

立法會
Legislative Council

LC Paper No. CB(2)2040/14-15
(These minutes have been
seen by the Administration)

Ref : CB2/SS/6/14

**Subcommittee on Three Regulations
Relating to Control Regime for the Import of Eggs**

**Minutes of the second meeting
held on Thursday, 16 July 2015, at 10:45 am
in Conference Room 2 of the Legislative Council Complex**

Members present : Hon Steven HO Chun-yin, BBS (Chairman)
Hon Vincent FANG Kang, SBS, JP
Hon WONG Kwok-hing, BBS, MH
Hon Cyd HO Sau-lan, JP
Dr Hon Helena WONG Pik-wan

Members absent : Hon Tommy CHEUNG Yu-yan, GBS, JP
Hon Alan LEONG Kah-kit, SC
Hon CHAN Han-pan, JP

Member attending : Hon WU Chi-wai, MH

Public Officers attending : Item I

Prof Sophia CHAN Siu-chee, JP
Under Secretary for Food & Health
Food and Health Bureau

Mr Kenneth CHAN Siu-yum
Principal Assistant Secretary for Food & Health
(Food)1
Food and Health Bureau

Mr Hermes YH TANG
Assistant Commissioner (Boundary and Ports)
Hong Kong Customs & Excise Department

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

Dr Allen CHAN Sze-ling
Senior Veterinary Officer (Veterinary Public Health)
Food and Environmental Hygiene Department

Miss Emma WONG
Senior Government Counsel
Department of Justice

Clerk in attendance : Mr Colin CHUI
Chief Council Secretary (2) 4

Staff in attendance : Miss Winnie LO
Assistant Legal Adviser 7

Mr Richard WONG
Council Secretary (2) 2

Miss Maggie CHIU
Legislative Assistant (2) 4

Action

I. Meeting with the Administration

[File Ref.: FH CR 2/3821/06, L.Ns. 105 to 107 of 2015, LC Paper Nos. LS71/14-15, CB(2)1792/14-15(01) to (08) and CB(2)1900/14-15(01) to (02)]

The Subcommittee deliberated (index of proceedings attached at Annex).

Action

2. Mr Vincent FANG indicated that the Liberal Party considered it unnecessary to make the Three Regulations Relating to Control Regime for the Import of Eggs (L.Ns. 105, 106 and 107 of 2015) ("the proposed control regime"). In response to Mr FANG's suggestion of excluding preserved eggs and salted eggs from the proposed control regime, the Administration indicated that it had no plans to make any amendments to the proposed control regime for the sake of protecting food safety and public health as explained in Annex (time marker: 000707 - 002158).

Follow-up actions

3. Whilst expressing no strong views against the proposed control regime, Dr Helena WONG and Mr WU Chi-wai urged the Administration to consider imposing a similar control regime on other food items. The Administration was requested to -

Admin

- (a) explain in detail the coordination of work and information sharing between the Customs and Excise Department ("C&ED") and the Food and Environmental Hygiene Department in monitoring food safety of imported food; and
- (b) provide a written response explaining (i) C&ED's operation of the Electronic System for Cargo Manifests (for air, ocean and river cargoes) and the Road Cargo System (for road cargoes), and (ii) the Administration's plan for modifying these systems to safeguard food safety (or if there was no such plan, the reasons).

Referral to the relevant Panel

4. The Chairman suggested that the following issues and concerns raised by members could be referred to the Panel on Food Safety and Environmental Hygiene for consideration and follow-up -

- (a) ways to strengthen the inspection of food items imported into Hong Kong by sea, including the proposed setting up of a food inspection checkpoint at the Kwai Chung Container Terminals; and
- (b) review of the food safety-related penalties under the Public Health and Municipal Services Ordinance (Cap. 132) and its subsidiary legislation, as well as the Food Safety Ordinance (Cap. 612).

Action

Completion of the scrutiny and the legislative timetable

5. The Chairman concluded that the Subcommittee had completed the scrutiny of the three items of subsidiary legislation. Members noted that the scrutiny period of these three items of subsidiary legislation would expire on 14 October 2015 and the deadline for giving notice to move amendments to the subsidiary legislation was 7 October 2015. Members also noted that the Subcommittee would report its deliberations to the House Committee on 9 October 2015.

II. Any other business

6. There being no other business, the meeting ended at 12:14 pm.

Council Business Division 2
Legislative Council Secretariat
21 August 2015

**Proceedings of the second meeting of the
Subcommittee on Three Regulations
Relating to Control Regime for the Import of Eggs
on Thursday, 16 July 2015, at 10:45 am
in Conference Room 2 of the Legislative Council Complex**

Time marker	Speaker(s)	Subject(s)	Action required
<i>Agenda item I – Meeting with the Administration</i>			
000431 - 000533	Chairman	The Chairman's opening remarks	
000534 - 000706	Chairman Admin	Briefing by the Administration on LC Paper No. CB(2)1900/14-15(01)	
000707 - 002158	Chairman Mr Vincent FANG Admin	<p>Mr Vincent FANG's views and enquiries as follows -</p> <p>(a) he noted that the Centre for Food Safety ("CFS") under the Food and Environmental Hygiene Department ("FEHD") had taken some 1 500 egg samples for testing in the past three years, and all samples were found to be satisfactory. He considered that the risk of eggs being contaminated with Avian Influenza ("AI") was low, and queried whether it was necessary to make the Three Regulations Relating to Control Regime for the Import of Eggs (i.e. L.Ns. 105, 106 and 107 of 2015) ("the proposed control regime");</p> <p>(b) he considered it too stringent that preserved and salted eggs were included in the proposed control regime, and questioned whether it was common for other countries to impose similar requirements on these eggs. He suggested that these eggs should be excluded from the proposed control regime, as the health risk posed by these eggs was low;</p> <p>(c) whether the proposed control regime would cover the importation of fertilized eggs for hatching at local farms, and how the Administration could prevent the smuggling of fertilized eggs for hatching by mixing them in consignments of imported eggs; and</p> <p>(d) whether there were additional requirements on egg importers other than producing a health certificate issued by</p>	

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		<p>an issuing entity from exporting countries.</p> <p>The Administration's responses that -</p> <p>(a) according to the World Health Organization, eggs from infected birds could be contaminated with AI. In 2014 and 2015, there were outbreaks of highly pathogenic AI in Europe, the American continents and different parts of Asia. Such outbreaks were expected to occur from time to time. Although the measures taken by CFS to regulate the import of eggs through administrative means had been working effectively, this was far from satisfactory. The World Organisation for Animal Health had recommended that an international veterinary certificate should accompany the import of eggs for human consumption for control of AI. Such import requirement was in place in many jurisdictions including the European Union, the United States of America and Singapore;</p> <p>(b) while the proposed control regime excluded fully cooked eggs on the basis of scientific evidence which indicated that AI virus would hardly remain in cooked eggs, there had yet to be such scientific evidence for preserved and salted eggs. Hence, these eggs were included in the proposed control regime;</p> <p>(c) the importation of fertilized eggs for hatching at local farms was monitored by the Agriculture, Fisheries and Conservation Department, and the importation of eggs for human consumption was regulated by CFS/FEHD. Past inspections on imported eggs had not found any consignments in which these two types of eggs were mixed together; and</p> <p>(d) the proposed control regime would require egg importers to (i) produce a health certificate recognized by the Director of Food and Environmental Hygiene and (ii) obtain a permission in writing from a health officer of FEHD by providing information that the health</p>	

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		<p>officer considered essential for tracking the importation of the poultry eggs into Hong Kong. As importers of eggs (including preserved and salted eggs) from the Mainland had been required to produce health certificates since 2007, the proposed control regime should not have much impact on the trade.</p> <p>The Chairman's remarks that whilst he held no strong views against the proposed control regime, the Administration could further consider whether it was appropriate to include salted and preserved eggs in the proposed control regime.</p>	
002159 - 002408	Chairman Admin	At the invitation of the Chairman, the Administration's briefing on issues relating to the coordination of work and information sharing between the Customs and Excise Department ("C&ED") and FEHD in monitoring food safety of imported food.	
002409 - 002550	Chairman Mr Vincent FANG	Mr Vincent FANG's remarks that the Liberal Party considered it unnecessary to introduce the proposed control regime, as the health risk posed by eggs was low.	
<u>Examination of provisions of the Three Regulations</u>			
002551 - 003325	Chairman Admin	<p>Legislative Council Brief (File Ref: FH CR 2/3821/06) (Annex B)</p> <p><u>Imported Game, Meat and Poultry (Amendment) Regulation 2015</u></p> <p><i>Section 1 - Commencement</i></p> <p><i>Section 2 - Imported Game, Meat and Poultry Regulations amended</i></p> <p><i>Section 3 - Title amended</i></p> <p><i>Section 4 - Regulation 1 amended (citation)</i></p> <p><i>Section 5 - Regulation 2 amended (interpretation)</i></p> <p><i>Section 6 - Regulation 3 substituted</i></p> <p><i>Section 7 - Regulation 4 amended (restriction on the import of certain meat, meat products and poultry)</i></p>	

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		<p>In response to the Chairman's enquiry, the Administration explained that the terms "such conditions as a health officer may impose" in the newly added regulation 4(1)(ab)(iv) referred to, inter alia, the "information as may be required by the officer" in regulation 4(2A), which included (a) the type and quantity of the eggs to be imported; (b) the expected date of arrival of eggs in Hong Kong; (c) the means of transport used for the import of the eggs; (d) if the eggs were containerized, the container number; and (e) any other information the officer considered essential to enable the officer to trace the eggs being imported.</p> <p><i>Section 8 - Regulation 4A amended (application to air transshipment cargo)</i></p> <p><i>Section 9 - Regulation 5 amended (procedure for export, destruction or disposal of game, meat, poultry or prohibited meat imported in contravention of regulation 4)</i></p> <p><i>Section 10 - Regulation 6 amended (prohibition of re-import where notice given under regulation 5(1))</i></p> <p><i>Section 11 - Regulation 7 amended (offences and penalties)</i></p> <p><i>Section 12 - Regulation 7A amended (retention of official certificates)</i></p> <p><i>Section 13 - Regulation 9 added</i></p>	
003326 - 003429	Chairman Admin	<p>Legislative Council Brief (File Ref: FH CR 2/3821/06) (Annex A)</p> <p><u>Import and Export (General) (Amendment) Regulation 2015</u></p> <p><i>Section 1 - Commencement</i></p> <p><i>Section 2 - Import and Export (General) Regulations amended</i></p> <p><i>Section 3 - Regulation 6 amended (application and exemption)</i></p> <p><i>Section 4 - Regulation 6I added</i></p> <p><i>Section 5 - Schedule 6 amended</i></p>	

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<i>Discussion on policy issues</i>			
003430 - 010146	Chairman Dr Helena WONG Admin	<p>At the suggestion of Dr Helena WONG, the Chairman requested the Administration to explain in detail the coordination of work and information sharing between C&ED and FEHD in monitoring food safety of imported food.</p> <p>Dr Helena WONG expressed views on policy issues as follows -</p> <ul style="list-style-type: none"> (a) in order to safeguard food safety, it was imperative that CFS/FEHD could obtain detailed and updated information on imported food items prior to their arrival at Hong Kong. She considered that the existing requirement on import declaration (i.e. any persons who imported or exported any articles (other than exempted articles) were required to lodge accurate and complete import/export declarations within 14 days after the importation/exportation of the article) was too lax; (b) although more than 90% of carriers of ocean and river cargoes currently submitted advance cargo information to C&ED through the Electronic System for Cargo Manifests, the Administration should consider making it mandatory that all importers of food must submit advance cargo information to C&ED and/or CFS/FEHD so as to effectively monitor food safety; and (c) while the proposed control regime would empower the Administration to require egg importers to provide advance information that FEHD considered essential for tracing the eggs imported, the Administration should consider introducing a similar control regime for the import of other food items. <p>The Administration advised that it had explored ways to enhance food safety. With respect to surveillance and sampling at the sea control point, noting recent food incidents (such as those relating to the import of some Japanese carrots from Chiba in breach of CFS's import restrictions via the sea route, and allegations of the import of frozen meat that</p>	Admin (Paragraph 3(a) of the minutes)

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		<p>had long passed its expiry/best by dates) as well as the future implementation of the proposed control regime, CFS had been proactively exploring ways to strengthen the inspection of food consignments imported into Hong Kong by sea. This included, among other things, discussions with C&ED the proposed setting up of a food inspection check point at the Kwai Chung Container Terminals for testing of food products imported by sea, with a view to enhancing the inspection of these products to further safeguard food safety.</p> <p>The Chairman's remarks that the policy issues relating to food safety of imported food could be referred to the relevant Panel for consideration and follow-up.</p>	
010147 - 011045	Chairman Mr WU Chi-wai Admin	<p>Mr WU Chi-wai's views and enquiries as follows -</p> <p>(a) whether the Administration had set a timetable for the proposed setting up of a food inspection checkpoint at the Kwai Chung Container Terminals for testing of food products by sea;</p> <p>(b) he shared Dr Helena WONG's concern that the Administration could not effectively safeguard the safety of food items imported by water, particularly those food items in non-containerized cargos arrived at Public Cargo Working Areas; and</p> <p>(c) the Administration's assessment of the risks of food items (including eggs) imported by land, water and air.</p> <p>The Administration's responses that -</p> <p>(a) there was no specific timetable at this stage on the setting up of the checkpoint at the Kwai Chung Container Terminals. The Administration might revert to the Panel on Food Safety and Environmental Hygiene ("the Panel") on the progress in this respect in the 2015-2016 session;</p> <p>(b) more than 90% of carriers of ocean and river cargoes currently submitted advance cargo information to C&ED through the Electronic System for Cargo Manifests. For those carriers of ocean and river</p>	

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		<p>cargoes that did not do so, C&ED could seek advance information from the carriers concerned;</p> <p>(c) a risk-based principle was adopted by C&ED for selection of cargo for examination, including both containerized cargoes arrived at container terminals and non-containerized cargos arrived at Public Cargo Working Areas. For food items (including eggs) imported by water, if necessary, CFS and C&ED would make the necessary coordination so that CFS could make arrangements with the importers concerned and take samples, at the warehouses where the food items were stored, for testing; and</p> <p>(d) there should not be significant differences in the risks of food items (including eggs) imported by land, water and air. Instead, risks usually varied with the countries/places of origin of individual food items.</p>	
011046 - 011255	Chairman Mr WU Chi-wai Admin	In response to Mr WU Chi-wai's further enquiry, the Administration advised that while there was currently no separate breakdown of food samples collected at the sea route control point at the Kwai Chung Container Terminals, this did not mean that no food items (including eggs) imported by sea were sampled for testing. In 2014, CFS collected 479 egg samples for testing, of which 39 (8.1%) were sampled at air entry point, 103 (21.5%) at land control point and 337 (70.4%) at wholesale/retail levels. Food (including eggs) at the wholesale/retail levels covered imports by all routes (i.e. land, sea and air).	
011256 - 011514	Chairman Dr Helena WONG Admin	At Dr Helena WONG's suggestion, the Chairman requested the Administration to provide a written response explaining (i) C&ED's operation of the Electronic System for Cargo Manifests (for air, ocean and river cargoes) and the Road Cargo System (for road cargoes), and (ii) the Administration's plan for modifying these systems to safeguard food safety (or if there was no such plan, the reasons).	Admin (Paragraph 3(b) of the minutes)
<u>Examination of the provisions of the Three Regulations</u>			
011515 - 011716	Chairman	Legislative Council Brief (File Ref: FH CR	

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	Admin	<p>2/3821/06) (Annex C)</p> <p><u>Food Business (Amendment) Regulation 2015</u></p> <p><i>Section 1- Commencement</i></p> <p><i>Section 2 - Food Business Regulation amended</i></p> <p><i>Section 3 - Schedule 1 amended (prohibited foods)</i></p> <p>In response to the Chairman's enquiry, the Administration explained that the purpose of this Regulation was to amend item 2 of Schedule 1 to the Food Business Regulation (Cap. 132 sub. leg. X) to update the title of Imported Game, Meat, and Poultry Regulations (Cap. 132 sub. leg. AK) ("Cap. 132AK") consequential on the amendments made to it by the Imported Game, Meat and Poultry (Amendment) Regulation 2015.</p>	
011717 - 012857	Chairman Dr Helena WONG ALA7 Admin	<p>In response to Dr Helena WONG's enquiry, the Legal Advisor to the Subcommittee invited members to note that -</p> <p>(a) Paragraph 5 of the Legal Service Division Report on Subsidiary Legislation Gazetted on 5 June 2015 (LC Paper No. LS71/1415) had pointed out that the levels of penalty for contravention of regulation 4(1) of Cap. 132AK (under regulation 7(3), a fine of \$50,000 and imprisonment for six months) and the import of, for example, meat and poultry without an import licence under the Import and Export Ordinance (Cap. 60) (under section 6C, a fine of \$500,000 and imprisonment for two years) were different; and</p> <p>(b) according to the LegCo Brief, the Administration was mindful of the aforesaid differences and would separately conduct a comprehensive review of the food safety-related penalties under the Public Health and Municipal Services Ordinance (Cap. 132) and its subsidiary legislation, as well as the Food Safety Ordinance (Cap. 612).</p> <p>The Administration's responses that -</p> <p>(a) the Administration had previously</p>	

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		<p>considered providing for the control over the import of eggs through a regulation under Cap. 612. This approach was premised on an assumption that the food safety-related provisions of Cap. 132 had been incorporated into Cap. 612. As the incorporation had yet to be done due to competing priorities, the Administration proposed providing for the proposed control regime under Cap 132AK in order to expedite the introduction of statutory control over the import of poultry eggs; and</p> <p>(b) under the proposed control regime, penalty level was stipulated in Cap. 132AK. Under regulation 7(3) of Cap. 132AK, the maximum penalty was a fine of \$50,000 and imprisonment for six months.</p> <p>The Chairman's remarks that the Administration should revert to the Panel on the progress of the comprehensive review of the food safety-related penalties.</p>	
012858 - 012904	Chairman	The Chairman's closing remarks.	