

**立法會**  
**Legislative Council**

LC Paper No. CB(2)1749/12-13

(These minutes have been  
seen by the Administration)

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**Panel on Food Safety and Environmental Hygiene**

**Minutes of special meeting  
held on Thursday, 3 January 2013, at 10:45 am  
in Conference Room 3 of the Legislative Council Complex**

- Members present** : Hon Alan LEONG Kah-kit, SC (Chairman)  
Hon Steven HO Chun-yin (Deputy Chairman)  
Hon James TO Kun-sun  
Hon Tommy CHEUNG Yu-yan, SBS, JP  
Hon Vincent FANG Kang, SBS, JP  
Hon WONG Kwok-hing, MH  
Dr Hon Joseph LEE Kok-long, SBS, JP  
Dr Hon LEUNG Ka-lau  
Hon Claudia MO  
Hon CHAN Chi-chuen  
Hon Christopher CHUNG Shu-kun, BBS, MH, JP
- Members absent** : Hon CHEUNG Kwok-che  
Hon WONG Yuk-man  
Dr Hon Kenneth CHAN Ka-lok  
Dr Hon Helena WONG Pik-wan
- Public Officers attending** : Dr KO Wing-man, BBS, JP  
Secretary for Food and Health
- Mrs Marion LAI CHAN Chi-kuen, JP  
Permanent Secretary for Food and Health (Food)
- Mr Clement LEUNG Cheuk-man, JP  
Director of Food and Environmental Hygiene

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

Dr HO Yuk-yin, JP  
Consultant (Community Medicine) (Risk Assessment  
and Communication)  
Centre for Food Safety, Food and Environmental  
Hygiene Department

**Clerk in attendance** : Ms Elyssa WONG  
Chief Council Secretary (2) 5

**Staff in attendance** : Mr Jove CHAN  
Senior Council Secretary 2 (6)

Ms Priscilla LAU  
Council Secretary (2) 5

Ms Michelle LEE  
Legislative Assistant (2) 5

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- I. Production, sale and use of substandard cooking oil ("gutter oil")**  
(LC Paper Nos. CB(2)410/12-13(01) to (02), CB(2)380/12-13(01) to (03), CB(2)394/12-13(01) to (03) and CB(2)401/12-13(01))

The Secretary for Food and Health ("SFH") briefed members on the measures taken by the Food and Environmental Hygiene Department ("FEHD") and its Centre for Food Safety ("CFS") to follow up on suspected substandard cooking oil, details of which were set out in the Administration's paper (LC Paper No. CB(2)410/12-13(01)).

2. Members also noted the information note entitled "Production, sale and use of substandard cooking oil ('gutter oil')" (LC Paper No. CB(2)410/12-13(02)) prepared by the Legislative Council ("LegCo") Secretariat.

3. Mr Tommy CHEUNG declared that he owned a company with business in recovering used cooking oil.

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Follow-up measures on suspected substandard cooking oil

4. Mr WONG Kwok-hing criticized the Administration for its slow response to follow up on issues relating to "gutter oil" as he had drawn the attention of the Administration to the issue in April 2012. Noting that public confidence in the safety of cooking oil used by local restaurants had plummeted following the incident, Mr WONG urged the Administration to carry out expeditiously follow-up measures to restore public confidence in the safety of cooking oil. Mr Tommy CHEUNG shared Mr WONG's view, adding that the catering trade was hard hit by the incident. The Deputy Chairman commented that the Administration was slow to trace the source of the substandard cooking oil.

5. Referring to paragraph 14 of the Administration's paper that the hygiene conditions of one food processing establishment was unsatisfactory during FEHD's inspection, Mr Vincent FANG urged the Administration to step up its inspections on all cooking oil processing establishments, distributors and manufacturers.

6. SFH advised that FEHD had taken immediate follow-up actions by inspecting establishments concerned and collecting cooking oil samples for testing. The food tracing mechanism was also effective in helping CFS identify and trace the source of the cooking oil in question. CFS, based on the transaction records collected during its investigation, was able to quickly trace the importer who supplied the cooking oil as well as the distributors and retailers who were supplied the cooking oil. CFS was therefore able to take prompt action to deal with the incident.

7. Referring to paragraph 17 of the Administration's paper that in the course of CFS's investigation into the incident, non-compliance with the registration requirement of food importers and distributors and the record keeping requirement under the Food Safety Ordinance (Cap. 612) was revealed, Dr Joseph LEE questioned whether the Administration had possessed all the relevant information on cooking oil traders to allow it to take necessary enforcement actions. He also questioned whether the transaction records could provide proof for the quality of cooking oil. In his view, the Administration should require the cooking oil traders to produce laboratory testing results for their cooking oil and CFS should increase both the number of cooking oil samples taken for testing and the testing frequency to ensure the safety of cooking oil.

8. SFH advised that CFS had been monitoring the quality and safety of cooking oil and had published the results from time to time. More than 310 samples of cooking oil were tested between January 2011 and

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October 2012 under the routine food surveillance programme. CFS also announced in November 2011 the testing results of a targeted food surveillance project on used cooking oil, which included the test for BaP. All the testing results were satisfactory. To ensure the safety of cooking oil, CFS also proposed to include BaP in its routine testing of cooking oil under the routine food surveillance programme. CFS would also embark on an additional targeted food surveillance project on cooking oil. Director of Food and Environmental Hygiene ("DFEH") supplemented that after the Food Safety Ordinance came into operation in February 2012, more than 10 000 food importers and distributors had registered in accordance with the requirements of the Ordinance. In addition, some other 20 000 caterers held relevant licences from FEHD. DFEH assured members that with the food tracing mechanism in place, CFS was able to take quick and appropriate enforcement actions and to manage the problem at source.

9. The Deputy Chairman suggested that the Administration should consider requiring importers of cooking oil to provide health certificates for the imported cooking oil to ensure its safety. Mr Tommy CHEUNG suggested that the Administration should consider implementing a licensing scheme for importing, producing and packaging cooking oil. SFH advised that under the existing legislation, any person carried on the business of producing, including mixing and refining cooking oil, was required to obtain a licence from FEHD. However, there was no licensing requirement for importing cooking oil. The Administration would adopt a risk-based approach when determining whether there was a need to strengthen food safety control measures at the import level.

10. Noting that the United States, Australia, Japan and Singapore had not set any limits on Benzo[a]pyrene ("BaP") in food including cooking oil, Mr Vincent FANG enquired whether CFS had tested any cooking oil samples imported from these countries for BaP. SFH advised that CFS had been monitoring the quality of cooking oil in Hong Kong and had taken cooking oil samples imported from various places for testing for different chemicals under the food surveillance programme. All the samples taken were found to be satisfactory. SFH further advised that different jurisdictions might have different food standards taking into account their local circumstances and their assessment of the food risks posed to public health. The issue of food safety might not be directly related to the setting of a statutory limit on a particular substance.

11. Mr Christopher CHUNG considered it necessary to impose labelling requirements for cooking oil in small packs. He suggested that consideration could be given to requiring the distributors to clearly indicate on the label of the cooking oil the level of harmful substances present in the

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product in order to recover public confidence in the cooking oil. DFEH advised that the current food labelling requirements were applicable to packaged food included bottled or canned cooking oil. General information such as ingredients, weight, expiry date and the details of the manufacturer was indicated on the food label.

12. Ms Claudia MO suggested a demerit point mechanism for importers supplying substandard cooking oil to Hong Kong. SFH cautioned that such regulatory measure might not be effective as the importer might circumvent it by changing the company name. DFEH supplemented that for food suppliers having poor food tests records, CFS would conduct additional food tests for similar food products imported by them. DFEH was also empowered by the Food Safety Ordinance (Cap. 612) to make orders to prohibit the import or supply of food from a specific place or by a specific supplier if he had reasonable grounds to believe that the food would pose danger to public health. DFEH further advised that he had made an order in March 2011 prohibiting the import of fresh produce from the five prefectures in Japan following the Fukushima Daiichi nuclear plant incident and orders in June 2011 prohibiting the import of certain food products contaminated with plasticizers produced in Taiwan.

13. To restore public confidence in the cooking oil, the Chairman suggested the Administration to promote a food safety charter on the cooking oil in collaboration with the catering trade. SFH welcomed the suggestion and advised that the Administration would be willing to further explore the details with members, the catering trade and food safety experts. DFEH reiterated that the Administration would take enforcement actions in accordance with the Public Health and Municipal Services Ordinance if any food product on sale was found to be unfit for human consumption and posed harm to public health.

14. Mr CHAN Chi-chuen criticized the Administration for its slow response to take follow-up actions against the suspected illegal catering and delivery services offered by some factory canteens. He suggested the Administration to offer rewards for members of the public to report suspected cases of non-compliance with the legislation. The Chairman shared Mr CHAN Chi-chuen's view. Noting that members of the public in the United States were encouraged to report problems with food to the food safety authority, the Chairman suggested that consideration could be given to setting up a similar hotline at CFS for the public to report suspected food incidents.

15. SFH advised that members of the public were welcomed to report suspected food incidents via FEHD's 24-hour hotline 2868 0000 or the

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Government hotline 1823. Efforts would be made to encourage members of the public to report food problems to CFS.

16. Mr James TO enquired whether any offence had been committed by the distributor of the substandard cooking oil and whether CFS had conducted any tests on samples of cooking oil taken from the restaurants which were reported using the substandard cooking oil. Assistant Director (Food Surveillance and Control), Centre for Food Safety ("AD(FS&C)/CFS") advised that 90 food samples had been taken from the importer, distributors, retailers and restaurants which had purchased or suspected to have purchased the substandard cooking oil. According to the test findings, two samples taken from the supplier in Tuen Mun were found to contain BaP levels at 16 mcg/kg and 17 mcg/kg respectively, exceeding the limits set by both the Mainland (i.e. 10 mcg/kg) and the European Union ("EU") (i.e. 2 mcg/kg). In addition, BaP was also detected in two other samples collected from the food processing establishment in Kwai Chung at 5.8 mcg/kg and 6.2 mcg/kg respectively. DFEH further advised that the Department of Justice would be consulted before making a decision on whether to proceed with a prosecution.

17. Mr WONG Kwok-hing expressed strong dissatisfaction that the Administration had not destroyed the 35 tanks of substandard cooking oil but to ask the supplier to return them to their place of origin, i.e. the Mainland. He was worried that the supplier might reprocess and repackage the substandard cooking oil and export it to Hong Kong for sale again. SFH advised that the Administration had already contacted the State General Administration of Quality Supervision, Inspection and Quarantine ("AQSIQ") for follow-up action. DFEH supplemented that unless the volume or the quantity of the products concerned was small that they would be destroyed by FEHD, it was a normal practice for FEHD to request the supplier to return the products in question to their place of origin. FEHD would also inform the food safety authority in the place of origin of the return in advance. Such arrangement was also on a par with international practice. DFEH added that AQSIQ had attached importance to the incident and had ordered to investigate the cause and make remedy action as appropriate.

18. Mr WONG Kwok-hing maintained his view that all substandard cooking oil should be immediately destroyed in Hong Kong instead of being returned to its place of origin. He requested the Administration to keep the Panel informed of the whereabouts of the 35 tanks of the substandard cooking oil returned to the Mainland and how they were handled by the Mainland authority.

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Regulation of BaP

19. Mr Tommy CHEUNG sought clarification on whether BaP naturally existed in the environment. Consultant (Community Medicine) (Risk Assessment and Communication), Centre for Food Safety ("C(CM)(RAC)/CFS") advised that BaP was an environmental pollutant in air, soil and sediment. Plants might also absorb BaP during its growth. BaP could also be produced as a by-product during the production process of cooking oil or when cooking oil was heated at high temperature during the cooking process.

20. Mr WONG Kwok-hing considered the Administration's proposal to include BaP in its routine food surveillance programme inadequate to safeguard public health. He enquired about the reason for not introducing legislation to regulate the level of BaP in food. Dr Joseph LEE also urged the introduction of legislation to regulate the level of BaP in food. Mr Tommy CHEUNG raised similar concern.

21. C(CM)(RAC)/CFS explained that BaP was ubiquitous in the environment and might be found in trace amounts in various types of food. It was toxic to genes and might cause cancer in human. Therefore, the intake of BaP should be kept to a minimum. CFS had all along adopted a risk-based approach to determine its enforcement actions. Based on its risk assessment of the incident and with reference to the standards of various overseas jurisdictions and the Mainland, CFS proposed to take enforcement action and initiate a mandatory recall of cooking oil in accordance with Section 54 of the Public Health and Municipal Services Ordinance if a BaP level exceeding 20 mcg/kg was detected in the product. CFS would also take enforcement action in accordance with Section 52 of the Ordinance if a BaP level between 10 mcg/kg and 20 mcg/kg was detected. SFH added that CFS proposed adopting a provisional action level of 10 mcg/kg for BaP in cooking oil and would consult the Expert Committee on Food Safety on the proposal.

22. Mr Vincent FANG expressed concern about the risk-based approach adopted by CFS in the food surveillance programme. He was concerned about whether the food safety and control measures taken by CFS were commensurate with the risk of cooking oil posed to public health. The Deputy Chairman also sought the Administration's view on setting a statutory limit on BaP and other carcinogens in food.

23. SFH advised that the current food surveillance programme had already tested for different harmful substances. CFS had also been monitoring the quality of cooking oil before the incident. A study report on

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BaP in used cooking oil was published by CFS in November 2012. CFS had also been studying various international food standards and sought to harmonize these standards taking into account the local situation. C(CM)(RAC)/CFS further advised that since the Codex Alimentarius Commission ("Codex") had not yet developed a standard for BaP in food, CFS had made reference to relevant standards in EU, the Mainland, as well as the expert committee under the World Health Organization and the Food and Agriculture Organization of the United Nations for risk assessment. DFEH supplemented that certain harmful substances had been expressly prohibited in food by legislation. As regards other substances which might pose risks to public health, the Administration could also take enforcement actions in accordance with Sections 52 and 54 of the Public Health and Municipal Services Ordinance.

24. Noting that malachite green was listed as a prohibited substance under Schedule 1 of the Harmful Substances in Food Regulations (Cap. 132AF), the Chairman enquired about the differences between BaP and malachite green, and the reasons for not regulating BaP by legislation. C(CM)(RAC)/CFS explained that malachite green was a type of industrial dye and did not naturally exist in the environment. If it was found in food, it was added intentionally. However, BaP was ubiquitous in the environment and might be naturally found in trace amounts in various types of food. Therefore, caution must be exercised when setting a statutory limit on BaP in food or it might otherwise be regarded as a trade barrier.

25. The Chairman expressed worry that if the Administration adopted a less stringent standard for BaP in food than the Mainland, substandard cooking oil, say, cooking oil with a BaP level between 10 mcg/kg and 20 mcg/kg, might be imported into Hong Kong. DFEH advised that as the Codex had not set any limit on BaP in food, more time would be needed to evaluate the risk posed by BaP in food to public health and the appropriate action level. The Administration would consult the Expert Committee on Food Safety on the proposed action level of 10 mcg/kg and obtained the Expert Committee's consent before its implementation.

26. Mr Tommy CHEUNG remarked that he had conducted a survey with members of the catering trade and 80% of the respondents agreed to regulate the level of BaP in food in accordance with the EU standard, even if it might involve compliance cost.

Licensing exemption for bottling or canning cooking oil

27. While noting that the Administration was still considering the need to withdraw the licensing exemption for bottling or canning cooking oil,



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Mr WONG Kwok-hing considered it high time to withdraw the licensing exemption in order to safeguard public health. Dr Joseph LEE also urged the Administration to expeditiously withdraw the licensing exemption in order to ensure the safety of cooking oil. The Deputy Chairman enquired about regulatory measures for bottling and canning cooking oil other than requiring the business to obtain a licence from FEHD.

28. SFH advised that under the existing legislation, food processing establishments were required to obtain a licence from FEHD if their business was about mixing or refining cooking oil. However, business involving putting cooking oil from large containers into smaller bottles or cans was currently exempted from the obligation to hold a food business licence. The Administration would enhance inspections of these premises engaging in bottling and canning cooking oil to monitor their hygiene conditions. Subject to the inspection results, the Administration might consider withdrawing the licensing exemption arrangement. DFEH supplemented that the Administration had to consult the trade should it propose to withdraw the licensing exemption.

29. In response to the request from Ms Claudia MO and Mr Tommy CHEUNG that the Administration should introduce legislative amendments without delay to withdraw the licensing exemption, SFH stressed that the Administration had adopted a risk-based approach in its strategies and the planning and implementation of food safety control measures. Considering the simple procedures carried out in the business of bottling and canning of cooking oil and the low risk of contamination, the Administration should assess carefully the need to withdraw the licensing exemption for bottling and canning cooking oil and the impact of the withdrawal of the licensing exemption on the trade. SFH further advised that the supply of suspected substandard cooking oil to local restaurants was not caused by putting cooking oil from large containers into smaller bottles or cans. The risk management and control measures for bottling and canning cooking oil should therefore be assessed separately.

Food surveillance programme and food safety standard

30. Noting that the testing results of the food samples under the food surveillance programme were always found to be satisfactory, Dr Joseph LEE questioned the comprehensiveness of the food surveillance programme and doubted whether the number of cooking oil samples taken for testing was adequate to ensure its safety. He urged the Administration to increase the frequency and number of samples taken for testing and expressed support for allocating additional resources to the work of CFS in respect of food surveillance where necessary.

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31. DFEH advised that CFS had attached great importance to ensuring food safety. CFS conducted tests on a total of about 65 000 samples each year, i.e. about nine samples per 1 000 persons of the population of Hong Kong. This compared favourably with other overseas economies whose testing rate was about eight samples per 1 000 persons of the population.

32. Mr Christopher CHUNG expressed grave concern about the comprehensiveness of the food standards adopted in Hong Kong and whether they were on a par with the international standards. He urged the Administration to continuously review and update the local food standards with reference to the standards adopted in the Mainland and Hong Kong's major food importing countries in order to ensure a safe supply of food in Hong Kong. SFH advised that CFS had been constantly monitoring the developments of food standards in other jurisdictions, and would establish new local food standards as and when necessary.

33. Mr CHAN Chi-chuen expressed concern about the sampling method of the food surveillance programme. He noted with concern that the results of the CFS's food tests were always found to be satisfactory but the results of food tests conducted by the media revealed problems of food safety. He doubted if the food safety problems revealed by the media could be considered as individual cases only. AD(FS&C)/CFS explained that under the food surveillance programme conducted between January 2011 and October 2012, 310 cooking oil samples were taken for testing. The majority of them were from restaurants in different districts ranging from fine-dining restaurants to casual cuisines. Under a targeted food surveillance project on used cooking oil conducted in 2012, all the 68 cooking oil samples were taken from various restaurants and food factories. DFEH added that CFS had issued internal guidelines for collecting samples. It also announced routine surveillance results on a monthly basis. Results of targeted food surveillance and seasonal food surveillance projects were also announced upon completion of the projects. Members of the public could also access the surveillance results via CFS's website.

Monitoring of used cooking oil

34. The Deputy Chairman expressed concern that according to media reports, some unscrupulous traders had recovered used cooking oil containers, filling them with substandard cooking oil and repackaging them for sale. He urged the Administration to take measures to deter such behaviour. DFEH advised that the Administration had immediately taken follow-up actions. CFS had taken cooking oil samples from the

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manufacturer in question for testing, and the Customs and Excise Department was also investigating any non-compliance of the manufacturer with the Trade Descriptions Ordinance (Cap. 362).

35. In response to the enquiry of Mr Tommy CHEUNG about the methods for testing the presence of used cooking oil in cooking oil, SFH advised that there was currently no established scientific method for identifying used oil or "gutter oil". CFS had collected cooking oil samples for testing for BaP and other harmful substances. The Administration would continue to keep abreast of the latest development in the testing techniques and international standards for testing cooking oil. Mr CHEUNG expressed his view that it was also vital to know, in addition to testing for BaP in cooking oil, whether or not used cooking oil had been recovered and resold as cooking oil. He further suggested that the Administration should step up inspections of cooking oil processing establishments to ensure that used cooking oil would not be processed and resold as cooking oil.

36. Mr Christopher CHUNG echoed the view of Mr Tommy CHEUNG. Pointing out a higher risk to public health posed by used cooking oil, Mr CHUNG urged the Administration to expeditiously put in place regulatory measures for preventing used cooking oil from reselling as new cooking oil.

Safety of food imported from the Mainland

37. Noting that some supermarkets and retailers in Hong Kong might directly import food products into Hong Kong and those products might or might not come from registered farms or establishments, Mr Vincent FANG expressed concern about the safety of these food products. He suggested that consideration be given to encouraging suppliers or distributors of food imported from registered farms to label the source of the imported food. The Chairman also suggested that consideration could be given to requiring registered farms on the Mainland to obtain food safety certificates issued by reputable accreditation institutions to help members of the public to identify the sources of food and enhance public confidence in the safety of food imported from the Mainland. SFH noted members' suggestions.

38. Ms Claudia MO also expressed deep concern about the safety of food products imported from the Mainland. She urged the Administration to clarify whether there was "gutter oil" used by the local restaurants. SFH stressed that there was no scientific evidence supporting the existence of "gutter oil" in Hong Kong.

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Motion proposed by member

39. Mr WONG Kwok-hing moved the following motion -

"促請政府儘快修改法例規管苯並(a)芘致癌物質以保障市民的食油安全。"

(Translation)

"That this Panel urges the Government to expeditiously amend the legislation to regulate the carcinogen Benzo[a]pyrene, so as to guarantee the safety consumption of cooking oil by the public."

40. The Chairman ruled that the motion was related to the agenda item under discussion, and invited members to consider whether the motion should be proceeded with at this meeting. Members raised no objection. The Chairman said that the motion would be dealt with at this meeting.

41. The Chairman suggested and members agreed to extend the meeting for five minutes to handle the motion moved by Mr WONG Kwok-hing.

42. The Chairman put Mr WONG Kwok-hing's motion to vote. The results were: five members voted in favour of the motion; no member voted against it; and no member abstained. The Chairman declared that the motion was carried.

**II. Any other business**

43. There being no other business, the meeting ended at 12:45 pm.