

LegCo Panel on Food Safety and Environmental Hygiene  
Issues and Proposals Raised at Special LegCo meetings held on 26 and 30 August 2005

Malachite Green and Prohibited Chemicals in Other Areas

1. **As early as 2002, the Ministry of Agriculture has added malachite green to its List of Veterinary Drugs and Other Chemicals Prohibited in Food Animals. Is the Government of Special Administrative Region (SARG) aware of such a list and has it been informed that malachite green is one of the prohibited drugs? If affirmative, why has the SARG put off listing malachite green as one of the prohibited drugs?**

- A. To protect public health and ensure food safety, the Administration enacted the *Public Health (Animals and Birds)(Chemical Residues) Regulation* under the *Public Health (Animals and Birds) Ordinance* (Cap 139) at the end of 2001 with a view to regulate feeding of agricultural and veterinary chemicals to food animals. The *Regulation* prohibits the use of certain beta-agonists, synthetic hormone and antibiotics because of the unacceptable risks they pose to public health. The *Regulation* also sets maximum residue limits for 37 restricted chemicals in meat, offal and milk of food animals.

To set down a uniform standard for the maximum residue limits of chemicals throughout the food supply chain and to regulate related products (such as meat) effectively, the Administration amended the *Harmful Substances In Food Regulations* under the *Public Health and Municipal Services Ordinance* (Cap 132) at the same time to ban sale of food that contains any of the seven prohibited chemicals and food that contains residue of any of the 37 restricted chemicals in excess of the maximum residue limits (equivalent to those set for meat and milk products).

In enacting the legislation to control the use of certain chemicals in food animals and related products, we have taken into consideration the guidelines issued by international organizations, such as the Codex Alimentarius Commission, information of other countries and our local situation. As for local fish farms, the Agriculture, Fisheries and Conservation Department (AFCD) has advised local fish farmers against using malachite green over 10 years ago. When the use of malachite green aroused concern again recently, the Food and Environmental Hygiene Department (FEHD) acted to develop testing methods and regulation standards to impose more stringent control.

2. **Apart from malachite green, does the list contain any other prohibited drugs that is allowed to be used in Hong Kong? If affirmative, please list these chemicals.**

- A. Of the 21 products specified on the List of Veterinary Drugs and Other Chemicals Prohibited in Food Animals in the Mainland, 13 drugs have not been registered for veterinary use under Cap 138A. Therefore, possession of these drugs for use on food animals constitutes an offence. Five other drugs are either listed as prohibited or the presence of these chemical residues in food animals are not allowed under Cap 139N.

A food animal farmer commits an offence if any prohibited chemical is found in his food animals. He is liable to a fine at level 6 (\$100,000). The remaining three veterinary drugs and compounds (including malachite green) are registered in Hong Kong under Cap 138A as medicine for treatment of pet animals.

Section 36 of *Pharmacy and Poisons Regulations* (Cap 138A) provides that no person shall sell, distribute or possess for other uses any unregistered pharmaceutical products or substances. Any person who commits the offence is liable to a fine of \$100,000 and an imprisonment of two years.

Control and checks for fresh water fishes supplied to Hong Kong conducted by authorities across the border

- 3. The authorities should consider spot checks at import control points to test for the presence of malachite green in fresh water fishes imported from the Mainland or implement co-location of inspection facilities at the border to obviate the need of sample testing at wholesale and retail level.**
  - A. The SARG and General Administration of Quality Supervision, Inspection and Quarantine (ASQIQ) both agreed that the most effective measure was to regulate the freshwater fishes supplied to Hong Kong at their sources. Accordingly, they have agreed to implement a raft of measures, which included dispatching FEHD staff to inspect registered and approved farms for freshwater fishes and aquatic products in the Mainland. FEHD will also take samples for testing at Man Kam To Control Point and two wholesale markets.
  
- 4. Apart from regulating at the supply sources to ensure compliance with the standard, is there any mechanism to ensure that the freshwater fishes will still comply with the standard in the course of import and transport after inspection?**
  - A. The SARG and ASQIQ are working on ways to ensure the safety of freshwater fishes in the course of import and transport. In addition, the FEHD will take samples for testing at the import, wholesale and retail levels to ensure food safety at different levels under its Food Surveillance Programme of FEHD.
  
- 5. There should be an uniform testing method and standard for malachite green in both Hong Kong and the Mainland**
  - A. We agree with the proposal and both parties have already reached a consensus.
  
- 6. Will the Administration consider taking water samples from fish farms that supply freshwater fishes to Hong Kong to test for the presence of malachite green?**
  - A. We believe that testing freshwater fishes that have already been imported is a more effective measure.
  
- 7. (a) Will the Administration concerned deploy more staff and resources to strengthen the control and checks on imported freshwater fishes and fish processing plants? (b) Regarding the Mainland's registration system for fish farms**

**that supply freshwater fishes to Hong Kong, does Hong Kong need to allocate more staff to undertake such regulation work in future? If not, please state the reasons**

A. When the new supply arrangement for freshwater fish import to Hong Kong is in place, we will redeploy our staff and resources as appropriate. More staff and resources may be allocated if and when necessary

**8. Will freshwater fishes imported from the Mainland be accompanied with health certificates? And will the certificate specify that the product is free of malachite green??**

A. According to the consensus reached between SARG and ASQIQ, both parties will implement a series of measures, such as stipulating that only registered and approved fish farms may export freshwater fishes to Hong Kong and that the export must be accompanied with health certificates when entering Hong Kong to certify that they are free from malachite green or any other harmful agricultural pesticide and chemical substances.

#### Assistance and Compensation for Freshwater Fish Trade

**9. (a)The Administration should consider granting ex-gratia payment, rent reduction/waiver and interest-free loans to affected freshwater fish wholesalers and retailers to tide them over the crisis; and (b) though the Administration stresses that it has never prohibited import of freshwater fishes from the Mainland, the public confidence in freshwater fishes will never be restored unless and until a comprehensive regulatory mechanism for freshwater fishes imported from the Mainland is in place. The incident has dealt a heavy blow to our fishery trade. Will the FEHD and Housing Department grant economic assistance, such as rent/licence waiver, to fish traders operating in their markets? And will the Administration offer low interest loan or ex-gratia payment to the trade?**

A. We understand that the trade faces grave difficulties and are very willing to offer assistance. But having considered the current circumstances, we consider there is insufficient justification to use public moneys to grant ex-gratia payment and rent reduction/waiver. As for the loan proposal, we need to study further the difficulties that confronted by the trade.

**10. The Administration should facilitate the resumption of freshwater fish supply to Hong Kong. When will the Administration inform the trade about the timing for freshwater fish supply to Hong Kong to return to normal?**

A. The Director of Food and Environmental Hygiene (DFEH) has met with the inspection and quarantines authorities of Shenzhen, Guangdong and Zhuhai to learn about the operations of Mainland registered fish farms and exchange information on technical matters. We will also strive to assist the trade in arranging import of freshwater fishes and restoring public confidence.

**11. The Administration should strengthen communication with fish traders and inform them the details of the regulatory mechanism as soon as possible.**

A. The Government will immediately inform fish traders details of the regulatory mechanism once we reach a consensus with the Mainland authorities.

**12. In fact, before the Gazette Notice on amending the *Harmful Substance in Food Regulations* in order to add malachite green to the list of prohibited substances is published, Dr. York Chow has already publicly urged the people against eating eels twice. Officers also cited overseas studies that claimed that malachite green was potentially carcinogenic on various occasions. As a result, the public has refrained from eating freshwater fishes. The trade is forced to destroy its freshwater fish stock and suffer enormous losses as a result. The trade has not breached the law but has to pay the heavy cost that arose from oversight of the Government in regulation and legal loopholes. In view of this, is it not true that the Government is duty bound to make compensation to the trade for the freshwater fish stock destroyed?**

A. According to the *Public Health and Municipal Services Ordinance* (Cap 132), any person who provides food that is unfit for human consumption commits an offence. When the Government discovers any food that is unfit for human consumption in Hong Kong, it is obliged to inform the public.

Information on Mainland registered farms that export freshwater fishes to Hong Kong

**13. Prior to malachite green incident, how much freshwater fishes does Hong Kong import from the Mainland each day? And of such daily import, what are the respective quantity of four main types of domestic fishes (grass carp, big head carp, silver carp and mud carp) and mixed fishes?**

A. According to AFCD, Hong Kong imports an average of 86 tonnes freshwater fishes a day. Of the daily import, four major domestic fishes account for about 63 tonnes (approx. 73%) whilst the remaining 23 tonnes (approx. 23%) are mixed fishes.

**14. (a) How much do these 88 registered Mainland fish farms export to Hong Kong a day on average? Can they meet the demand of Hong Kong market? Does their stock include the four major domestic fishes and mixed fishes and in what quantity respectively? Apart from the four major domestic fishes, do these 88 Mainland registered fish farms supply mixed fishes? Will supply of freshwater fishes to Hong Kong be available soon and in what quantity? And (c) the Administration should strengthen communication with the trade to inform them the name list of registered aquaculture farms as soon as possible; and furnish details of the first batch of 18 registered aquaculture farms in the Mainland that supply freshwater fishes to Hong Kong, including their addresses, the types and quantity of fish stock.**

A. We have already asked the Mainland authorities to provide us a complete name list and information of the registered aquaculture farms that supply freshwater fishes to Hong Kong as soon as possible.

**15. Can the freshwater fishes supply from these 88 registered aquaculture farms meet the demand of Hong Kong? Will the Mainland increase the number of registered farms to prevent a handful of fish farms from monopolizing the market?**

- A. On whether these 88 Mainland aquaculture farms can provide adequate supply to Hong Kong, we have already asked the Mainland authorities to give us a complete name list of the registered aquaculture farms that supply freshwater fishes to Hong Kong and their detailed information.

Our objective is to put in place an arrangement that facilitates these 88 registered aquaculture farms to supply freshwater fishes to Hong Kong. If the trade considers it necessary, we will also be glad to raise the proposal of increasing the number of registered fish farms with the Mainland authorities.

**16. Apart from the 88 registered fish farms, will the Mainland authorities endorse other registered fish farms to export to Hong Kong in the future? If affirmative, is there any schedule for increasing the number of fish farms? Do the authorities in Hong Kong have any long term plan to allocate more staff to tackle the inspection and testing work that arises from the arrangement? If not, please state the reasons.**

- A. Our objective is to put in place an arrangement that facilitates these 88 registered aquaculture farms to supply freshwater fishes to Hong Kong. If the trade considers it necessary, we will also be glad to raise the proposal of increasing the number of registered fish farms with the Mainland authorities.

When the new arrangement for exporting freshwater fishes to Hong Kong is in place, we will redeploy staff and resources as appropriate. We will also consider increasing staff and resources, when necessary.

**17. The Secretary for Health, Welfare and Food once remarked that Mainland could supply 100 tonnes of safe freshwater fishes to Hong Kong. Does this batch of freshwater fishes come from those 88 registered aquaculture farms? How can one obtain this batch of fishes?**

- A. According to Shenzhen Entry-Exit Inspection and Quarantine Bureau and information obtained at the meeting between its chief and DFEH held on 25 August, the registered aquaculture fish farms in Shenzhen have 100 tonnes of freshwater fishes available for export to Hong Kong. The trade may contact these Mainland aquaculture farms directly to arrange for import of freshwater fishes and aquatic products.

**18. The Government should advise the trade on the operation details, facilities as well as sampling and testing standards of registered fish farms as soon as possible.**

- A. In inspecting registered fish farms in the Mainland, staff of FEHD and AFCD will check out the following items:

#### Information of Fish Farms

- Name, location/address, contact telephone number, size, layout, year of establishment and records of fishes supplied to Hong Kong
- species of fish stock and their respective production process
- registration number assigned by AQSIQ

#### Inspection Records of AQSIQ

- inspection scheme, sampling and testing methods and standards of AQSIQ
- inspection, monitoring and testing records of fish farms from AQSIQ
- recent reports on non-compliance and follow-up actions taken
- pre-sale quality assurance procedures
- health certificates issued previously

#### Inspection of Fish Farms

- condition of fish farm and its neighbouring environment
- rearing and management records of fish farms (sources of fish fry, fish species and population density, feeding practice, monitoring of water quality, fish diseases and mortality rate, use of veterinary drugs and aquaculture chemicals, as well as rearing fishes from other fish farms, etc)
- the condition of water quality, fish pond sediment and fish condition (to assess whether it is necessary to take samples of water, sediment and fishes for further tests)
- storage facilities for fodder, drugs and chemicals
- prevention and control measures for fish diseases

#### Sale and Transportation of Fish to Hong Kong

- daily/monthly quantity of fish supplied to Hong Kong
- distribution channels (sold directly by fish farm owners or through export agents/companies) and names of the export agents/companies
- transportation methods and hygiene control measures
- measures taken to ensure that fishes from different fish farms are kept separate during transportation (such as putting sealing strips on each batch of fish).

### **19. Why are there errors in the list of registered freshwater fish farms that supply freshwater fishes to Hong Kong published by the Government?**

- A. We understand that the Shenzhen authorities will hold a press conference on 1 September to offer details on the city's registered aquaculture farms that export freshwater fishes to Hong Kong and arrange a press tour to aquaculture farms.

#### Enforcement /The Way Forward

### **20. What are the specific measures/plans to restore public confidence in freshwater fishes? The Government should help the people differentiate between freshwater fishes reared locally and in the Mainland.**

- A. We have drawn up a host of measures to safeguard the safety of freshwater fishes. For example, we will continue to conduct sample inspections on imported freshwater fishes at import and wholesale levels. We will also liaise with the trade and urge them to

exercise self-regulation and sourcing their supplies from registered freshwater farms only and to keep transaction records to facilitate source tracing. We also hope that the trade can provide health certificates for their goods. When necessary, the Government Laboratory may also provide appropriate technical assistance to private laboratories.

After discussion with the trade, AFCD implemented an Accredited Fish Farm Scheme in June 2005 for voluntary participation by local fish farmers. Fish farms participating in the Scheme must adopt good aquaculture practices and hygiene standards required by the Accredited Fish Farm Scheme as well as the prescribed management system. AFCD will inspect these fish farms and provide necessary technical support. Fish produce from these farms will be marketed under the label of Accredited Fish Farm Scheme.

**21. The Government should immediately develop a source tracking system for aquatic products that requires importers, wholesalers and retailers to maintain records that detail the source and sale of each and every batch of aquatic products to enable the authorities to track down the source in case of any problems.**

A. Of the series of actions agreed by the SARG and AQSIQ, we planned to amend the legislation to stipulate that import of aquatic products require prior approval. Our initial plan is to plug the present loophole with respect to the lack of regulation on imported aquatic products by introducing legislation to regulate all imported aquatic products. For instance, all imported aquatic products, freshwater fishes and shellfish must be accompanied with export certificates and unloaded at designated landing points. Importers are also required to apply for a licence to prevent smuggling of aquatic products.

**22. The Government should make reference to the surveillance mechanism against avian flu viruses among chickens and stipulate that any farm that supply aquatic products with malachite green will be have its licence cancelled.**

A. We will conduct studies with the Mainland on the regulatory mechanism for registered aquaculture farms that supply freshwater fishes to Hong Kong. Under the current arrangement, when Hong Kong detects malachite green or other harmful substances in freshwater fishes supplied to Hong Kong, we will notify the owners and require them to destroy the stock concerned. We will also notify the relevant Mainland authorities immediately to facilitate them to follow up the matter with the fish farm and take appropriate actions.

**23. Once the Gazette Notice on prohibiting the use of malachite green in food is published, what measures or actions will the Administration take if malachite green is still found in the freshwater fish samples collected from registered aquaculture farms? Will the fish trader be prosecuted? Will the Mainland fish farms be punished?**

A. According to the amended *Harmful Substances In Food Regulations* under the *Public Health and Municipal Services Ordinance*, malachite green has been incorporated into the list of prohibited chemicals. If malachite green is still found in freshwater fish samples collected from registered farms that export to Hong Kong, we will take

appropriate actions in accordance with the law after taking due consideration of various factors, such as whether **the fish trader concerned has taken adequate measures to ensure food safety.**

**24. Do the registered fish farms specified above supply live eels? According to the trade, some processed eel products found in Hong Kong are imported from processing plants in the Mainland. Are the products from processing plants required to be accompanied with health certificates from registered fish farms at the point of import? How do the Hong Kong Government and SARG and the Mainland authorities monitor these eel products processing plants?**

A. We are seeking to obtain information on the fish stock of these registered fish farms specified above in the Mainland. Regarding eel products processing plants in the Mainland, we are not required under the existing law to monitor these Mainland plants. To safeguard public health, we will collect food samples from the market for testing under the existing Food Surveillance Programme.

**25. Since the Mainland authorities have stepped up control on export of freshwater fishes, the Government Laboratory of Hong Kong has found malachite green in two more samples from freshwater fishes imported from the Mainland. This is an example of slip-up that allows “fishes to slip through the net”. If the Government charges traders for selling fresh water fishes that contain malachite green in future, can the traders cite this example of oversight as proof of slip-up in test and ask the Government to drop the charge? In this connection, what is the purpose and implication for making the legislative amendments?**

A. If malachite green is still found in imported freshwater fish samples, we will take appropriate actions in accordance with the law after due consideration of various factors, such as whether the fish trader concerned has adopted adequate measures to ensure food safety.

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