

(Translation)

(Letterhead of Food and Health Bureau)

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18 January 2018

Finance Committee of the Legislative Council
Legislative Council Complex
1 Legislative Council Road, Central
Hong Kong
(Attn.: Ms Anita SIT)
(Fax: 2802 4893)

Dear Ms SIT,

Finance Committee
Follow-up Items to the Meeting on 24 November 2017
Regarding FCR(2017-18)17

At the meeting on 24 November 2017, Members of the Finance Committee requested the Administration to provide supplementary information regarding the proposal of creating two supernumerary directorate posts, each in Food and Health Bureau (FHB) and Food and Environmental Hygiene Department (FEHD) respectively. Our response is as follows.

The Office of The Ombudsman Investigation Report

The Office of The Ombudsman published a direct investigation report on “Food and Environmental Hygiene Department’s System of Safety Control for Imported Fruits and Vegetables” on 13 November 2017. The Administration submitted an information paper (see attachment) to the Panel on Food Safety and Environmental Hygiene, briefing the Members on the responses and follow-up actions of FHB and the Centre for Food Safety (CFS) of FEHD.

Radionuclides in Food

The level of radionuclides in food is presented as activity per unit volume or per unit mass. The activity is the number of disintegrations per unit time taking place in a radioactive material. The unit of measurement is Becquerel (Bq) in which 1 Bq equals one radioactive disintegration per second. For multiple radionuclides, the activity concentrations of each radionuclide within the same group should be added together.

CFS has stepped up testing on the radiation levels of food products from Japan at import, wholesale and retail levels according to the risk-based approach since the Fukushima nuclear power plant incident in Japan in 2011. Only Japanese food imports with satisfactory test results are released for sale in the market. Consignments are initially screened by the CFS staff with hand-held survey meters. Samples are then taken for screening using the Contamination Monitoring System. Samples with reading beyond the limits are sent to the Government Laboratory for further analysis of the levels of Iodine-131, Caesium-134 and Caesium-137, and the testing results are released on CFS website. CFS has tested over 461 000 Japanese food samples since the import restriction on Japanese food took effect and the testing results of all samples were found satisfactory.

Reporting of Work by the New Post

The directorate post created in CFS plans to review the business process and formulate the timetable for system revamping in approximately one year, and shall then be able to report the progress of the task to the Panel on Food Safety and Environmental Hygiene.

Yours sincerely,

(Signed)

(Samuel LAI)

for Secretary for Food and Health

cc: Director of Food and Environmental Hygiene
(Attn: Dr. WONG Wang, Christine) (Fax : 2521 9527)
(Attn: Ms. LAU Wing Han, Winnie) (Fax : 2893 3547)

For Information

LegCo Panel on Food Safety and Environmental Hygiene

Office of The Ombudsman's Direct Investigation Report on Food and Environmental Hygiene Department's System of Safety Control for Imported Fruits and Vegetables: Administration's Responses and Follow-up Actions

Purpose

The Office of The Ombudsman published a direct investigation report (the Investigation Report) on “Food and Environmental Hygiene Department's System of Safety Control for Imported Fruits and Vegetables” on 13 November 2017. This document briefs Members on the responses and follow-up actions of the Food and Health Bureau (FHB) and the Centre for Food Safety (CFS) of the Food and Environmental Hygiene Department (FEHD).

Investigation Report

2. The Investigation Report made various observations and comments regarding the sampling of fruits and vegetables by CFS at its Man Kam To Food Control Office (MKTFCO), surveillance and sampling arrangements of vegetables and fruits imported by sea, the lead time from sending samples to the Government Laboratory (GL) to the completion of the laboratory tests, and the regulation of the level of pesticide residues and metallic contaminants in food under the relevant legislation. Also, the Investigation Report made eight recommendations:

- (a) **Recommendation (1):** collect more samples of fruits at MKTFCO for testing;
- (b) **Recommendation (2):** issue guidelines instructing officers how to conduct more effective collection of samples of fruits

and vegetables in storage compartments of lorries (including those placed deep inside);

- (c) **Recommendation (3):** collect more samples of fruits imported by sea at importers' warehouses/cold storages;
- (d) **Recommendation (4):** when conducting sampling at wholesale outlets, focus on those fruits and vegetables believed to be imported by sea;
- (e) **Recommendation (5):** where feasible, try to minimise the time for sending samples of fruits and vegetables to GL and discuss with GL the possibility of putting more resources (including manpower, machinery, and space etc.) to speed up laboratory tests on food samples;
- (f) **Recommendation (6):** include lotus roots and bean sprouts in Schedule 1 to Pesticide Residues in Food Regulation (PRFR) as soon as possible based on Codex's categorisation of those two types of vegetables;
- (g) **Recommendation (7):** adopt Codex's existing standards for the content of "lead" in leafy vegetables and amend Food Adulteration (Metallic Contamination) Regulation (FAMCR) as soon as possible to better safeguard public health in Hong Kong; and
- (h) **Recommendation (8):** continue to strive to extend the scope of regulation under the Schedules to the relevant laws in order to cover more local food categories, by drawing reference, for example, from the requirements of Mainland authorities on food safety surveillance and the latest categorisation of food in countries/regions from which vegetables and fruits are imported into Hong Kong, and setting Maximum Residue Limits (MRLs) for pesticides and metallic contaminants in any fruits and vegetables commonly consumed in Hong Kong for inclusion in the Schedules to the relevant laws for enforcement and regulation.

Administration's response and follow-up actions

3. According to the World Health Organization (WHO)'s "from farm-to-table" principle, regulating food safety requires active cooperation from all stakeholders along the food supply chain, including control-at-source measures at places of production, manufacturers using good manufacturing practices, the food inspection and quarantine effort by the governments of importing and exporting places, as well as emphasis on hygiene from different operators in the sales chain, etc. The Investigation Report mainly focuses on the food control effort by the authorities of the importing region.

4. FHB and CFS welcomed the Investigation Report, agreed with and had taken on board The Ombudsman's advice and recommendations, and had taken follow-up actions to implement all of the recommendations.

5. Our responses to the eight recommendations are as follows:

Recommendation (1): collect more samples of fruits at MKTFCO for testing

6. The Administration appreciates that The Ombudsman shows understanding that vegetables and fruits are not "high-risk" foods. In fact, CFS tested approximately 30 800 samples of vegetables, fruits, and their products in 2016, which accounted for a rather high percentage of the annual total number of food samples tested by CFS. The overall satisfactory rate was over 99.8% for vegetables, fruits and their products. In response to the recommendations of the Investigation Report, CFS has arranged to increase the number of fruit samples taken at MKTFCO. We will continue to give due and holistic consideration to the risks of different food types, and actively explore improvements to the sampling arrangement.

Recommendation (2): issue guidelines instructing officers how to conduct more effective collection of samples of fruits and vegetables in storage compartments of lorries (including those placed deep inside)

7. Frontline staff members of CFS follow the principle of random sampling when collecting vegetables from lorries for inspection and testing. In addition to taking vegetables near the door of the storage compartment,

they will collect vegetables placed at the inner and higher part of the compartment using elevating work platforms if necessary. CFS has drafted a guideline for frontline staff members to take samples of vegetables and fruits in the storage compartments of lorries (including those placed deep inside) in order to implement the procedures effectively, and to ensure occupational safety. CFS will also enhance relevant training and on-site guidance. CFS has scheduled the trial run for the new sampling procedure for early 2018.

Recommendation (3): collect more samples of fruits imported by sea at importers' warehouses/cold storages

8. CFS continuously reviews its import level monitoring system. While the infrastructure and modes of operation at sea, air and land boundary control points are different, CFS establishes specific monitoring arrangements based on objective conditions. CFS established a Food Control Checkpoint for food imported by sea at Kwai Chung Customhouse, which had commenced operation since the end of October 2015, to strengthen the surveillance of food imported by sea and further enhance our food control system (please refer to Paragraph 10). In addition, CFS has taken initiative to take fruit samples from the importers' warehouses for testing, and has increased the number of samples.

Recommendation (4): when conducting sampling at wholesale outlets, focus on those fruits and vegetables believed to be imported by sea

9. CFS will make continuous efforts to review and improve the food sampling arrangements, making reference to The Ombudsman's recommendations and following a risk-based principle.

10. Regarding the sampling of fruits imported by sea at the import level, CFS would conduct sampling at the Food Control Checkpoint in Kwai Chung or the importers' warehouses or cold storages. When determining the venue for sampling food imports, CFS would consider risk factors, such as the track records of the importers; intelligence; as well as specific technical and operational situations, such as whether the food requires cold storage. Therefore, the location to conduct food inspection mainly hinges on the situation of each specific case. CFS has started

sampling vegetables and fruits at the Food Control Checkpoint in Kwai Chung and will maintain close contact with the Customs and Excise Department to better utilise the facilities there.

11. Regarding the sampling of fruits at the wholesale level, CFS has conducted surveys at the Cheung San Wan Wholesale Food Market, the Western Wholesale Food Market and the Kowloon Wholesale Fruit Market in Yau Ma Tei to further understand the approximate proportion of fruits which were imported by sea at the wholesale level. According to CFS' findings, 80% of fruits in the three aforementioned wholesale markets were imported by sea. FEHD has stepped up the surveillance programme for fruits from wholesale markets and will continue to increase the number of fruit samples for testing.

Recommendation (5): where feasible, try to minimise the time for sending samples of fruits and vegetables to Government Laboratory and discuss with the latter the possibility of putting more resources (including manpower, machinery, space, etc.) to speed up laboratory tests on food samples

12. All fresh vegetables entering Hong Kong via the land route must be imported through Man Kam To Control Point (MKTCP) as designated. When the inbound vehicles carrying vegetables arrive at MKTFCO, CFS staff members would check if the seal on the vehicle remains intact, examine the accompanying documents, inspect the vegetables, and adopt a risk-based approach to take vegetable samples for quick tests for pesticide residues and comprehensive chemical analysis.

13. At present, testing of vegetable samples taken at MKTCP or collected in case of food incidents can usually complete within 2-3 working days. Testing procedure for vegetable samples for other routine surveillance would take a longer time to complete.

14. In general, CFS will conduct on-site quick tests for pesticide residues for higher-risk pesticides and the results will be released within the same day. For comprehensive chemical analysis on the higher-risk pesticides, Man Kam To Food Laboratory (MKTFL) of CFS will provide on-site testing service and the detailed test results are usually available

within 2-3 days. If CFS notices any suspicious case, such as consignment from unknown sources, a lack of accompanying documents, broken seal etc., or the relevant consignment or its production farm is involved in a food safety incident affecting public health, CFS will detain the lorry until the test result is satisfactory.

15. Under the risk-based principle, CFS will also take samples from consignments which are of lower risk, are accompanied with complete documents, with intact seal or the registered farm of which is not involved in any food safety incident, etc. Under the existing division of labor, MKTFL is mainly responsible for testing higher-risk vegetables samples, so lower-risk vegetable samples are normally sent to GL for routine surveillance. When The Ombudsman stated that GL generally could complete testing within 19 working days, it was referring to the aforementioned testing of lower-risk vegetable samples, instead of referring to the testing of all vegetable imports.

16. Regarding the routine and lower-risk vegetable sample testing, CFS is further considering The Ombudsman's recommendations with GL, discussing various issues including resource allocation, and will make flexible arrangements to minimise the time for sending vegetable and fruit samples to GL as far as possible. CFS will deploy resources flexibly and effectively, keep on reviewing the testing arrangement, so as to safeguard food safety and allocate resources for the most targeting regulatory strategies.

Recommendation (6): include lotus roots and bean sprouts in Schedule 1 to Pesticide Residues in Food Regulation (PRFR) as soon as possible based on Codex's categorisation of those two types of vegetables

17. All foods for sale in Hong Kong (regardless of whether their names and food classifications are stipulated in the legislation) must be in compliance with the requirements of the laws and regulations of Hong Kong, including that they must be fit for human consumption. PRFR applies to all foods for sale in Hong Kong, regardless of whether an individual food or food group is specified under PRFR. For example, some food groups (such as "Leafy Vegetables" or "Root and Tuber Vegetables") cover a wide varieties of vegetables regularly consumed by the public. Therefore, it is

unnecessary to list all types of vegetables in the PRFR. In addition, PRFR also stipulates that food can only be imported or sold if consuming them is not hazardous or prejudicial to health. CFS has been following the international practice of conducting risk assessment to assess whether consuming the food concerned is hazardous or prejudicial to health. Therefore, it is not a regulatory loophole when the list of food items is not exhaustive.

18. We had made reference to the then food classification and standards set by the Codex Alimentarius Commission (Codex) when we prepared Schedule 1 to PRFR. Codex did not classify “Lotus roots” and “bean sprouts” into “Leafy Vegetables” or “Root and Tuber Vegetables” respectively until July 2017. Other than Codex, we also took reference from the relevant standards of major countries and regions exporting food to Hong Kong (including Mainland, the United States and Thailand). We also took into account the actual local situation, local dietary habits, and the comments received during public consultation. At the time of preparing PRFR, there were approximately 2 800 Codex standards and 800 Mainland standards, while there were over 7 000 standards covered in the Schedule 1 of PRFR, indicating that the number of MRLs covered by Schedule 1 of PRFR has already been far more than the international standards recognised in international trade.

19. For pesticide-food pairs with no specified MRLs/extraneous maximum residue limits in Schedule 1 of PRFR, CFS will conduct risk assessments to ensure that the consumption of the food concerned will not be hazardous or prejudicial to health. In view of the huge range of food products, it is not practical to set standards for each type of food. CFS carried out risk assessments to ensure whether consumption of “bean sprouts” and “lotus roots” samples containing pesticide residues were dangerous or prejudicial to health. Risk assessment is a science-based method which has been well-recognised in the international arena. The approach of conducting risk assessment for pesticide-food pairs with no specified MRLs/extraneous maximum residue limits was agreed upon after thorough discussion and consultation during the enactment of PRFR. In addition, CFS has introduced the Guidelines on Food Classification for the Pesticide Residues in Food Regulation (Cap. 132CM) to classify the foods commonly found in Hong Kong according to Codex food classification

system to facilitate the trade in identifying the appropriate pesticide residue limits that are relevant to the food commodities concerned.

20. Keeping abreast of development is one of the cornerstones of safeguarding food safety. CFS will keep in view the development of other places regarding the implementation of the latest Codex standards, to facilitate us to consider whether and if so how to adopt Codex's classification on "bean sprouts" and "lotus roots" and their respective MRLs.

Recommendation (7): adopt Codex's existing standards for the content of "lead" in leafy vegetables and amend Food Adulteration (Metallic Contamination) Regulation (FAMCR) as soon as possible to better safeguard public health in Hong Kong

21. FHB and CFS completed a 3-month public consultation exercise on the proposed amendments to the FAMCR in early September 2017. One of the proposed amendments is to adopt the Codex standard (0.3 mg/kg) for the maximum level of "lead" in leafy vegetables. Before finalising the legislative proposals and putting forward the Amendment Regulations for tabling in the Legislative Council, FHB and CFS will consider the views received during the public consultation exercise.

Recommendation (8): continue to strive to extend the scope of regulation under the Schedules to the relevant laws in order to cover more local food categories, by drawing reference, for example, from the requirements of Mainland authorities on food safety surveillance and the latest categorisation of food in countries/regions from which vegetables and fruits are imported into Hong Kong, and setting MRLs for pesticides and metallic contaminants in any fruits and vegetables commonly consumed in Hong Kong for inclusion in the Schedules to the relevant laws for enforcement and regulation.

22. CFS will continue to keep in view international development, including the revision of standards by Codex and other jurisdictions, their experience in implementing the revised standards, the dietary habit of Hong Kong people as well as other relevant factors, so as to review the relevant food safety legislation and regulatory regimes as and when appropriate. For example, we are reviewing the current regulatory regime of harmful

substances (including mycotoxins) in food and will carry out a public consultation exercise in 2018 regarding the proposal on strengthening relevant regulatory control.

Advice Sought

23. Members are invited to note the Administration's responses to the Investigation Report and the follow-up actions.

**Food and Health Bureau
Food and Environmental Hygiene Department
Centre for Food Safety
January 2018**