

# 立法會 *Legislative Council*

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## **Panel on Food Safety and Environmental Hygiene**

### **Background brief prepared by the Legislative Council Secretariat for the meeting on 11 November 2014**

#### **Update on the "substandard lard" incident and food safety issues of cooking oil**

#### **Purpose**

This paper provides background information on the "substandard lard" incident and food safety issues of cooking oil, and summarizes major views and concerns of members of the Panel on Food Safety and Environmental Hygiene ("the Panel") on the subject.

#### **Background**

##### Relevant food legislation in Hong Kong

2. The existing Hong Kong legislation does not stipulate a statutory standard specifically for cooking oil. However, section 52 of the Public Health and Municipal Services Ordinance (Cap. 132) ("PHMSO") provides that any person sells to the prejudice of a purchaser any food (including cooking oil) which is not of the nature, substance or quality of the food demanded by the purchaser shall be guilty of an offence, which is liable to a maximum fine of \$10,000 and imprisonment for three months upon conviction. Section 54 of PHMSO also stipulates that all food (including cooking oil) for sale must be fit for human consumption. An offender is subject to a maximum fine of \$50,000 and imprisonment for six months upon conviction.

3. Another food law in Hong Kong, the Food Safety Ordinance (Cap. 612) ("FSO"), provides additional food safety control measures, including a registration scheme for food importers and food distributors and a requirement for food traders to maintain proper records of the movements of food so as to enhance food traceability. Any person who imports food without registering

as a food importer or distributor shall be guilty of an offence, which is liable to a maximum fine of \$50,000 and imprisonment for six months upon conviction. Any person who fails to comply with record keeping requirements shall also be guilty of an offence, and will be subject to a maximum fine of \$10,000 and imprisonment for three months upon conviction. The Director of Food and Environmental Hygiene ("DFEH") is empowered by FSO to demand importers and distributors to provide import or supply records. Failing to do so is an offence which carries a maximum fine of \$10,000 and imprisonment for three months upon conviction. DFEH is also empowered to make orders to prohibit the import and supply of problem food and the recall of such food.

#### Food safety issues of cooking oil

4. When the Panel discussed issues relating to "substandard cooking oil" ("gutter oil") at the special meeting on 3 January 2013, the Administration advised members that there was no established scientific method to test and identify the cooking oil made by "gutter oil". Noting that the European Union and China had established limits on Benzo[a]pyrene ("BaP")<sup>1</sup> at 2 and 10 micrograms per kilogram ("mcg/kg") respectively for fats/vegetable oil, members expressed disappointment that Hong Kong had not set any statutory limits on BaP in food. A motion was passed at the above meeting, urging the Government to expeditiously amend the legislation to regulate BaP so as to guarantee the safe consumption of cooking oil by the public.

5. In response to the motion, the Administration advised the Panel in June 2013 that the Centre for Food Safety ("CFS") of the Food and Environmental Hygiene Department ("FEHD") had established an action level of 10 mcg/kg for BaP in cooking oil (LC Paper No. CB(2)1431/12-13(01)). If a BaP level higher than 10 mcg/kg but lower than 20 mcg/kg was detected in cooking oil, CFS would take enforcement action in accordance with section 52 of PHMSO although the public health concern was low under the risk assessment. If a BaP level of 20 mcg/kg was detected in cooking oil, indicating a public health concern under risk assessment, CFS would take enforcement action in accordance with section 54 of PHMSO and initiate a mandatory recall of the cooking oil concerned.

#### The substandard lard incident

6. When the Panel discussed the "substandard lard" incident<sup>2</sup> at its special meeting on 25 September 2014, members noted that the Administration had

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<sup>1</sup> According to the Administration, BaP was toxic to genes and may cause cancer in humans. As of January 2013, the Codex Alimentarius Commission and many developed countries (e.g. the United States, Australia, New Zealand, Japan and Singapore, etc.) had not set any limits on BaP in food.

<sup>2</sup> The "substandard lard" incident was first reported by the Taiwan authorities on 4 September 2014. The official website of the Taiwan authority providing updated information on the incident is in the following hyperlink - <http://www.fda.gov.tw/TC/site.aspx?sid=4093#1> (Chinese only).

taken follow-up actions<sup>3</sup> including - (a) CFS appealed to the trade on 5 September 2014 to stop selling and using all brands of lard/lard products manufactured by Chang Guann Co., Ltd ("Chang Guann") in Taiwan after 1 March 2014; (b) DFEH issued the Food Safety Order ("the Order")<sup>4</sup> on 14 September 2014 prohibiting from importing into and supplying within Hong Kong all lard/lard products produced by Chang Guann on or after 1 March 2014 and all food products made with those lard/lard products; and (c) CFS released on 14 September 2014 a list of traders who might have distributed or used lard/lard products manufactured by Chang Guann on or after 1 March 2014.

## **Members' views and concerns**

7. Major views and concerns of members on the subject expressed at the two Panel meetings in January 2013 and September 2014 respectively are summarized below.

### Safety standard of cooking oil

8. When the Panel discussed the issue of "substandard cooking oil" ("gutter oil") in January 2013, members expressed grave concern about the quality assurance of cooking oil in Hong Kong. Noting that BaP was toxic to genes and might cause cancer in humans, members urged the introduction of legislation to regulate the level of BaP in cooking oil. There was a view that the Administration should require cooking oil traders to produce laboratory testing results for the cooking oil. There was another view that the Administration should consider implementing a licensing scheme for importing, producing and packaging oil.

9. When the Panel discussed the "substandard lard" incident at the meeting in September 2014, members expressed dissatisfaction about the slow progress of the Administration on the regulation of the food safety of edible oil. Members were of the view that the "substandard lard" incident was caused by the Administration's failure to follow up on the call to enhance the food surveillance of edible oil after the incident of "substandard cooking oil" in late 2012.

10. The Administration advised that following the "substandard lard" incident, it would step up regulation and consider amending the law to

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<sup>3</sup> CFS's webpage "Substandard Lard Produced in Taiwan" providing updated information on the incident is in the following hyperlink - [http://www.cfs.gov.hk/english/whatsnew/whatsnew\\_fst/whatsnew\\_fst\\_Substandard\\_Oil\\_Produced\\_in\\_Taiwan.html](http://www.cfs.gov.hk/english/whatsnew/whatsnew_fst/whatsnew_fst_Substandard_Oil_Produced_in_Taiwan.html)

<sup>4</sup> The Order is available in the following hyperlink - [www.gld.gov.hk/egazette/pdf/20141826e/egn2014182629.pdf](http://www.gld.gov.hk/egazette/pdf/20141826e/egn2014182629.pdf)

safeguard food safety, including (a) reviewing the relevant food safety legislation and suggesting to make it a statutory requirement that "used cooking oil" or "substandard oil" not intended for human consumption must not be used as ingredient for the production of edible oil; (b) proposing that edible oil importers be required to provide an official certificate issued by the place of origin or a certificate issued by an independent testing institution recognized by the government of the place of origin for inspection by FEHD; (c) considering that exporters of edible oil from Hong Kong be required to obtain an export licence together with the provision of an official certificate or a certificate issued by an independent testing institution recognized by the Government; and (d) considering, through the licensing conditions for restaurant and food factory licence of FEHD, requiring all used cooking oil to be handed over to collectors or recyclers recognized by the Environmental Protection Department and all records to be properly kept to prevent at source the used cooking oil from re-entering the food chain. Members were advised that the Administration would seek to launch a public consultation on the legislative proposals at the end of 2014 or in early 2015.

#### Food surveillance on cooking oil

11. Noting that the testing results of the food samples under the food surveillance programme were often found to be satisfactory, members repeatedly questioned the comprehensiveness of the food surveillance programme and doubted whether the number of cooking oil samples taken for testing was adequate to ensure the food safety of cooking oil. Members urged the Administration to increase the frequency and number of samples taken for testing and to consider allocating additional resources to the work of CFS in respect of food surveillance where necessary.

12. Members also expressed a view that the Administration should follow the European Union to adopt a more stringent standard of 2mcg/kg for the existence of BaP in Food. There was also a view that in addition to the level of BaP, testing on peroxide and the level of fatty acids could be conducted so as to inspect the quality of cooking oil and check whether used cooking oil had been mixed into the cooking oil.

13. The Administration advised that in 2013, CFS took some 450 samples of edible oil samples for testing chemicals including BaP, aflatoxins, peroxide value and metal contaminants, and all samples were found to be satisfactory. In light of the "substandard lard" incident, CFS would step up the inspection of edible oil from other places in 2015, with the number of samples expected to increase by at least 20% over 2013.

## Follow-up action of the "substandard lard" incident

### *Food tracing mechanism*

14. Members expressed concern that as there was no specific time limit for the submission of information by food traders when they were requested under FSO, the existing food tracing mechanism could not identify the source of problem food efficiently and the penalty for contravention lacked deterrent effect. Concern was also raised that a large amount of used cooking oil imported to Hong Kong might have been used by food premises and food factories. Members expressed disappointment that the Administration had yet to confirm whether and how much used cooking oil had re-entered the food chain.

15. The Administration advised that following the "substandard lard" incident, CFS had reminded the trade that depending on the urgency of the matter, DFEH might require food traders to submit the records and information within a minimum of 24 hours. In addition, CFS had liaised with the trade on enhancing the communication mechanism by requiring food importers and distributors to provide information of at least one contact person, and 24-hour contact telephone numbers and mobile telephone number for getting in touch with the contact person(s) during office/non-office hours in case of emergency food incidents. As regards the use of used cooking oil (particularly whether/how much used cooking oil had re-entered the food chain), the Administration was conducting an inter-departmental investigation and the results were not yet available.

### *Publication of information*

16. Concern was raised that the information announced by the Administration in particular the publication of the list of food traders who might have distributed or used lard/lard products manufactured by Chang Guann on or after 1 March 2014 ("the list") was confusing. Members urged the Administration to make efforts to revive the confidence of the public in the food trade, and take into account the impact on the food trade in handling similar food incident in future.

17. According to the Administration, the list was publicized to protect consumers' right to know and to ensure that the recall would be conducted in a timely and systematic manner. At the time of publication of the list, the Administration had made it clear to members of the public that the list might not necessarily reflect the prevailing situation, as traders concerned might have no stock of the relevant products, or had returned them to suppliers, or had removed them from the shelves, or had stopped using such products for some time.

### **Relevant Council question**

18. Hon Steven HO Chun-yin raised an oral question on food safety incidents relating to Husi Food Company Limited and the import of substandard lard from Taiwan at the Council meeting of 29 October 2014. The question and the Administration's reply are in **Appendix I**.

### **Latest development**

19. In the light of the latest announcement by the Taiwan authorities, DFEH issued a Food Safety Order on 29 October 2014 prohibiting from importing into and supplying within Hong Kong all edible fats and oils produced by Ting Hsin Oil and Fat Industrial Co. Ltd. and Cheng I Food Co. Ltd. as well as all food products manufactured with such fats and oils. The press release issued by the Administration is in **Appendix II**. This Order is available at the following hyperlink - <http://www.gld.gov.hk/egazette/pdf/20141828e/egn2014182831.pdf>. Members may also refer to the Legal Services Division Report on this Order issued under LC Paper No. LS10/14-15 dated 5 November 2014.

20. The Administration will update the Panel on the "substandard lard" incident and food safety issues of cooking oil at the meeting on 11 November 2014.

### **Relevant papers**

21. A list of the relevant papers on the Legislative Council website is in **Appendix III**.

## Press Releases

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LCQ2: Food safety incidents  
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Following is a question by the Hon Steven Ho and a reply by the Secretary for Food and Health, Dr Ko Wing-man, in the Legislative Council today (October 29):

Question:

A few food safety incidents have occurred in Hong Kong recently, including one in which a chain eatery used expired meat products supplied by Shanghai Husi Food Company Limited, and another one in which many eateries and food manufacturers used substandard lard imported from Taiwan. Some members of the public have pointed out that the aforesaid chain eatery disseminated confusing information after the incident had been uncovered, and the food tracing mechanism currently in place also failed to trace the sources and distribution of the substandard lard expeditiously, thereby undermining their confidence in food safety. Such members of the public have also pointed out that while it is stipulated in the existing legislation that the Director of Food and Environmental Hygiene may demand food importers and distributors to submit transaction records which they are required to keep, no time limit for compliance is prescribed in the legislation and the penalty for contravention also lacks deterrent effect. In this connection, will the Government inform this Council:

(1) whether it will amend the existing legislation to require food importers and distributors to submit upon the authorities' request their transaction records within a specified time limit, and to increase the penalty for contravention; if it will, of the details; if not, the reasons for that;

(2) whether it will conduct a comprehensive review of the effectiveness of the food tracing mechanism, in particular the arrangements for information dissemination and the announcement of the list of eateries involved, so as to ensure that the mechanism can effectively help the authorities in handling food safety incidents; and

(3) given that the authorities have proposed to legislate to require importers and exporters of edible oils to provide official certificates issued by the place of origin of edible oils for random inspection by them, how the authorities will verify the authenticity of such certificates?

Reply:

President,

The recent food safety incidents, such as those related to problematic food products from Husi Food Company in Shanghai and the substandard lard from Taiwan, involved a wide spectrum of parties and products. Also, the food products affected are those commonly consumed by the public and widely available in the market. The Government has been very concerned about these incidents and has been taking follow-up actions proactively. The Government has also taken appropriate measures in light of developments of these incidents in order to safeguard food safety.

In the course of investigation, apart from liaising closely with the food safety authorities of the places where the affected food products originated to keep tab on the up-to-date situation, the Centre for Food safety (CFS) also traced the source of these

food products and their distribution from importers to distributors and downstream businesses. CFS invoked the power to request traders which might be affected by the incidents to submit information on the trading and use of the relevant products within the time limits set conferred upon the Director of Food and Environmental Hygiene (DFEH) under the Food Safety Ordinance (Cap. 612). This allowed CFS to assess the scale of the incidents and the movement of the food products in question more accurately, as well as to trace, mark and seal the products which might be affected, so as to prevent further sale of problematic food products.

My reply to the various parts of the question is as follows:

(1) Sections 4 and 5 of the Food Safety Ordinance provide that all food importers or distributors must be registered with DFEH as food importers or distributors. Besides, sections 21 to 24 of the Ordinance require any person who, in the course of business imports, acquires or supplies food by wholesale in Hong Kong, must keep transaction records of the business to which it has supplied the food and the business from which it has acquired the food.

Under section 27 of the Food Safety Ordinance, DFEH may, for the purpose of exercising powers or performing functions under the Ordinance, require to inspect, make a copy of or take an extract from a record kept by these food traders. Those who fail to keep such information or submit the information to DFEH within the specified time commit an offence and are liable to a maximum fine of \$10,000 and imprisonment up to three months. While the Food Safety Ordinance does not specify a time limit for submission of such information, section 40(1) of the Interpretation and General Clauses Ordinance (Cap. 1) stipulates that "Where any Ordinance confers upon any person power to do or enforce the doing of any act or thing, all such powers shall be deemed to be also conferred as are reasonably necessary to enable the person to do or enforce the doing of the act or thing." As such, DFEH may, in requiring the relevant person to submit the required information under section 27 of the Food Safety Ordinance, stipulate a reasonable time limit having regard to different urgencies of individual cases. Thus, DFEH is currently vested with sufficient power to require food importers or food distributors to provide transaction records within a reasonable time limit.

To enable effective tracing of the source and distribution of food products, CFS, by exercising the power vested in it under the Food Safety Ordinance, may require food traders to submit food import or acquisition and distribution records and relevant information within a specified time limit, which may be as short as 24 hours where necessary. This allows CFS to trace the food products which may be affected by food incidents to safeguard food safety. Take the substandard lard incident in Taiwan as an example. CFS, under section 27 of the Food Safety Ordinance, issued notices to over 780 importers, distributors and traders who might have imported, distributed or used the lard or lard products from Chang Guann Co. Ltd., requiring them to submit transaction records of the lard/lard products concerned within a specified time limit, in order to facilitate tracing, marking and sealing of the relevant products. Traders in general could provide the information required before the deadline. As such, it is not necessary to increase the penalty for contravention for the time being.

(2) In order to help members of the public keep track of the progress of the food incidents, CFS has provided updates on the investigation of the food incidents in a timely manner through press releases and its own website. With regard to the incident involving substandard lard from Taiwan, as at October 22, 2014, CFS held a total of eight media sessions to brief the public in a



prompt manner on the progress of the investigation and the control measures implemented, so that the public could have a timely and better understanding of the incident and take corresponding preventive measures. CFS also issued a total of 19 press releases on the incident to keep the public updated on the latest development. It has also set up a dedicated webpage and has been providing updates to the webpage so that the public can learn about the progress of the incident promptly.

On September 13, 2014, DFEH made an order in accordance with section 30(1) of the Food Safety Ordinance to prohibit the import into and supply within Hong Kong of lard/lard products produced by Chang Guann Co., Ltd (Chang Guann) in Taiwan on or after March 1, 2014 and all food products made with such lard/lard products in Taiwan or Hong Kong, and to direct that all the products concerned must be recalled in the manner specified in the order. To protect consumers' right to know and to ensure that the recall would be conducted in a timely and systematic manner, CFS released a list of traders who might have distributed or used lard/lard products manufactured by Chang Guann. As the supply chain of the affected products involved different sectors (e.g. products might be handled by multiple distributors before reaching the end users), CFS needed time to verify the information. Moreover, at the time of publication of the list, traders concerned might have no stock of the relevant products, or have returned them to suppliers, or have removed them from the shelves, or have stopped using such products for some time. Therefore, we have to point out that the list may not necessarily reflect the prevailing situation of the recall. We will draw on the experience and explore ways to improve the recall arrangement, so that CFS can obtain from traders information on the supply chain more efficiently and update the list in a timely manner.

In the early stage of handling the incident of problematic food products from Husi in Shanghai, a chain restaurant which used Husi products failed to provide CFS with accurate information in a timely manner. As a result, CFS needed to verify the relevant information with the company and was unable to announce comprehensive and accurate information immediately. In light of the experience of handling recent food incidents, CFS held briefings on September 17, 18 and 24 this year with the trade to remind them that DFEH may require the trade to provide transaction records within a specified period under section 27 of the Food Safety Ordinance. As such, members of the trade are required to arrange their transaction records systematically for timely submission of the relevant information whenever necessary. In addition, CFS has strengthened the communication mechanism with the trade by requesting food importers and distributors to provide particulars of at least one contact person, with whom CFS can get in touch through a 24-hour contact telephone number and a mobile phone number during office and non-office hours in case of emergency food incidents. This will enable CFS to make immediate contact with the relevant traders when necessary to obtain the information required for safeguarding food safety.

(3) The Food and Health Bureau (FHB) is considering making regulations to safeguard safety of edible oil by requiring traders who import, sell or produce edible oil to ensure that the oil complies with the relevant requirements. Any trader who fails to do so commits an offence. FHB suggests that the legislation should require importers of edible oil to provide an official certificate issued by the place of origin for the inspection by FEHD as a proof of the oil's compliance with the relevant requirements. Copies of the certificate must also be provided by edible oil importers to their downstream distributors, retailers or food premises supplied with the oil for FEHD's inspection.

In this regard, we would make reference to the practices adopted in implementing the Imported Game, Meat and Poultry

Regulations (Cap. 132AK) under the Public Health and Municipal Services Ordinance (Cap. 132). Under the Regulations, all imported raw meat (including meat and poultry) must be accompanied by an official certificate issued by a competent veterinary authority recognised by DFEH to prove that the meat or poultry concerned is fit for human consumption. As official health certificates are issued by the competent authorities of the export countries, CFS could contact the competent authorities concerned to verify the authenticity of the certificates if necessary.

The above proposals are preliminary ideas, details of which are to be discussed by the relevant departments. We will also take into account practices of the international community and other countries. We will seek to launch a public consultation on the legislative proposals early next year.

Ends/Wednesday, October 29, 2014  
Issued at HKT 15:01

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## Press Releases

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CFS mandates recall of edible fats and oils produced by Cheng I and Ting Hsin and related food products

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The Centre for Food Safety (CFS) of the Food and Environmental Hygiene Department (FEHD) today (October 29) issued a Food Safety Order (the Order) to prohibit, with effect from noon today, importing into and supplying within Hong Kong all edible fats and oils (of animal or plant origin) produced by Cheng I Food Co Ltd (Cheng I) and Ting Hsin Oil and Fat Industrial Co Ltd (Ting Hsin) in Taiwan and all food products made with the above-mentioned fats and oils. Food traders are also ordered to recall within a period of 14 days from noon today the affected food supplied by them and dispose of such food subsequently in the manner set out in the Order, which was gazetted today.

A CFS spokesman said, "Following the substandard lard incident involving Chang Guann Co Ltd (Chang Guann) in Taiwan, the Taiwanese authorities further announced early this month that suspected fraudulent fats and oils produced by Cheng I were found to have been produced from substandard ingredients (such as lard for animal feed). The affected products included lard, beef tallow, margarine and shortening. Further investigation by the Taiwanese authorities discovered that lard/lard products from Ting Hsin were also produced from substandard ingredients (such as lard for animal feed). Its substandard fats and oils products were also found to have been produced from beef tallow and coconut oil ingredients from unapproved sources in Vietnam.

"Meanwhile, investigation by the FEHD has revealed that some traders in Hong Kong have imported lards from Cheng I and Ting Hsin. The Taiwanese authorities also notified the FEHD that six food products made with Cheng I's substandard fats and oils had been exported to Hong Kong."

As the safety and quality of Taiwan's fat and oil products remain questionable, the FEHD had earlier taken precautionary measures to stop the import into and supply within Hong Kong of all edible oils from Taiwan. The measures are still in force covering all fats and oils produced in Taiwan which are not stipulated in the Order. The spokesman said that taking into account the latest information, the FEHD has reasonable grounds to believe that fats and oils from both Ting Hsin and Cheng I are very likely unfit for human consumption, unless there is formal notification from the Taiwanese authorities to suggest otherwise. To further safeguard Hong Kong's public health, the FEHD considers that, subsequent to the Chang Guann substandard lard incident, a second Food Safety Order needs to be made to put it beyond doubt that all edible fats and oils produced by Cheng I and Ting Hsin, as well as all food products manufactured with such fats and oils, are prohibited from import into and supply within Hong Kong, and to mandate their recall in a systematic manner so as to ensure that they are no longer in circulation in the local market.

Anyone found guilty of contravening any terms of the Order is liable to a maximum fine of \$100,000 and imprisonment for 12 months.

The CFS will continue to follow up on the incident and take appropriate action, which includes liaising closely with the Taiwanese authorities, conducting investigations and monitoring the recall. The CFS will also adopt a risk-based approach and enhance surveillance of edible oil and relatively high-risk foods

imported from other places (including Taiwan). Samples will be tested for contaminants in order to ensure food safety.

Ends/Wednesday, October 29, 2014

Issued at HKT 16:40

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**Relevant papers/Council question on the "substandard lard" incident  
and food safety issues of cooking oil**

Meeting	Date of meeting	Paper
Panel on Food Safety and Environmental Hygiene	03.01.2013 (Item I)	<a href="#">Agenda</a> <a href="#">Minutes</a>
	25.9.2014 (Item I)	<a href="#">Agenda</a>
Council meeting	29.10.2014	<a href="#">Oral question raised by Hon Steven HO Chun-yin and the Administration's reply</a>

Council Business Division 2  
Legislative Council Secretariat  
6 November 2014