立法會
Legislative Council

LC Paper No. CB(2)750/18-19
(These minutes have been seen by the Administration)

Ref : CB2/PL/HS

Panel on Health Services

Minutes of meeting
held on Tuesday, 19 June 2018, at 2:30 pm
in Conference Room 2 of the Legislative Council Complex

Members present	:	Prof Hon Joseph LEE Kok-long, SBS, JP (Chairman) Dr Hon Pierre CHAN (Deputy Chairman) Hon Tommy CHEUNG Yu-yan, GBS, JP Hon WONG Ting-kwong, GBS, JP Hon CHAN Kin-por, GBS, JP Hon Mrs Regina IP LAU Suk-yee, GBS, JP Hon YIU Si-wing, BBS Hon Charles Peter MOK, JP Hon CHAN Chi-chuen Hon Alice MAK Mei-kuen, BBS, JP Dr Hon KWOK Ka-ki Dr Hon Fernando CHEUNG Chiu-hung Dr Hon Helena WONG Pik-wan Hon POON Siu-ping, BBS, MH Dr Hon CHIANG Lai-wan, JP Hon CHU Hoi-dick Hon SHIU Ka-fai Hon SHIU Ka-chun Hon KWONG Chun-yu
Members attending	:	Hon KWOK Wai-keung, JP Hon IP Kin-yuen Ir Dr Hon LO Wai-kwok, SBS, MH, JP Hon Jimmy NG Wing-ka, JP
Members absent	:	Hon Starry LEE Wai-king, SBS, JP Hon Paul TSE Wai-chun, JP

Hon CHAN Han-pan, JP
Dr Hon Elizabeth QUAT, BBS, JP
Dr Hon Junius HO Kwan-yiu, JP

Public Officers attending :

Items IV and V

Dr CHUI Tak-yi, JP
Under Secretary for Food and Health

Item IV

Miss Linda LEUNG
Principal Assistant Secretary for Food and Health (Health) 2
Food and Health Bureau

Dr Tony KO
Director (Cluster Services)
Hospital Authority

Ms Ivis CHUNG
Chief Manager (Allied Health)
Hospital Authority

Ms Anna LEE
Chief Pharmacist
Hospital Authority

Item V

Miss Amy YUEN Wai-yin
Deputy Secretary for Food and Health (Health)2
Food and Health Bureau

Dr Jeff LEE Pui-man
Head (Tobacco Control Office)
Department of Health

Clerk in attendance :

Ms Maisie LAM
Chief Council Secretary (2) 5

Staff in attendance :

Mr YU Chun-ho
Senior Council Researcher 1

Miss Kay CHU
Senior Council Secretary (2) 5

Ms Priscilla LAU
Council Secretary (2) 5

Miss Maggie CHIU
Legislative Assistant (2) 5

Action

I. Information paper(s) issued since the last meeting
[LC Paper No. CB(2)1536/17-18(01)]

Members noted that a letter dated 4 June 2018 from Mr CHAN Han-pan requesting the Panel to discuss the supply of Human Papillomavirus vaccines had been issued since the last meeting.

II. Items for discussion at the next meeting
[LC Paper Nos. CB(2)1578/17-18(01) and (02)]

2. Members agreed that the Panel would discuss the subjects "Proposed regulatory framework for medical devices" and "Accredited Registers Scheme for Healthcare Professions" as proposed by the Administration at the next regular meeting scheduled for 16 July 2018 at 4:30pm.

(*Post-meeting note*: At the request of the Administration and with the concurrence of the Chairman, an additional discussion item on "District Health Centre Pilot Project in Kwai Tsing District" has been added to the agenda for the July regular meeting. On the instruction of the Chairman, the meeting has been extended to end at 7:00 pm to allow sufficient time for discussion.)

III. Matter arising from the meeting on 21 May 2018
[LC Paper No. CB(2)1616/17-18(01)]

Priority setting for activation of the subcommittees on policy issues under the Panel on Health Services

3. The Chairman said that pursuant to the discussion at the meeting on 21 May 2018, members' views had been sought by way of circulation of paper on the proposal that among the four policy subcommittees currently appointed under the Panel (including two joint policy subcommittees

Action

formed respectively with the Panel on Commerce and Industry ("the CI Panel") and the Panel on Welfare Services) on the waiting list to be activated, the newly appointed Subcommittee on Issues Relating to the Support for Cancer Patients should be accorded the highest priority for activation when a vacant slot arose. As of the date of the meeting, a total of 20 members had responded to the invitation of views, with 12 of them supported the proposal, three did not support the proposal and five had no comment. Members agreed that as a next step, views from the CI Panel would be sought on the proposed change to the order of activation for the Joint Subcommittee on Issues Relating to the Regulations of Devices and Development of the Beauty Industry. Subject to the view of the CI Panel, the Panel would proceed to seek the House Committee's endorsement of the proposal.

[At 2:42 pm, the Chairman informed members of his decision to extend the meeting for 15 minutes beyond its appointed time to allow more time for discussion.]

IV. Update on Samaritan Fund and Community Care Fund Medical Assistance Programmes

[LC Paper Nos. CB(2)1578/17-18(03) and (04)]

4. Under Secretary for Food and Health ("USFH") briefed members on an update on Samaritan Fund ("SF") and Community Care Fund ("CCF") Medical Assistance Programmes, details of which were set out in the Administration's paper (LC Paper No. CB(2)1578/17-18(03)).

5. Members noted the background brief entitled "The Samaritan Fund and the Community Care Fund Medical Assistance Programmes" prepared by the Legislative Council ("LegCo") Secretariat (LC Paper No. CB(2)1578/17-18(04)).

Inclusion of new drugs in the Drug Formulary of the Hospital Authority and the safety net

6. Mr SHIU Ka-chun was concerned that there were about 1 300 drugs currently listed on the Hospital Authority ("HA") Drug Formulary ("the Drug Formulary), whereas there were around 18 000 drugs registered in Hong Kong. To his understanding, only dozens out of the some 800 drugs newly registered in Hong Kong each year would be included in the Drug Formulary. In his view, the process of listing new drugs on the Drug Formulary was too slow and not transparent. Mr KWONG Chun-yu expressed a similar concern.

Action

7. USFH stressed that while more new drugs had been introduced in the market in recent years, adequate clinical evidence was required to support their efficacy and cost-benefit to patients in the case of Hong Kong or Asian countries. Director (Cluster Services), HA ("D(CS), HA") added that the Drug Advisory Committee ("DAC") would meet quarterly to evaluate new drug applications for listing on the Drug Formulary initiated by HA clinicians. The evaluation followed the principles of evidence-based medical practice, having regard to three principal considerations of safety, efficacy and cost-effectiveness while taking into account other relevant factors such as international recommendations and practices, advance in technology, as well as views of professionals and patient groups.

8. Mr SHIU Ka-chun held the view that HA should make public the list of self-financed drugs which had not been included in the safety net. Dr Fernando CHEUNG expressed a similar view. In view that all applications for new drugs listing had to be initiated by HA clinicians, and the composition of DAC, which comprised no patient representative, was not made public, he was particularly concerned that there was a lack of public participation in the inclusion of drugs in the Drug Formulary and the safety net.

9. D(CS), HA advised that to enhance the transparency in the management of the Drug Formulary, HA had made available, among others, the Drug Formulary and the Drug Formulary Management Manual as well as the agenda of DAC meetings with a list of new drugs put up for review and review outcome of DAC, on the website of the Drug Formulary. Separately, HA would continue to convene two consultation meetings with patient groups every year to gather their major concerns and feedback on the Drug Formulary. As more new and specific drugs had been rapidly brought to the market in recent years, HA was going to invite individual patient groups to attend ad hoc meetings as and when necessary to, among others, collate their views on drug treatments of specific diseases, such as cancer drugs. Expressing appreciation for the above arrangement, Dr Fernando CHEUNG hoped that it could facilitate the exchanges between HA and various patient groups, in particular those relating to cancer or rare diseases.

Admin

10. At the request of Dr Fernando CHEUNG, D(CS), HA undertook to advise in writing, with the aid of a flowchart, the processes in respect of regular reviews of and new drug listing on the Drug Formulary and the time required of for each process.

Action

11. Mr SHIU Ka-chun was gravely concerned that according to the Cancer Strategy Concern Group, some patients suffering from HER2-positive advanced breast cancer were unable to afford the self-financed drug Trastuzumab emtansine (also known as "T-DM1") for treatment as the drug was not included in the safety net. Dr Fernando CHEUNG expressed a similar concern. Dr CHIANG Lai-wan asked if HA would provide subsidized T-DM1 by making reference to the practices in United Kingdom, Scotland and Australia. Mr KWONG Chun-yu was particularly concerned that some breast cancer patients could only use the drug, namely Lapatinib, currently covered by the CCF Medical Assistance Programme (First Phase Programme) ("the First Phase Programme") even though it had many side effects, as the use of T-DM1 with a monthly cost of $30,000 to $40,000 was not affordable.

Admin

12. At the request of the Chairman, D(CS), HA undertook to provide a written response after the meeting as to whether, and if so, when T-DM1 would be included in the coverage of the safety net. D(CS), HA added that the frequency of the prioritization exercise conducted by the Drug Management Committee ("DMC") for inclusion of self-financed drugs in the safety net or relaxation of safety net indications had been increased from once to twice (i.e. in June and November) a year. Once a drug-related safety net proposal was submitted to DMC, it would in general be considered by the relevant committees of SF or CCF (as the case might be) within six months, depending on the circumstances.

Financial assistance to needy patients

13. In response to Dr CHIANG Lai-wan's enquiry about whether biopsy which could facilitate an early diagnosis of cancer was covered by the First Phase Programme, USFH replied in the negative. Expressing concern that some cancer patients were not able to be timely diagnosed with and receive effective treatment for the disease due to lack of means, Dr CHIANG Lai-wan called on the Administration to consider providing full subsidy for patients to purchase self-financed drugs currently covered by SF and the CCF Medical Assistance Programmes; and sought information on the estimated amount of additional cost so involved. She also called on the Administration to consider piloting the provision of annual body examination for local citizens aged 45 and above free of charge and implementing measures to enhance the support for cancer patients and their family members. Dr KWOK Ka-ki requested the Administration to advise the respective estimated amount of additional expenditure involved for the scenarios whereby HA would subsidize 80% or 90% of patient's out-of-pocket expense to purchase self-financed drugs currently covered by SF and the CCF Medical Assistance Programmes. USFH undertook to

Admin

Action

provide a written response to Dr CHIANG Lai-wan and Dr KWOK Ka-ki's questions regarding HA's expenses on self-financed drugs.

14. In response to Ms Alice MAK's concern about the eligibility of patients suffering from psoriasis for SF and CCF Medical Assistance Programmes, D(CS), HA advised that certain drug items for treatment of severe psoriasis were supported by SF. Separately, HA would maintain a close liaison with the Department of Health ("DH") to facilitate the referral of psoriasis patients from DH's dermatology outpatient clinics to Pamela Youde Nethersole Eastern Hospital to receive biologic therapy as appropriate.

15. Dr Helena WONG asked if the Administration would regularly review the list of drugs supported by the First Phase Programme in Annex B to LC Paper No. CB(2)1578/17-18(03). She also sought information on the number of patients being subsidized under the First Phase programme and the number of death cases involving patients who were not able to use those drugs on the said list due to their ineligibility for the programme. D(CS), HA advised that under the First Phase Programme, the number of approved applications had been increased from 829 to 2 012 from 2012-2013 to 2017-2018, with an increased amount of drug subsidies granted from $61.6 million to $168.8 million during the same period. Stressing that applications would be approved subject to, among others, patient's clinical indications, he advised that HA would bid for additional funding to support the programme if warranted. In addition, HA would continue to regularly review the drug list under the First Phase Programme for suitably expanding the coverage of drug items, which had been increased from nine drug items in 2012-2013 to 16 drug items as of June 2018.

16. Noting that the amount of subsidies granted under SF had increased from $328.5 million in 2012-2013 to $515.7 million in 2017-2018, Mr POON Siu-ping sought information on the respective number of patients being fully and partially subsidized and the average amount of subsidy granted during the above period. D(CS), HA responded that more than 60% of the approved applications received full drug subsidies in the past few years. In 2017-2018, a total of 6 745 applications were approved, with around $76,000 granted to each application on average.

17. Dr KWOK Ka-ki expressed concern that with the implementation of the Drug Formulary and the safety net, patients had to meet fully or partially their expenses on self-financed drugs, which included expensive cancer drugs with relatively higher efficacy. In his view, a more rational use of public money was to subsidize patients in need of these expensive

Action

drugs in order to avoid causing financial hardship to them and their families. This apart, it was noted that while the total drug expenditure of HA had increased from $3.35 billion in 2011-2012 to $5.37 billion in 2017-2018, there was a drop in the percentage of drug expenditure in HA's total recurrent expenditure in the corresponding period to the level of below 9%.

18. USFH advised there was an increase in drug expenses in recent years in light of the rapid advancement in medical technology which had brought many new and ultra-expensive drugs to the market. A consultancy study commissioned by HA was being conducted to review and improve the existing means test mechanism of SF and CCF Medical Assistance Programmes ("the study"). The study aimed to lower patient's out-of-pocket spending and relieve their families' financial burden.

Financial assessment criteria for drug subsidy programmes

19. Mr SHIU Ka-chun declared that he was a full-time employee of the Department of Social Work of The Hong Kong Baptist University, but he did not involve in the study. He called on the Administration to modify the financial assessment criteria for drug subsidies under SF and CCF Medical Assistance Programmes by further refining the "household" definition and further reducing the patients' maximum contribution ratio for drug expenses, which was currently set as 20% of their household annual disposable financial resources. Dr KWOK Ka-ki suggested that a sliding scale should be introduced under the means test mechanism of SF and the CCF Medical Assistance Programmes to better reflect the possible wide range of difference in patients' affordability to determine the level of patient contribution to drug expenses.

20. Recognizing financial hardship on some patients and their families due to substantial out-of-pocket payments of drug cost, USFH advised that the consultant team was expected to formulate recommendations on how to refine the means test mechanism of SF and CCF Medical Assistance Programmes upon the completion of the study in late 2018 with an aim to benefit more needy patients. Mr POON Siu-ping asked whether the Administration would introduce interim measures to alleviate the financial burden of patients in need of expensive drugs along the directions of the study. USFH responded that the Administration would strive to implement the enhancement measures as soon as practicable upon the completion of the study.

21. Dr Fernando CHEUNG and Mr KWONG Chun-yu considered that the existing definition of household in the financial assessment of SF and CCF Medical Assistance Programmes unreasonable. Concurring to the

Action

Administration's three directions to improve the means test mechanism, Dr Fernando CHEUNG hoped that the study would be completed as early as possible. Expressing concern that some patients were separated from their families for becoming eligible for drug subsidies, Ms Alice MAK urged the Administration to expedite its work to refine the means test mechanism by, among others, redefining "household". Dr Helena WONG asked whether the Administration would consider allowing patients living with their family members to apply for drug subsidies on an individual basis. Dr CHIANG Lai-wan raised a similar question.

22. USFH responded that the existing household-based financial assessment in assessing the level of subsidy under SF and CCF Medical Assistance Programmes was in line with other publicly-funded assistance schemes. Noting the financial and emotional pressure on needy patients and their family members, modifications on the means test mechanism had been introduced by the Administration over the past few years. To further enhance the support for patients with financial difficulties, the consultancy team was actively studying, among others, how the definition of "household" could be further refined under the means test mechanism. The Administration would make a final decision having regard to the study findings.

Conclusion

23. In closing, the Chairman requested the Administration to take into account members' views on, among others, how to refine the means test mechanism of SF and CCF Medical Assistance Programmes, and revert to the Panel on the final findings of the study.

[At 3:44 pm, the Chairman suggested and members agreed that the meeting be further extended for 15 minutes.]

V. Legislative proposal to regulate electronic cigarettes and other new tobacco products

[LC Paper No. CB(2)1578/17-18(05) and IN11/17-18]

24. Members noted the paper provided by the Administration on the subject under discussion (LC Paper No. CB(2)1578/17-18(05)); the information note on regulation of electronic cigarettes ("e-cigarettes") and heated tobacco products in selected places prepared by the Research Office of the Information Services Division of the LegCo Secretariat (IN11/17-18); and submissions from organizations and individuals on the subject under discussion (LC Paper Nos. CB(2)1521/17-18(01) to (02), CB(2)1549/17-

Action

18(01) to (05), CB(2)1558/17-18(01) to (27), CB(2)1565/17-18(01) to (20), CB(2)1578/17-18(06) to (20), CB(2)1601/17-18(01) to (06), CB(2)1616/17-18(02) to (08) and CB(2)1629/17-18(01) to (10)).

Total ban on e-cigarettes and other new tobacco products

25. Dr KWOK Ka-ki expressed disappointment with the non-attendance of the Secretary for Food and Health ("SFH") for discussion of this item. Expressing concern over the emergence of new tobacco products on the local market and increasing number of young e-cigarette users in the past few years, he asked for the rationale for making the drastic policy change from prohibiting import, manufacture, sale, distribution, and advertising of e-cigarettes as proposed in 2015 to regulating e-cigarettes, heat-not-burn ("HNB") products and herbal cigarettes. Considering that the latest legislative proposal would result in more new tobacco products to appear in the future, Mr IP Kin-yuen called on the Administration to examine afresh the need to impose a total ban in this regard. Mrs Regina IP declared that she was a shareholder of a tobacco company based in the United States. She urged the Administration to resist the lobbying of tobacco industry and maintain its original stance to ban e-cigarettes and HNB products which posed health risk to the public, in particular the future generation. Mr Charles MOK considered that the making of policy change amid the accumulated scientific evidence to prove the harmfulness of new tobacco products would give an impression to the public that the Administration was tilted in favour of the tobacco industry.

26. USFH advised that after having critically reviewed the scientific evidence, overseas practices and relevant recommendations of the World Health Organization ("WHO"), and taken into account the emergence of new tobacco products which created a gateway effect to let young people to get used to the new products and ultimately turn to smoking cigarettes, the Administration considered that it was an opportune time and necessary to implement prompt regulatory measures for e-cigarettes, HNB products and herbal cigarettes to prevent youth and non-smokers from picking up the smoking habit, and to remind smokers and ex-smokers of the harmfulness of these products. The proposed regulation would be similar to the current regulatory regime of cigarettes and tobacco products, which was effective in maintaining a low smoking prevalence in Hong Kong. The Administration would keep in view the availability of new scientific evidence, if any, and take into account stakeholders' views, in considering the need to impose a more stringent control over these new products. He assured members that formulation of tobacco control policy would not be influenced by the tobacco industry.

Action

27. Mr CHAN Chi-chuen remarked that a press conference was jointly held by the Hong Kong Academy of Medicine, The Hong Kong Medical Association, the Faculties of Medicine of The University of Hong Kong and The Chinese University of Hong Kong and other relevant entities earlier to call for a total ban on e-cigarettes and other new tobacco products. He said that he did not support such call unless conventional cigarettes and tobacco products, which were also hazardous to health, were equally banned in a fair manner. He suggested that the Panel should invite deputations' view on the subject. Dr Pierre CHAN remarked that since the 1980s, the Administration had imposed different levels of regulation on cigarettes and smokeless tobacco products, with the latter being prohibited from import and consigning.

28. While not having a stance on a total ban on new tobacco products at this stage, Mr YIU Si-wing expressed support for the latest legislative proposal to regulate e-cigarettes, HNB products and herbal cigarettes. Holding the view that the Administration had missed the best timing for imposing a total ban on e-cigarettes which he had called for a few years ago, Mr KWOK Wai-keung urged the Administration to expedite the implementation of the proposed regulation before the use of new tobacco products had taken root. Mr SHIU Ka-fai remarked that the tobacco industry agreed to regulate e-cigarettes. In response to some members' call for a ban on new tobacco products, he considered that the ban, if implemented, might give rise to illicit trade problem, as about 10% of local smokers were HNB product users. As a reference, he said that some overseas studies revealed that around 97% to 99% of HNB product users switched from using conventional cigarettes; and HNB products were not classified as cigarettes and not subject to various sale regulation in England, Canada, France, Spain and the Netherlands, etc.

29. Stressing that no illicit trade would be encouraged, USFH responded that it was hoped that the formulation and implementation of the proposed regulatory regime could be carried out as soon as practicable to cater specifically to the rapid emergence and varied marketing strategies of e-cigarettes, HNB products and herbal cigarettes. He also appealed to smokers to quit smoking and non-smokers not to pick up the smoking habit.

Proposed regulation of e-cigarettes, HNB products and herbal cigarettes

30. While expressing no objection to the latest legislative proposal, Dr Fernando CHEUNG said that it would be most ideal if a total ban on these products could be imposed in the long run. He further urged the Administration to step up public education and promotion to enable members of the public to have a better understanding of the health hazard

Action

of smoking and the truths behind the marketing strategies of tobacco industry which promoted the new tobacco products as a healthier alternative and targeted at non-smoking young people and women.

31. Head (Tobacco Control Office), Department of Health ("H(TCO), DH") advised that as revealed by the findings of the testing conducted by the Government Laboratory, all tested HNB products contained nicotine and tar, which were harmful to health. He also stressed that comparison of the levels of harmful constituents between HNB aerosol and tobacco smoke was of little value as the safe tolerance limits for smoke constituents were unknown. He also briefed members, by the aid of a powerpoint presentation, on some of the latest marketing strategies of the tobacco industry targeting at young people and non-smokers. USFH assured members that the Administration, in collaboration with various sectors in the community, would continue to strengthen its tobacco control efforts, in particular education and promotion to vulnerable groups. Mr SHIU Ka-chun was concerned that albeit the Administration claimed to have put much publicity efforts, many people still agreed to the concept promoted by the tobacco industry that new tobacco products were healthier alternatives to smoking.

[At 4:31 pm, the Chairman suggested and members agreed that the meeting be further extended for 15 minutes; and the motion proposed and seconded by Dr KWOK Ka-ki and Dr Fernando CHEUNG respectively, which was directly related to the agenda item under discussion and the wording of which had been tabled at the meeting, be dealt with towards the end of discussion of this agenda item.]

32. Noting from the information note prepared by the Research Office of the Information Services Division of the LegCo Secretariat that some overseas countries set a maximum nicotine level at 20mg/ml and some prohibited non-nicotine ingredients that posed a risk to human health in nicotine-containing e-liquid (i.e. a solution with a mixture of chemical in a cartridge or tank of e-cigarettes), Dr Helena WONG asked if similar requirements would be stipulated in the latest legislative proposal. Mr KWOK Wai-keung was concerned about whether e-cigarettes containing nicotine was available on the local market.

33. H(TCO), DH explained that nicotine-containing e-cigarettes were considered pharmaceutical products under the Pharmacy and Poisons Ordinance (Cap. 138), which must be registered with the Pharmacy and Poisons Board of Hong Kong before they could be sold in Hong Kong. As no application for registration in this regard had been received by the Board so far, e-cigarettes on the local market should be nicotine-free. To better

Action

safeguard public health, the Administration had no plan to relax such requirement, and further proposed regulation for e-cigarettes, HNB products and herbal cigarettes, which would be similar to the current regulatory regime of cigarettes and tobacco products, with the addition of targeted requirements on e-cigarettes including displaying all ingredients and contents of products on their packaging, and prohibiting certain additives and any promotion on appealing flavour. The Administration would keep in view the relevant recommendations of WHO and scientific evidence, and consider prohibiting any ingredients hazardous to health in these products as and when necessary.

34. Referring to the proposed taxation on tobacco component, Dr Helena WONG relayed the Democratic Party's call to charge duties on all e-cigarettes, HNB products and herbal cigarettes, regardless of whether they contained any tobacco component, otherwise the sale of those products without taxation might encourage more youth and young people to smoke. Mr WONG Ting-kwong declared that he was a smoker. He relayed the view of the Democratic Alliance for Betterment and Progress of Hong Kong that the Administration should have regulated e-cigarettes and HNB products at an earlier time. He considered that both conventional cigarettes and new tobacco products should be subject to regulation and taxation. Mr CHAN Chi-chuen said that there was a call from the tobacco industry that the tax regime for e-cigarettes and other new tobacco products should be separated from that for conventional cigarettes and tobacco products. He was particularly concerned about whether, and if so, how excise duties would be levied on HNB products carried by arriving passengers who made a declaration at the Goods to Declare Channel (also known as "Red Channel") at control points, and overseas practices on taxation on HNB products.

35. Deputy Secretary for Food and Health (2), Food and Health Bureau responded that tobacco sticks of HNB products which fell within the definition of tobacco under the Dutiable Commodities Ordinance (Cap. 109) were subject to tobacco duty while e-cigarettes using no tobacco were not. H(TCO), DH added that as HNB products had been launched for only two to three years, many overseas places were now considering what specific regulations should apply in this regard, and at the same time subjecting these products to their respective tobacco control policy and relevant legislation as recommended by WHO. To his understanding, some overseas places might classify HNB products as "other tobacco products" with similar rates of duties being levied.

36. Mr Jimmy NG said that he did not encourage people, in particular young people, to smoke tobacco or any nicotine-containing products. He,

Action

however, questioned about the classification of tobacco sticks of HNB products, which was non-combustible for immediate use for smoking, under the latest legislative proposal. To his understanding, a great majority of overseas places regulating HNB products regarded these products as "other tobacco products". H(TCO), DH responded that under the Smoking (Public Health) Ordinance (Cap. 371), "cigarette" meant tobacco rolled up in paper or in any other material except tobacco, in such form as to be capable of immediate use for smoking. After consulting the Department of Justice ("DoJ"), the Administration considered that tobacco sticks of HNB products should be regarded as "cigarette" under the Ordinance. USFH added that DoJ would be further consulted as and when appropriate in drafting the relevant bill.

37. Mr SHIU Ka-fai noted with concern that one of the Administration's proposals was to amend the Smoking (Public Health) Ordinance to, among others, replace the existing requirement to display the numerical yields of tar and nicotine on packages and retail containers of cigarettes with the display of descriptive information about the presence of these chemicals. Pointing out that the manufacturers concerned had recently spent on revising the design of the packets and retail containers of tobacco products to, among others, display the indication of tar and nicotine yields as amended in 2017, he was discontent that these manufacturers had to revise the design again in a short period time to comply with the new requirement (if implemented) with additional cost incurred. In his view, such requirement should only apply to e-cigarettes and other new tobacco products subject to the proposed regulation. USFH stressed that the Administration proposed the legislative proposal after having taken into account, among others, the varied marketing strategies of new tobacco products targeting at young people.

38. Mr YIU Si-wing considered that the Administration should regulate devices for consumption of e-cigarettes and HNB products to control the spread of these products. Mr SHIU Ka-chun, however, considered it unfair if the latest legislative proposal covered, among others, the devices for consumption of HNB products, given that pipes, which was a receptacle or other device designated for use for smoking tobacco in a form other than a cigarette or cigar, were currently not under regulation. Mr WONG Ting-kwong questioned about the proposed scope of regulation of various devices for consumption of conventional and new tobacco products. Mr KWOK Wai-keung asked about the measures to be taken by the Administration to prevent youths and children from being attracted by the contemporary design and outlook of new tobacco products.

Action

39. H(TCO), DH advised that it was proposed to amend the Smoking (Public Health) Ordinance to provide for, among others, the definition of e-cigarettes, HNB products and herbal cigarettes, which would also cover the devices for consumption as appropriate, with an aim to formulate a comprehensive regulatory regime. It should be noted that at present, any pipes, lighters and matches, etc., with cigarette brand names printed on would be regarded as promotion under the Ordinance and be prohibited. USFH assured members that their views on the regulation of devices for consumption of new tobacco products would be taken into account in relevant bill drafting.

40. Dr Pierre CHAN expressed opposition to the latest legislative proposal. He was particularly concerned about how SFH and USFH could appeal to the LegCo Members to support the proposed regulation of e-cigarettes and other new tobacco products in their capacities of being healthcare professionals. USFH reiterated that it was expected that the proposed regulation could reduce the chances for non-smoking people, in particular young people, to pick up the smoking habit effectively.

Motion

41. Dr KWOK Ka-ki moved the following motion, which was seconded by Dr Fernando CHEUNG:

> "鑒於電子煙及其他煙草產品對人體有害，同時亦會增加年青人染上吸煙習慣的機會。因此本人動議，政府應盡快全面禁售電子煙及其他新煙草產品。"
>
> (Translation)
>
> "Given that electronic cigarettes and other tobacco products are harmful to health and, at the same time, will increase young people's chance of picking up the smoking habit, I move that the Government should expeditiously impose a total ban on sale of electronic cigarettes and other new tobacco products. "

42. The Chairman ordered to summon members to form a quorum for the meeting, and then put Dr KWOK Ka-ki's motion to vote. Five members present at the meeting voted for the motion, three members voted against it and one member abstained from voting. The Chairman declared that the motion was carried.

43. Referring to the divided views expressed by members on the proposed regulation, the passing of the motion and the implementation of a

Action

total ban on new tobacco products in some overseas places, Dr KWOK Ka-ki urged the Administration to withdraw the latest legislative proposal to regulate e-cigarettes, HNB products and herbal cigarettes, and impose a total ban on these products instead. USFH reiterated that the Administration would keep in view the development of tobacco products, the availability of scientific evidence and overseas practices as well as WHO's recommendations, and also take into account stakeholders' views, in considering the way forward.

Conclusion

44. In closing, the Chairman requested the Administration to take into account members' views on the regulation of e-cigarettes, HNB products and herbal cigarettes in formulating the relevant bill.

VI. Any other business

45. In response to Dr Helena WONG's query, the Chairman said that the fact sheet on the potential health effects and risks of e-cigarettes and HNB products being prepared by the Research Office of the LegCo Secretariat would be circulated to members for reference once available.

46. The Chairman reminded members that the Panel would hold its next regular meeting on 16 July 2018 at 4:30 pm.

47. There being no other business, the meeting ended at 5:11 pm.

Council Business Division 2
Legislative Council Secretariat
1 February 2019