

立法會
Legislative Council

LC Paper No. CB(2)540/15-16

(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, 10 November 2015, at 2:30 pm
in Conference Room 1 of the Legislative Council Complex**

- Members present** : Hon Tommy CHEUNG Yu-yan, GBS, JP (Chairman)
Hon Steven HO Chun-yin, BBS (Deputy Chairman)
Hon Vincent FANG Kang, SBS, JP
Hon WONG Kwok-hing, BBS, MH
Hon Cyd HO Sau-lan, JP
Hon Starry LEE Wai-king, JP
Hon CHAN Hak-kan, JP
Dr Hon LEUNG Ka-lau
Hon Alan LEONG Kah-kit, SC
Hon WONG Yuk-man
Hon Claudia MO
Hon CHAN Chi-chuen
Dr Hon Kenneth CHAN Ka-lok
Hon Alice MAK Mei-kuen, BBS, JP
Dr Hon KWOK Ka-ki
Hon KWOK Wai-keung
Hon SIN Chung-kai, SBS, JP
Dr Hon Helena WONG Pik-wan
Dr Hon CHIANG Lai-wan, JP
- Member attending** : Hon LEUNG Kwok-hung

Members absent : Prof Hon Joseph LEE Kok-long, SBS, JP, PhD, RN
Hon Michael TIEN Puk-sun, BBS, JP
Hon CHAN Han-pan, JP
Hon Christopher CHUNG Shu-kun, BBS, MH, JP

Public Officers attending : Item V

Mr Christopher WONG Kwok-bun, JP
Deputy Secretary for Food and Health (Food) 1

Miss Hinny LAM Shuk-yee
Principal Assistant Secretary for Food and Health (Food) 3

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

Dr Michelle YEUNG Lee
Senior Veterinary Officer (Technical Services)
Agriculture, Fisheries and Conservation Department

Item VI

Dr KO Wing-man, BBS, JP
Secretary for Food and Health

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

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

Mr LI Ka-kei
Assistant Director (Operations) 1
Food and Environmental Hygiene Department

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

Staff in attendance : Miss Carrie WONG
Assistant Legal Adviser 4

Ms Wendy LO
Senior Council Secretary (2) 2

Miss Emma CHEUNG
Legislative Assistant (2) 2

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I. Confirmation of minutes

(LC Paper No. CB(2)145/15-16)

The minutes of the meeting held on 15 October 2015 were confirmed.

II. Information papers issued since the last meeting

(LC Paper Nos. CB(2)52/15-16(01), CB(2)152/15-16(01) and CB(2)201/15-16(01))

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

- (a) Letter dated 15 October 2015 from Hon CHAN Chi-chuen concerning the safety of food for pet animals;
- (b) Letter dated 23 October 2015 from Hon CHAN Han-pan regarding the Government's outsourcing of the street cleansing work; and
- (c) Letter dated 2 November 2015 from Hon Alice MAK concerning the lack of public markets in newly developed districts.

III. Date of next meeting and items for discussion

(LC Paper Nos. CB(2)192/15-16(01) and (02))

List of outstanding items for discussion

3. The Chairman informed members that he and the Deputy Chairman had met with the Secretary for Food and Health ("SFH") on 26 October 2015 to discuss the work plan of the Panel for the 2015-2016 legislative session. Based on the discussion at that meeting, the Panel's list of outstanding items

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for discussion (LC Paper No. CB(2)192/15-16(01)) had been updated to reflect the agreed work plan for the current session.

Regular meeting in December 2015

4. Members agreed to discuss the following items at the next regular meeting scheduled for Tuesday, 8 December 2015, at 2:30 pm -

- (a) Public consultation on regulation of edible fats and oils and recycling of "waste cooking oils": findings and observations;
- (b) Progress report on the implementation of the Hawker Assistance Scheme; and
- (c) Keep Clean @ Hong Kong : Our Home.

IV. Proposal to appoint a subcommittee under the Panel to study issues relating to animal welfare and cruelty to animals
(LC Paper No. CB(2)11/15-16(01))

5. At the invitation of the Chairman, Ms Claudia MO briefed members on her proposal for appointment of a subcommittee under the Panel to study issues relating to animal welfare and cruelty to animals, as detailed in her letter to the Chairman dated 8 October 2015 (LC Paper No. CB(2)11/15-16(01)). Referring to a joint submission from 11 animal welfare groups tabled at the meeting, Ms MO said that there were a number of key issues that needed to be studied in depth by the proposed subcommittee. She appealed to members to support her proposal.

(Post-meeting note: The joint submission tabled at the meeting was issued to members vide LC Paper No. CB(2)236/15-16 on 11 November 2015).

6. Expressing support for the proposed appointment of a subcommittee, Mr CHAN Hak-kan said that he was particularly concerned about the following issues and hoped that the subcommittee, if formed, would study them in detail -

- (a) measures taken by the Administration to combat acts of animal cruelty;
- (b) the Government's efforts in tackling the problem of stray dogs and cats in various districts, and the implementation progress of

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the Trap-Neuter-Return Programme as well as the Cat Colony Care Programme for stray dogs and cats; and

- (c) relevant measures, legislation or standards regulating the safety of pet food.

7. Expressing support for the proposal, Ms Cyd HO enquired about the time when the proposed subcommittee could commence work. The Clerk drew members' attention to Rule 26 of the House Rules ("HR") regarding activation of subcommittees on policy issues. Members noted that -

- (a) with effect from 1 April 2014, the maximum number of subcommittees on policy issues under the House Committee and Panels that might be in operation at any one time is 10. Pursuant to HR 26(b), any new subcommittees formed after the quota had been filled would be put on a waiting list;
- (b) as at the day of this meeting, 10 subcommittees on policy issues were already in operation with four other subcommittees on the waiting list pending activation. As such, the subcommittee under discussion would be put on the waiting list, if appointed by the Panel; and
- (c) taking into account the progress of work of the subcommittees already in operation, it was estimated that some of them would complete their work by around January 2016 and vacate their slots for the subcommittees on the waiting list to activate their work.

8. Mr CHAN Chi-chuen, Miss Alice MAK, Mr SIN Chung-kai, Mr Vincent FANG and Dr CHIANG Lai-wan all indicated support for the proposed appointment of a subcommittee. Given the limited time left before the end of the Fifth Legislative Council ("LegCo") for the proposed subcommittee to study the many issues raised by Ms Claudia MO and some other members, Mr CHAN suggested that the subcommittee should set priorities and proceed with issues of wider concern/importance, such as examining the feasibility of setting up "animal police" teams specially tasked to investigate cases of animal cruelty and reviewing relevant measures currently in place that regulated the safety of pet food.

9. The Chairman reminded members that subcommittees appointed under Panels should not normally deal with individual cases except in respect of the policy issues arising therefrom. He suggested that the proposed subcommittee should focus its work on several, say, three to four, major

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policy areas. Members raised no objection to the Chairman's suggestion. After deliberation, it was agreed that the terms of reference ("ToRs") of the proposed subcommittee should reflect its focus to include -

- (a) exploring measures to better prevent and combat acts of animal cruelty, such as setting up of "animal police" teams specially tasked to investigate cases of animal cruelty and reviewing existing legislation on prevention of cruelty to animals;
- (b) examining the Government's efforts in the promotion of responsible pet ownership;
- (c) examining relevant measures currently in place that regulate the safety of pet food, and considering the need of introducing a regulatory regime for the production and quality control of pet food products; and
- (d) reviewing the Government's efforts in tackling the problem of stray dogs and cats with a view to reducing their numbers in the community.

10. Summing up the discussion, the Chairman concluded that members agreed to set up the Subcommittee on Issues Relating to Animal Welfare and Cruelty to Animals and endorsed the Subcommittee's ToRs as listed in paragraph 9 above.

V. Updated proposal on the election of members from the veterinary profession to the Veterinary Surgeons Board of Hong Kong
(LC Paper Nos. CB(2)192/15-16(03) and (04))

11. At the invitation of the Chairman, Deputy Secretary for Food and Health (Food) 1 ("DSFH(F)1") briefed members on the outcome of the Administration's consultation with the veterinary profession on the salient features of the proposed rules governing the election of members from the veterinary profession to the Veterinary Surgeons Board of Hong Kong ("VSB") and its updated proposals in response to the views received, as detailed in the Administration's paper (LC Paper No. CB(2)192/15-16(03)). Members also noted the updated background brief on the subject (LC Paper No. CB(2)192/15-16(04)) prepared by the LegCo Secretariat.

Composition of VSB

12. Noting that after expanding the membership of VSB from 10 to 19, only six registered veterinary surgeons ("RVSs") were to be elected by the veterinary profession, Dr KWOK Ka-ki expressed concern on whether such arrangement would undermine the professional autonomy of VSB. Dr KWOK said that it was his understanding that the chairpersons of the board of other regulatory bodies were normally a member of the respective professions. He asked whether the incumbent Chairperson of VSB, who was appointed by SFH, was a RVS practising in Hong Kong.

13. Principal Assistant Secretary for Food and Health (Food) 3 ("PASFH(F)3") advised that the composition of VSB, including the ratio of appointed RVS to elected RVS, had been discussed at some length at the meetings of the Bills Committee on Veterinary Surgeons Registration (Amendment) Bill 2014 ("the Bills Committee"). With the passage of that Bill, the membership of VSB had been increased from 10 to 19, comprising (a) one chairperson; (b) one medical practitioner or pharmacist who was entitled to practise his or her profession in Hong Kong; (c) five lay persons who represented the interests of persons who utilized veterinary services; and (d) 12 RVSs, of which six were to be appointed by SFH and the other six elected by members of the veterinary profession. PASFH(F)3 added that there was no requirement under the Veterinary Surgeons Registration Ordinance (Cap. 529) that the Chairperson of VSB had to be a member of the veterinary profession. The incumbent and the previous few Chairpersons appointed to VSB, since its establishment in 1997, were either former President or Vice-President of local universities who were non-RVSs.

14. Dr CHIANG Lai-wan expressed concern as to whether the elected RVSs might put the interest of the profession before public interest. She hoped that the Administration would in future appoint more representatives from animal welfare organizations/animal rights concern groups to VSB to better safeguard public interest and the welfare of pet animals.

15. Mr SIN Chung-kai considered that the Administration should strike a balance between maintaining the principle of professional autonomy and safeguarding public interest. He enquired about the Administration's considerations in determining the ratio of RVS to non-RVS on VSB, which was maintained at 2:1. DSFH(F)1 responded that the 2:1 ratio had been thoroughly discussed by the Bills Committee. The present ratio of 2:1 was considered appropriate in striking a reasonable balance between promoting the standards and probity of the veterinary profession and safeguarding public interest. The Administration would take into account the experience of the conduct of VSB business in future and the practices of other local and

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overseas professional regulatory bodies, and keep in view the need to review the arrangements in due course.

16. Ms Claudia MO was concerned whether the appointed RVSs had a shared mission with the elected RVSs to uphold the autonomy of the veterinary profession. PASFH(F)3 responded that there should be no difference in their roles on VSB. As the profession involved RVSs in different specialties, the Administration considered it necessary to retain the six appointed RVSs to maintain diversified and balanced professional views and knowledge in VSB.

Qualifications of electors and candidates

17. In response to Ms Claudia MO's enquiry about the qualifications of the electors and the candidates of the election, PASFH(F)3 advised that having carefully considered the views collected in the consultation with the profession, the Administration proposed that only RVSs holding a valid practising certificate would be qualified as electors eligible to vote at the election or eligible to be nominated as candidates for the election, regardless of whether they were Hong Kong permanent residents.

18. Dr CHIANG Lai-wan reiterated her earlier suggestion that only those RVSs who were Hong Kong permanent residents should be eligible to be nominated as candidates for the VSB election, so as to ensure that the elected member would endeavour to improve the standards of veterinary services in Hong Kong.

Electoral method and voting arrangements

19. Dr KWOK Ka-ki said that according to his understanding, to ensure effective leadership renewal and rejuvenation, the governing board of many other professional regulatory bodies held an election every year to return a segment of all the elected members to replace those serving members whose term of office would lapse by the same year. He asked whether the proposed arrangements for the conduct of the VSB election would model on such arrangements. PASFH(F)3 responded that election would be conducted once every three years to return six elected members from the veterinary profession to VSB. The term of office of elected and appointed members of VSB would be three years having the same commencement and end dates, and members could be re-elected or re-appointed upon expiry of their three-year terms.

20. Dr CHIANG Lai-wan said that she had no strong view on the proposed qualification of electors and the term of office of elected members. She

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however, disagreed with the revised voting arrangement to allow an elector to cast one or more than one vote up to the total number of seats to be elected (i.e. to cast up to six votes in an ordinary election with six vacancies) on the grounds that given the small size of the electoral base, if an elector could only cast vote for one candidate in an election, the number of votes obtained by the elected members, particularly for the last few seats, might be thinned out, which might undermine the representativeness and credibility of the election. Dr CHIANG expressed grave concern that if an elector was permitted to cast up to six votes, the election might be dominated by bloc voting under the influence of certain sizeable groups or organizations for such a small electoral base. In her view, the Administration should maintain the current proposal to allow each elector to vote for one candidate only in each election, regardless of the number of vacancies to be filled in the election. Dr CHIANG expressed worries that the professional standards of veterinary services in Hong Kong might deteriorate if the provision of such services was monopolized by certain organizations.

21. Noting that only 55 written/oral responses had been received at the end of the consultation period and among which, only 53 respondents commented on the proposed voting arrangement, Ms Cyd HO questioned the representativeness of the views collected. In her view, the Administration should have stated in the consultation materials sent to the veterinary profession the merits and demerits of different voting arrangements (e.g. the risk that the election would be dominated by bloc voting influenced by certain sizeable groups or organizations if electors were allowed to cast more than one vote up to the total number of seats to be elected), in order to help them better understand the issues involved and make the right decisions. She requested the Administration to provide for members' reference a copy of its consultation materials issued to the veterinary profession (such as letters to all RVSs in Hong Kong and relevant veterinary organizations including VSB and the Hong Kong Veterinary Association) inviting views and comments on the proposed election rules.

22. Mr CHAN Chi-chuen shared the view that each elector should vote for one candidate only in a VSB election. He considered that compared with the possibility that the number of votes obtained by the elected members particularly for the last one or two seats might be thinned out, the risk that the election might be dominated by bloc voting influenced by certain sizeable groups or organizations would bring more harm than good to the representativeness and credibility of the election. He urged the Administration to carefully weigh the pros and cons of different voting systems in deciding on the appropriate voting method.

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23. Mr KWOK Wai-keung said that the Administration should analyze the merits and demerits of the current and revised proposals on the voting arrangements and adopt the one that would have less adverse impact on the credibility of the election.

24. Mr WONG Yuk-man criticized that the consultation results were unrepresentative at all, with only 55 responses received from a total of 814 local RVSs. In his view, the Administration should have proactively engaged the veterinary profession in the consultation process to solicit their views on the proposed electoral arrangements. Mr LEUNG Kwok-hung shared the worries that the election could be manipulated by some sizeable groups or organizations if an elector was allowed to cast up to six votes. He wondered whether the number of elected seats could be reduced if the number of votes obtained by the elected members for the last few seats was too small and lacked representativeness.

25. PASFH(F)3 responded with the following points -

- (a) the Administration had made reference to the practices adopted by other local and overseas professional regulatory bodies, such as the Medical Council of Hong Kong, the Social Workers Registration Board of Hong Kong and the Hong Kong Institute of Certified Public Accountants, in drawing up the revised proposals. It was noted that an elector was allowed to cast votes up to the total number of seats to be elected in the elections of these regulatory bodies;
- (b) the Administration was mindful that if an elector could only cast vote for one candidate in an election, the number of votes obtained by the elected members particularly for the last few seats might be thinned out given the fact that the electoral base of the veterinary profession was relatively small. This might to a certain extent undermine the representativeness and credibility of the election. The Administration believed that the revised arrangements would help forestall unnecessary thinning out of votes for the candidates;
- (c) in response to the request of some members made at the Panel meeting on 14 April 2015, the Administration had consulted the veterinary profession on the salient features of the proposed election rules, including the number of vote(s) that an elector could cast in an election. An overwhelming majority of the respondents (53 out of 55) were opposed to the current proposal that one elector might only vote for one candidate. They

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suggested that an elector should be allowed to cast one or more than one vote up to the total number of seats to be elected, so as to align with the practices of some local professional bodies. Having considered the pros and cons of different voting systems and the views received from the veterinary profession, the Administration proposed that an elector should be permitted to cast one or more than one vote up to the total number of seats to be elected;

- (d) the veterinary profession was fully aware of the Administration's revised proposals on election of RVSs to VSB. The Administration believed that the submissions received had reflected to a large extent the views of the profession on the electoral arrangements. Apart from issuing letters to the veterinary profession to invite their views, the Administration had held two consultation forums in May 2015 to listen to the views of members of the veterinary profession. Around 10 members of the profession had each participated in the forums. To encourage respondents to freely express their views, the Administration had not stated in the consultation materials the pros and cons of different voting systems but had explained the voting arrangements in response to the enquiries raised at the forums; and
- (e) the Administration considered that the support of the veterinary profession was essential to the successful conduct of the election. The electoral arrangements could be reviewed in future taking into account the experience of the forthcoming elections. Moreover, there would be provision(s) in the proposed Election Regulation providing for election petition. Under the election petition mechanism, electors could lodge a petition with the Board of Review to question the election results if they suspected there was unfairness in the election.

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26. At the request of Ms Cyd HO, PASFH(F)3 undertook to provide a copy of the Administration's consultation materials issued to the veterinary profession for members' reference.

27. Dr CHIANG Lai-wan did not support the revised proposal to allow electors to cast votes by post. She considered that electors should cast votes in person as originally proposed. The Chairman enquired how many local professional regulatory bodies were practising voting by post in their elections. PASFH(F)3 advised that as voting by post had the greatest flexibility and would help encourage more electors to participate in the

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election, the Administration took on board the recommendation of the veterinary profession that electors should be allowed to cast their votes by post. Voting by post was also a common practice adopted by many other local professional regulatory bodies, such as the Medical Council of Hong Kong, the Social Workers Registration Board of Hong Kong and the Hong Kong Institute of Certified Public Accountants.

28. Ms Claudia MO enquired how the Administration would ensure that mails containing election materials would not be lost or wrongly delivered, and how the electors could ascertain that they had successfully cast their votes by post. PASFH(F)3 advised that the Administration would launch publicity activities to call on registered electors to cast their votes. Electors could make enquiries with the Agriculture, Fisheries and Conservation Department if they did not receive the ballot papers within a specific time. Arrangements could also be made to facilitate electors to check their voting records. Electors might lodge an election petition questioning the election results with the Board of Review.

29. Noting that some members had negative comments on the revised voting arrangements for the VSB election, the Chairman enquired whether there was room for the Administration to make improvement to its revised proposals. Mr CHAN Chi-chuen asked whether the Administration would consider shelving the proposals if some Panel members already indicated their intention now to move amendments to the proposed Election Regulation which sought to bring into operation the voting systems discussed at this meeting. DSFH(F)1 stressed that the revised voting arrangements were proposed, after taking into consideration the views of various parties and the pros and cons of different voting systems. Individual Members might move amendments to the proposed Election Regulation as they considered appropriate when it was introduced into LegCo for scrutiny.

VI. Enhancing the monitoring and surveillance of food trading and imports

(LC Paper Nos. CB(2)192/15-16(05) and (06), CB(2)1432/14-15(01), CB(2)1889/14-15(01), CB(2)2126/14-15(01) and CB(2)157/15-16(01))

30. At the invitation of the Chairman, SFH explained the Administration's efforts in stepping up the monitoring and surveillance of food trading and imports. With the aid of power-point presentation, Assistant Director (Food Surveillance and Control), Centre for Food Safety, Food and Environmental Hygiene Department ("AD(FSC)/CFS") and Assistant Director (Operations)1, Food and Environmental Hygiene Department ("AD(Ops)1/FEHD") took turns to brief members respectively on the measures taken by the Administration to enhance the surveillance of food imports by sea, including

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the setting up of a food inspection checkpoint at Kwai Chung Customhouse ("KCCH"), and the monitoring of online food shopping, as set out in the Administration's paper (LC Paper No. CB(2)192/15-16(05)). Members also noted the information note (LC Paper No. CB(2)192/15-16(06)) prepared by the LegCo Secretariat.

(Post-meeting note: The softcopy of the power-point presentation materials was issued to members vide LC Paper No. CB(2)244/15-16(01) on 10 November 2015.)

Strengthening surveillance of imported food

31. Dr Helena WONG expressed support for the setting up of a food inspection checkpoint at KCCH to strengthen the monitoring of food imported by sea. She asked whether additional financial and manpower resources had been allocated for carrying out the food inspections at KCCH and whether new equipment had been procured to assist in the inspection work. Dr WONG requested that a visit to the KCCH checkpoint be arranged for Panel members to better understand its operation.

32. SFH and AD(FSC)/CFS advised that -

- (a) the Administration would bid for additional resources for the Centre for Food Safety ("CFS") to carry out the enhanced inspection on imported food in accordance with the established resources allocation mechanism. In the meantime, the inspections at KCCH were carried out by officers in the Food Surveillance and Control Division's Food Import and Export Section under CFS as part of their baseline duties;
- (b) consistent with the surveillance on food imports by land and air, CFS adopted the risk-based strategy in selecting containers conveying food via the sea route for inspection. Prior to container arrival at Hong Kong, CFS would issue a notice to the importer concerned requiring that the selected container, after arrival, to be transferred to the KCCH checkpoint for inspection on the date and at the time specified on the notice; and
- (c) to flexibly deploy existing resources to cope with the inspection work at the KCCH checkpoint, CFS would send inspection officers to KCCH at the appointed time to conduct the food inspections, instead of deploying staff to station at the checkpoint. Apart from conducting inspections at different control points, food inspections were also conducted at the warehouses or cold stores of the food importers concerned.

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33. The Deputy Chairman welcomed the setting up of the KCCH checkpoint to enhance surveillance of food imported by sea. In response to his enquiry as to whether CFS would conduct raid operations to inspect containers based on intelligence received, SFH advised that CFS would select containers conveying food for inspection taking into account a host of factors, including intelligence and risk level etc., and inspect the selected containers at the KCCH checkpoint on the dates and at the time specified on the notices and in the presence of the importers concerned. If intelligence revealed that problem food was being shipped to Hong Kong, CFS would contact the importers concerned as soon as possible to arrange inspection of the containers to intercept such food products.

34. Dr Helena WONG expressed concern on how the Administration could prevent the import of Japanese food products which were subject to import control, particularly after the establishment of the food inspection checkpoint at KCCH. SFH advised that to ensure food safety, the Food and Environmental Hygiene Department ("FEHD") had issued an order under Section 78B of the Public Health and Municipal Services Ordinance (Cap. 132) on 24 March 2011 to prohibit the import of vegetables and fruits, milk, milk beverages and milk powder from the five most affected prefectures of Japan, namely, Fukushima, Ibaraki, Tochigi, Chiba and Gunma, following the Fukushima nuclear plant incident in 2011. Regarding the illegal import of 10 boxes of carrots from Chiba, Japan into Hong Kong in March 2015, AD(FSC)/CFS said that it was found that the Hong Kong importer concerned had not ordered any food products from the five concerned prefectures and that consignment of carrots was mistakenly imported into Hong Kong by the exporter. As the contact address of the Hong Kong importer was wrongly reported in the customs declaration documents, CFS had difficulties in tracing the source for inspection initially. Despite this, CFS had promptly acted on a complaint and prohibited the problem carrots from entering into the local market.

35. Expressing concern about the possibility of food imported from the Mainland and Taiwan being accompanied by forged health certificates, Mr WONG Yuk-man considered that food surveillance by CFS at the import level was particularly important in preventing food incidents. Querying the propriety of CFS' decision to adopt the risk-based principle in conducting food inspections, he pointed out that some major catering groups and fast food chains (e.g. Maxim's Group and McDonald's) were also found breaching the food safety or hygiene regulations and selling problem food. In his view, CFS should step up food surveillance at the retail level to protect public health. SFH responded that CFS attached great importance to food safety. Under Food Surveillance Programme of CFS, food samples were collected at import, wholesale and retail levels for testing.

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Monitoring online food sale

36. The Deputy Chairman considered that small food business operators (e.g. those selling homemade food products on the Internet) should be given room for survival. Noting that, for online food sale, relevant licences or permits should be obtained from the Environmental Hygiene Branch ("EHB") of FEHD having regard to modes of operation and food types, he expressed concern on whether it would cause undue burden to small vendors operating online business. SFH responded that under the existing legislation, regardless of whether the food business was conducted online or in the traditional manner, the operator concerned was required to obtain relevant licences or permits from EHB and pay the relevant licence fees. This was not a new requirement and vendors trading food products on the Internet should comply with the same statutory requirements as those engaged in traditional food business.

37. Mr Alan LEONG enquired how the proposed licensing conditions for regulating online sale of restricted food (including sashimi, sushi and oysters to be eaten in raw state) specified in Schedule 2 to the Food Business Regulation (Cap. 132X) ("FBR") could help safeguard food safety. SFH advised that the Director of Food and Environmental Hygiene ("DFEH") was empowered to impose new/additional licensing requirements and conditions in respect of licences issued to food premises, food factories and fresh provision shops, etc. In view of the increasing prevalence of online food selling activities, EHB of FEHD had prepared a set of licensing conditions for the regulation of internet sale of restricted food to safeguard food safety. These conditions mainly required that restricted food must be obtained from lawful sources, that they should not be tampered with during the transportation process to prevent cross-contamination, and that the food products should be stored at a safe and proper temperature at all times. Moreover, the operators should provide information on their permits such as the permit numbers, registered addresses, the types of restricted food permitted for sale, etc., on the Internet, so as to provide a reference for the customers when they purchased online and to enable them to verify such information through FEHD's website. SFH stressed that vendors operating online business, including those selling homemade food products on the Internet, would need to apply for a food business licence or a permit under the law for operating a food business which involved the preparation of food for sale for human consumption, irrespective of its scale, nature, and operational mode, even if they only acquired the food from other food suppliers for resale to the customers through the Internet without being involved in the import, production or wholesale of food.

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38. Mr Alan LEONG asked about the measures taken by FEHD to monitor online sale of restricted food by licensed business. SFH advised that FBR stipulated that save with the written permission of DFEH, no person should sell any restricted food (including sashimi, sushi and oysters to be eaten in raw state) specified in Schedule 2 to the Regulation. Online sale of restricted food, same as that of selling the food in traditional shops, was also subject to the above requirement. It would be an offence for any person to sell restricted food on the Internet without a licence/permit.

39. Mr CHAN Chi-chuen asked about the number of written permissions hitherto granted to vendors who sold restricted food online. Referring to paragraphs 19 and 20 of the Administration's paper, he sought clarification on whether the proposed new licensing requirements, including the display of permit/licence number and registered address, would be implemented by means of administrative measures or legislative amendments.

40. In response, SFH explained that as DFEH was empowered under the existing legislation to issue new licences/permits or to impose additional licensing requirements for food business operators, there was no need to amend the law or to draw up administrative measures for implementation of the proposal. SFH said that EHB of FEHD would continue to strengthen the monitoring of online food sale. It would conduct investigations and take follow-up action if any food sold online for human consumption was suspected to be involved with unlicensed food business, or its source was suspicious.

41. Mr CHAN Chi-chuen pointed out that some food premises distributed on street food order forms and delivered food products to customers upon request. He asked whether such kind of business pattern would be subject to the proposed new licensing requirements. SFH replied that the same statutory requirements were applicable and consideration would be given to requiring such operators to provide information of their licences/permits, such as the licence/permit numbers, on the publicity materials/food order forms in addition to the Internet, so as to enable the consumers to verify such information through FEHD's website.

(To allow sufficient time for discussion, the Chairman directed that the meeting be extended for five minutes.)

42. The Chairman said that he had no strong view on the proposed licensing conditions for regulating online food sale. According to his understanding, licensees of food premises had to ensure that the food they prepared should not be tampered with in the course of transportation/delivery. He pointed out that many customers would order take-away food from food

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premises/restaurants. He asked whether food vendors would be held responsible for the occurrence of cross-contamination during customers' transportation of take-away food. Elaborating on the existing regulatory requirements governing the storage and transportation of food by food operators, AD(Ops)1/FEHD advised that the customer concerned was responsible for the safety of food that he/she took away from the food premises.

43. Noting that FEHD only took out 35 prosecutions against unlicensed food premises selling food online between June 2012 and September 2015, the Deputy Chairman and Mr WONG Yuk-man considered that the Administration should enhance its efforts in monitoring and regulating online food sale. The Chairman held the view that the Administration should conduct covert operations more often to strengthen the monitoring work over online food sale, particularly the selling of restricted food such as sashimi and sushi.

VII. Any other business

44. There being no other business, the meeting ended at 4:34 pm.

Council Business Division 2
Legislative Council Secretariat
30 December 2015