

**立法會**  
***Legislative Council***

LC Paper No. CB(2)2123/14-15

Ref : CB2/SS/6/14

**Paper for the House Committee meeting on 9 October 2015**

**Report of the Subcommittee on Three Regulations  
Relating to Control Regime for the Import of Eggs**

**Purpose**

This paper reports on the deliberations of the Subcommittee on Three Regulations Relating to Control Regime for the Import of Eggs ("the Subcommittee").

**Background**

2. According to the Legislative Council Brief (File ref.: FH CR 2/3821/06) issued by the Food and Health Bureau, over 99% of eggs in Hong Kong are imported. While the World Organization for Animal Health ("OIE") has recommended that an international veterinary certificate should accompany the import of eggs for human consumption for control of Avian Influenza ("AI"), there is currently no specific legislation to regulate the import of eggs into Hong Kong. The Centre for Food Safety ("CFS") under the Food and Environmental Hygiene Department ("FEHD") has been regulating the import of eggs through administrative means. Upon notification of an AI outbreak in an egg exporting country/place, CFS will liaise with the concerned Consulate General and/or relevant importers to seek their cooperation to suspend export of eggs to Hong Kong. In case such eggs find their way into Hong Kong, CFS can seize, seal, remove and destroy such eggs not suitable for human consumption in accordance with section 59 of the Public Health and Municipal Services Ordinance (Cap. 132) ("PHMSO"). In the Administration's view, although the above-mentioned measure has been working effectively, the regulation is far from satisfactory.

3. The Administration has proposed to introduce statutory control for import of eggs through amending the Imported Game, Meat and Poultry Regulations (Cap. 132 sub. leg. AK) ("IGMPR") as well as making

consequential amendments to the Import and Export (General) Regulations (Cap. 60A) ("IEGR") and the Food Business Regulation (Cap. 132 sub. leg. X) ("FBR"). These Amendment Regulations, i.e. L.Ns. 105, 106 and 107 of 2015, were gazetted on 5 June 2015 and tabled at the Council meeting of 10 June 2015.

### **Three amendment regulations relating to control regime for import of eggs**

#### **The Imported Game, Meat and Poultry (Amendment) Regulation 2015 (L.N. 106 of 2015)**

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4. L.N. 106 of 2015 is made by the Secretary for Food and Health under section 55 of PHMSO to amend IGMPR to introduce a statutory control regime for the import of eggs<sup>1</sup>. Under the new statutory control regime provided for in L.N. 106 of 2015 with the addition of the new regulation 4(1)(ab) of IGMPR, no person shall import eggs into Hong Kong -

- (a) without a health certificate<sup>2</sup> issued by an issuing entity of the place of origin<sup>3</sup> of eggs recognized by the Director of Food and Environmental Hygiene ("DFEH") to examine the articles of food and certify that the eggs are fit for human consumption;
- (b) where they have been transhipped, subject to specified exception, without a transhipment certificate showing that they were properly imported into the place outside Hong Kong where they were unloaded and did not suffer any spoilage or deterioration during their stay there;

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<sup>1</sup> Under L.N. 106 of 2015, "eggs" means an egg of a bird belonging to a type of bird sold or offered for sale for human consumption or any edible part of such an egg whether such an egg or edible part is shelled or unshelled, raw or partially cooked, salted, preserved or otherwise processed, in frozen, liquid or dried form or contains any functional ingredient but excludes such an egg or edible part that is fully cooked or constitutes one of the ingredients of any compounded food. "Functional ingredient", in relation to any food, is defined as "an ingredient that is added to the food to affect the nutritional value, keeping qualities, texture, consistency, appearance, taste, odour, alkalinity or acidity of the food or to serve any other technological function in relation to the food". "Compounded food" is defined as "food containing two or more ingredients other than functional ingredients".

<sup>2</sup> The term "official certificate" in IGMPR is replaced by the term "health certificate", added by section 5(5) of L.N. 106 of 2015 to regulation 2 of IGMPR, which means, among other things, in relation to eggs, a certificate issued by an issuing entity of the place of origin of the eggs, showing that the eggs to which it relates were inspected, found to be fit for human consumption and packed under sanitary conditions.

<sup>3</sup> The term "country of origin" in IGMPR is replaced by the term "place of origin", added by section 5(5) of L.N. 106 of 2015 to regulation 2 of IGMPR, which means, among other things, in relation to eggs, the place where the eggs were packed or processed.

- (c) without having obtained a permission in writing of a health officer of FEHD that the officer may give for the purposes of the new regulation 4(1)(ab); or
- (d) without having complied with such conditions as a health officer may impose for the purposes of the new regulation 4(1)(ab) (sections 5, 6 and 7(5)).

5. To reflect the expanded scope of the existing IGMPR to also cover eggs, L.N. 106 of 2015 amends its title and citation to become "Imported Game, Meat, Poultry and Eggs Regulations". L.N. 106 of 2015 also provides for the necessary transitional arrangements arising from the amendments made to IGMPR.

Import and Export (General) (Amendment) Regulation 2015 (L.N. 105 of 2015)

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6. L.N. 105 of 2015 is made by the Chief Executive in Council under section 31 of the Import and Export Ordinance (Cap. 60) to amend regulation 6(1)(ca)(iv) of IEGR to replace "official certificate" with "health certificate", as a result of the relevant amendment to IGMPR under L.N. 106 of 2015. It also provides for the necessary transitional arrangements arising from the amendments made to IEGR.

Food Business (Amendment) Regulation 2015 (L.N. 107 of 2015)

7. L.N. 107 of 2015 is made by DFEH under section 56 of PHMSO to amend item 2 of Schedule 1 to FBR by amending the reference made to the title of IGMPR to "Imported Game, Meat, Poultry and Eggs Regulations", as a result of the relevant amendment made to IGMPR under L.N. 106 of 2015.

8. The above three Amendment Regulations, namely L.N.s 105, 106 and 107 of 2015, will come into operation on 5 December 2015.

**The Subcommittee**

9. At the House Committee meeting on 12 June 2015, Members agreed to form a subcommittee to study the above three Amendment Regulations. The membership list of the Subcommittee is in **Appendix I**. A list of individuals who have provided written submissions to the Subcommittee is in **Appendix II**.

10. Under the chairmanship of Hon Steven HO Chun-yin, the Subcommittee has held two meetings with the Administration.

11. To allow more time for the Subcommittee to study the Regulations, the scrutiny period of the Regulations has been extended from 8 July 2015 to the first Council meeting of the 2015-2016 session to be held on 14 October 2015 by a resolution of the Council passed on 24 June 2015.

## **Deliberations of the Subcommittee**

### Introduction of proposed control regime for import of eggs

12. According to the Administration, egg importers are required under the proposed control regime for the import of eggs to produce a health certificate issued by an issuing entity from the place of origin recognized by DFEH to certify that the eggs are fit for human consumption. Some members are concerned about whether there are any discrepancies among places that supply eggs to Hong Kong in their standards for assessing whether the eggs are fit for human consumption. The Administration has advised that to ensure consistency of health standards among certificates from different places of origin, DFEH will require issuing entities concerned to comply with the health standards set by relevant international organizations including the World Health Organization ("WHO") and OIE.

13. Noting that CFS has taken some 1 500 egg samples for testing in the past three years and all samples were found to be satisfactory, members belonging to the Liberal Party consider that the risk of eggs being contaminated with AI is low. They therefore consider it unnecessary to make the three Amendment Regulations relating to the proposed control regime for the import of eggs. Other members, however, express no strong views against the proposed control regime.

14. The Administration has explained that according to WHO, eggs from infected birds can be contaminated with AI. In 2014 and 2015, there were outbreaks of highly pathogenic AI in Europe, the American continents and different parts of Asia. Such outbreaks are expected to occur from time to time. Although the measures taken by CFS to regulate the import of eggs through administrative means have been working effectively, the regulation is far from satisfactory. OIE has recommended that an international veterinary certificate should accompany the import of eggs for human consumption for control of AI. Such an import requirement has been imposed in many jurisdictions including the European Union, the United States of America and Singapore.

### Coverage of proposed control regime

15. Some members are concerned about whether the importation of fertilized eggs for hatching at local farms is covered and how the Administration can prevent the smuggling of fertilized eggs for hatching by mixing them in consignments of imported eggs. They also consider it too stringent that preserved and salted eggs are included in the proposed control regime, and question whether it is common for other countries to impose similar requirements on these eggs. They suggest that the Administration consider whether these categories of eggs should be excluded from the coverage of the proposed control regime, as the health risk posed by these eggs is low.

16. The Administration has explained that the importation of fertilized eggs for hatching at local farms is monitored by the Agriculture, Fisheries and Conservation Department, and the importation of eggs for human consumption is regulated by CFS/FEHD. Past inspections on imported eggs have not found any consignments in which these two types of eggs were mixed together. Furthermore, while the proposed control regime excludes fully cooked eggs on the basis of scientific evidence which indicates that AI virus will hardly remain in cooked eggs, there has yet to be such scientific evidence for preserved and salted eggs. Hence, these eggs are included in the coverage of the proposed control regime to further protect Hong Kong from the threat of AI.

### Impact of proposed control regime

17. Some members are concerned about the possible impact of the proposed control regime on the supply of eggs in Hong Kong and enquire about the views of the trade/importers of eggs on the proposed control regime.

18. The Administration has advised that the proposed control regime should not have much impact on the supply of eggs, as the requirement of health certificates for eggs imported from the Mainland has been imposed since 2007, and the Administration has also reached agreement with 11 other places of origin which supply eggs to Hong Kong on the health certificate requirements. Moreover, it has consulted about 700 trade members and associations and all of them have no objection to the proposed control regime.

### Strengthening inspection of food items imported into Hong Kong

19. Some members suggest that surprise inspections and pre-arranged inspections on imported eggs should be conducted to ensure that imported eggs are fit for human consumption and to prevent problematic eggs from

being distributed to the retail market. If there is such distribution of problematic eggs, the Administration should ensure that the food tracing mechanism will be effective for tracing and recalling such eggs.

20. The Administration has explained that CFS's inspection on imported food (including eggs) has been following the risk-based approach. Regular inspection is usually conducted at the points of entry or warehouses after making arrangement with the importer concerned. In the event that a high-risk food consignment is identified, CFS and the Customs and Excise Department ("C&ED") may conduct a joint inspection upon the arrival of the imported food item at Hong Kong. Furthermore, while the Food Safety Ordinance (Cap. 612) ("FSO") requires food traders to keep the transaction records, the implementation of the proposed control regime will further strengthen CFS's capacity in tracing imported eggs regardless of the means of transport, as importers will be required to provide information which FEHD considers essential for tracking the importation of eggs into Hong Kong.

21. Some members stress that in order to safeguard food safety, it is imperative that CFS/FEHD can obtain detailed and updated information on imported food items prior to their arrival at Hong Kong. They consider that the existing requirement on import declaration (i.e. any person who imports or exports any articles, other than exempted articles, is required to lodge accurate and complete import/export declarations within 14 days after the importation/exportation of the article) is too lax. Although around 90% of carriers of ocean and river cargoes currently submit cargo information to C&ED in advance through the Electronic System for Cargo Manifests, some members suggest that the Administration should consider making it mandatory that all importers of food submit cargo information to C&ED and/or CFS/FEHD in advance so as to effectively monitor food safety. As the proposed control regime empowers the Administration to require egg importers to provide information that FEHD considers essential for tracing the eggs imported in advance, these members urge the Administration to consider introducing a similar control regime for the import of other high-risk food items.

22. According to the Administration, ongoing efforts have been made to enhance safety of food products imported by sea. CFS has been proactively exploring ways to strengthen the inspection of food consignments imported by sea including discussion with C&ED on the proposed setting up of a CFS food inspection checkpoint at the Kwai Chung Container Terminals for testing of food products imported by sea, with a view to further enhancing the food surveillance and safeguarding food safety.

23. The Subcommittee has agreed that enhancement of inspection of food items imported into Hong Kong by sea (including the proposed food inspection checkpoint) should be referred to the Panel on Food Safety and Environmental Hygiene for consideration and follow-up.

#### Review of food safety-related penalties

24. Some members take the view that the existing food safety-related penalties do not have sufficient deterrent effect. They also note that the levels of maximum penalty for non-compliance with the restriction on the import of certain meat, meat products, poultry and eggs under regulation 4(1) of IGMPR (i.e. a fine of \$50,000 and imprisonment for six months) and for the import of, for example, meat and poultry without an import licence under IEGR (i.e. a fine of \$500,000 and imprisonment for two years) are different. In this connection, the Administration has undertaken to conduct separately a comprehensive review of the food safety-related penalties under PHMSO and its subsidiary legislation (including IGMPR) as well as FSO. These members enquire about the timetable of the review.

25. According to the Administration, there is no concrete timetable on the review at this stage. The Administration is mindful of the different levels of penalty under IGMPR and IEGR which will be covered in the review. The Administration has previously considered providing for the proposed control regime through a regulation under FSO. This approach was premised on an assumption that the food safety-related provisions of PHMSO have been incorporated into FSO. As the incorporation has yet to be done due to competing priorities, the Administration has proposed providing for the proposed control regime under IGMPR in order to expedite the introduction of statutory control over the import of poultry eggs.

26. The Subcommittee suggests that the Administration should report the progress of the review to the Panel on Food Safety and Environmental Hygiene.

#### **Recommendation**

27. While a majority of members have no strong views against the three Amendment Regulations, two members belonging to the Liberal Party consider the making of these Amendment Regulations unnecessary. The Subcommittee does not propose any amendment to these Amendment Regulations.

**Advice sought**

28. Members are invited to note the deliberations of the Subcommittee.

Council Business Division 2  
Legislative Council Secretariat  
29 September 2015



**Subcommittee on Three Regulations  
Relating to Control Regime for the Import of Eggs**

**Membership list**

**Chairman** Hon Steven HO Chun-yin, BBS

**Members** Hon Tommy CHEUNG Yu-yan, GBS, JP

Hon Vincent FANG Kang, SBS, JP

Hon WONG Kwok-hing, BBS, MH

Hon Cyd HO Sau-lan, JP

Hon Alan LEONG Kah-kit, SC

Hon CHAN Han-pan, JP

Dr Hon Helena WONG Pik-wan

Total : 8 Members

**Clerk** Mr Colin CHUI

**Legal Adviser** Miss Winnie LO

## **Appendix II**

### **Subcommittee on Three Regulations Relating to Control Regime for the Import of Eggs**

A list of individual who has provided written submission to the Subcommittee

Mr YEUNG Wai-sing, Member of Eastern District Council