

立法會

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

Background brief prepared by the Legislative Council Secretariat

Purpose

This paper provides background information on the Administration's legislative proposals to amend the Imported Game, Meat and Poultry Regulations (Cap. 132 sub. leg. AK) ("IGMPR") to introduce a statutory control regime for the import of eggs, and to amend the Import and Export (General) Regulations (Cap. 60 sub. leg. A) ("IEGR") and the Food Business Regulation (Cap. 132 sub. leg. X) ("FBR"), as a result of the relevant amendment to IGMPR. It also summarizes the concerns of members of the Panel on Food Safety and Environmental Hygiene ("the FSEH Panel") on the legislative proposals.

Background

2. According to the Legislative Council ("LegCo") 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")¹ 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 would liaise with the concerned Consulate General and/or relevant importers to seek their

¹ OIE is the intergovernmental organization responsible for improving animal health worldwide, with a total of 180 Member Countries. OIE was created in 1924 to address the need to fight animal diseases at global level. In May 2003, the Office became the World Organization for Animal Health but kept its historical acronym.

cooperation to suspend export of eggs to Hong Kong². In the Administration's view, although the above-mentioned measure has been working effectively, this is far from satisfactory.

3. At present, IGMPR stipulates that no person shall import meat or poultry without an official health certificate issued by a competent authority³ which certifies that the meat or poultry concerned is fit for human consumption, or otherwise a prior written permission from the Director of Food and Environmental Hygiene ("DFEH") will be required. Under the Import and Export Ordinance (Cap. 60) ("I&EO"), no person shall import meat and poultry without an import licence issued under section 3 of I&EO. Regulation 6(1)(ca) of IEGR provides for conditions under which the requirement for import licence can be exempted. One such condition is that the imported meat or poultry is accompanied by "an official certificate" as defined in IGMPR.

4. According to the LegCo Brief, the Administration had since December 2010 consulted Consulate Generals, the Mainland authorities, and importers of game, poultry and eggs. The latest round of consultation for Consulate Generals and the trade was conducted in April 2015. They generally supported the Administration's proposal to introduce statutory import control on eggs.

Three regulations relating to control regime for the import of eggs

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

5. The Imported Game, Meat and Poultry (Amendment) Regulation 2015 (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 eggs⁴. Under the new statutory control regime provided for

² According to the Administration, 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").

³ At present, IGMPR only confers DFEH with the power to recognize competent authority having power under the laws in force in any country to issue such an official certificate.

⁴ 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 compound 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". "Compound food" is defined as "food containing two or more ingredients other than functional ingredients".

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 certificate⁵ issued by an issuing entity of the place of origin⁶ of eggs recognized by 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;
- (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); and
- (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)).

6. 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".

7. To further diversify and widen the source of food supply, the term "country of origin" in IGMPR is replaced by the term "place of origin" so that DFEH can allow the import of game, meat, poultry and eggs from a place of origin (which does not need to be a country) into Hong Kong. To effect such changes, DFEH may recognize an issuing entity (currently called "competent authority") from a place of origin for the issue of a health certificate (currently called "official certificate") under the Imported Game, Meat and Poultry (Amendment) Regulation 2015.

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

8. The Import and Export (General) (Amendment) Regulation 2015 (L.N.

⁵ 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, in relation to eggs, a certificate issued by an issuing entity of the place of origin of eggs, showing that the eggs to which it relates were inspected, found to be fit for human consumption and packed under sanitary conditions.

⁶ 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, in relation to eggs, the place where the eggs were packed or processed.

105 of 2015) is made by the Chief Executive in Council under section 31 of I&EO 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.

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

9. The Food Business (Amendment) Regulation 2015 (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.

10. At present, any person who commits an offence of IEGR is liable on conviction to a fine of \$500,000 and to imprisonment for two years; whereas any person who commits an offence of IGMPR is liable on conviction to a fine of \$50,000 and to imprisonment for six months. According to the LegCo Brief, the Administration is mindful of the different levels of penalty under IGMPR and IEGR and would separately conduct a comprehensive review of the food safety-related penalties under PHMSO and its subsidiary legislation, as well as the Food Safety Ordinance ("FSO") (Cap. 612).

11. The above three items of subsidiary legislation, namely L.N. 105 to L.N. 107 of 2015, will come into operation on 5 December 2015.

Deliberations of the Panel

12. The FSEH Panel discussed with the Administration the legislative proposals to provide for control over the import of poultry eggs at the meetings on 17 May⁷ and 12 July 2011, and received deputations' views at one of the meetings. The main views and concerns on the legislative proposals expressed by the FSEH Panel members at the above meetings are summarized in the ensuing paragraphs.

Definition of eggs

13. Members noted that the definition of poultry eggs in the Administration's

⁷ At the meeting on 17 May 2011, the FSEH Panel was advised that the Administration proposed to extend the import control regime for meat and poultry under IGMPR and IEGR to cover poultry eggs through a regulation under FSO. According to the LegCo Brief, this approach was premised on an assumption that the food safety related provisions of PHMSO would have been incorporated into FSO. As the incorporation had yet to be done due to competing priorities, the Administration proposes providing for the control of poultry egg import under IGMPR of PHMSO.

legislative proposals in 2011 covered shelled or unshelled poultry eggs which included raw eggs and egg yolks, preserved eggs or partly cooked eggs (including egg yolks separated from the white of such eggs), while excluding powdered eggs, cooked eggs and pasteurized frozen or liquid eggs (including liquid egg white and egg yolks). Concern was raised as to whether the proposed regulation duly covered all possible health threats, e.g. eggs contaminated with Sudan Red and dioxin. The Administration was urged to broaden the definition of eggs to be covered by the proposed regulation.

14. The Administration advised that the proposed regulation was intended to focus on highly pathogenic virus, i.e., AI virus. With reference to scientific documents, AI virus could hardly remain in powdered eggs, cooked eggs, and pasteurized eggs which had been processed under high temperature, and therefore the health risks posed were relatively low. Furthermore, there were presently food safety regulations regulating the use of Sudan Red and the level of dioxin in all food products.

Impact on the trade

15. Concern was raised about the possible impact of the proposed regulation on trading costs and the number of the places of origin of poultry eggs imported. There were worries that the business of poultry farming and relevant trades would be affected by the proposed regulation. There was a view that as the risk of AI had been lowered in recent years, there was not an urgent need to propose the regulation. The Administration was urged to assess the impact of the proposed regulation after its implementation (including the changes in quantities and prices of poultry eggs), and to engage a consultant to assess the impact of the proposed regulation on the affected trades.

16. According to the Administration, health certificates had been required for poultry eggs imported from the Mainland since 2007, and for most of the other places of origin, they had already issued export health certificates for their other markets. There should not be an impact of the proposed regulation on additional trading costs for the poultry eggs importers. The Administration had also consulted the Consulate Generals of countries where poultry eggs were imported from as well as the importers, and they had expressed support for the proposed regulation.

Recent developments

17. When the FSEH Panel discussed with the Administration issues relating to the prevention and control of AI at its meetings on 17 January and 11 March 2014, an enquiry was raised about the progress of the proposed legislative amendments to regulate the import of poultry eggs. Concern was also raised

about AI risks posed by poultry eggs (including fertilized duck eggs). The Administration advised that it was in the process of drafting the relevant legislative amendments.

18. The three Regulations relating to control regime for the import of eggs were gazetted on 5 June 2015 and tabled at the Council meeting of 10 June 2015. At the House Committee on 12 June 2015, Members agreed that a subcommittee should be formed to study the three Regulations.

Relevant papers

19. A list of the relevant papers on the LegCo website is in the **Appendix**.

Council Business Division 2
Legislative Council Secretariat
29 June 2015

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

| Committee | Date of meeting | Paper |
|--|-------------------------|---|
| Panel on Food Safety and Environmental Hygiene | 17.5.2011 (Item V) | Agenda Minutes |
| | 12.7.2011 (Item III) | Agenda Minutes |
| | 17.1.2014 (Item I) | Agenda Minutes |
| | 11.3.2014 (Item IV) | Agenda Minutes |

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