mr KAM Nai-wai's enquiry, USFH said that different from the originally proposed licensing and registration schemes, the codes of practice would not be mandatory. The Administration would continue to ensure safe and proper use of pesticides by encouraging pesticide users to attend training and promoting the codes of practice. Since CEF was not under the purview of the Food and Health Bureau ("FHB"), USFH would follow up to explore whether the relevant training courses could be reimbursable from the Fund.

47. Mr KAM Nai-wai urged the Administration to consider including the codes of practice in the Bill. Mr KAM opined that this would provide better protection for the public as the pesticide applicators would bear civil liability when they improperly applied the pesticides and caused harms to the others. USFH expressed reservations about the suggestion. He explained that subject

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to further legal advice from the Department of Justice, penalty clause for non-compliance would be necessary should the codes of practice be included in the legislation. Mr KAM said he understood that there were examples where codes of practice were included in the legislation without penalty clause for non-compliance. He requested FHB to seek advice from the Department of Justice and report the advice when the Bill was submitted to LegCo. Mr KAM also requested for copies of the codes of practice. USFH undertook to follow up.

(Post-meeting note: The codes of practice were received and issued to members vide LC paper No. CB(2)2384/10-11(01) to (04) on 15 July 2011.)

48. Mr Alan LEONG said that according to the background brief prepared by the LegCo Secretariat, a number of issues were raised in 2007 while the proposed Bill covered only a few of them. He enquired whether the remaining issues would be dealt with at a later stage.

49. USFH responded that the improved proposal was formulated taking into account the views of the trade in the past few years. The amendments related to the Stockholm Convention and the Rotterdam Convention remained unchanged when compared with those in the 2007 proposal. As regards the user control scheme, it had been replaced by dedicated codes of practice for different types of pesticide applicators as explained above. The use of unregistered pesticides was regulated by way of permit so that only trained professionals were allowed to handle them. The effectiveness of the current registration system in ensuring safe and proper use of pesticides was borne out by evidence. According to a recent 3-year study conducted by the Department of Health, cases of minor incidents relating to the misuse of pesticides were few and far between. As the improved measures were administrative in nature, legislative amendments were not necessary. The Panel would be informed when these administrative measures had been implemented.

50. Referring to the submission from Mr Paul MELSOM, Mr Alan LEONG enquired whether the Administration would consider a statutory licensing scheme at the management level of pest control companies to monitor their frontline pesticide applicators.

51. USFH stressed that the Administration attached great importance to the protection of public health and safety. He further replied as follows -

(a) the Administration had explored with the trade the proposed

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licensing system at the management level of pest control companies. However, there were opinions that such system might throttle the business of the small and medium pest control companies, which would result in increase in service charges and monopolized market situation, and would be unwelcome by the community. Hence, the Administration proposed to enhance the standard of the trade via the aforementioned trainings and codes of practice;

- (b) the two pesticides mentioned in the submission, i.e. Diazinon and Paraquat, had been widely used because of their effectiveness and the lack of substitutes. The use of the two pesticides had been prohibited by the European Union in recent years. However, the use of these two pesticides was still allowed in Australia, Canada and Singapore, and conditionally allowed in the United States. The Administration had been looking for other effective substitutes for these two pesticides and further assessing the safety of the use of the above two pesticides in the local environment.

52. The Deputy Chairman asked whether farmers who had received formal training on the use of pesticides would be legally liable if they had unknowingly used unregistered pesticides without permit, and what action the Administration would take to avoid its occurrence. USFH said that the general common law principles of defence would apply to proceedings under Cap.133. He added that relevant trainings and code of practice had been tailor-made for farmers with a view to focusing on pesticides commonly used in Hong Kong and addressing their needs.

VII. Any other business

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