

立法會
Legislative Council

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(These minutes have been
seen by the Administration)

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Bills Committee on Smoking (Public Health) (Amendment) Bill 2019
(2020-2021 session)

Minutes of the fourth meeting
held on Tuesday, 23 February 2021, at 2:30 pm
in Conference Room 3 of the Legislative Council Complex

- Members present** :
- Hon WONG Ting-kwong, GBS, JP (Chairman)
 - Hon Frankie YICK Chi-ming, SBS, JP (Deputy Chairman)
 - Hon Tommy CHEUNG Yu-yan, GBS, JP
 - Hon CHAN Kin-por, GBS, JP
 - Hon Paul TSE Wai-chun, JP
 - Hon YIU Si-wing, BBS
 - Hon MA Fung-kwok, GBS, JP
 - Hon LEUNG Che-cheung, SBS, MH, JP
 - Hon KWOK Wai-keung, JP
 - Hon Elizabeth QUAT, BBS, JP
 - Hon Martin LIAO Cheung-kong, GBS, JP
 - Hon Jimmy NG Wing-ka, BBS, JP
 - Hon Holden CHOW Ho-ding
 - Hon SHIU Ka-fai, JP
 - Hon Wilson OR Chong-shing, MH
 - Hon YUNG Hoi-yan, JP
 - Dr Hon Pierre CHAN
 - Hon LUK Chung-hung, JP
 - Hon LAU Kwok-fan, MH
 - Dr Hon CHENG Chung-tai
- Members absent** :
- Hon Abraham SHEK Lai-him, GBS, JP
 - Hon Mrs Regina IP LAU Suk-ye, GBS, JP
 - Ir Dr Hon LO Wai-ki, SBS, MH, JP
 - Hon CHUNG Kwok-pan
 - Hon CHEUNG Kwok-kwan, JP

- Public Officers attending** : Miss Amy YUEN, JP
Deputy Secretary for Food and Health (Health)2
Food and Health Bureau
- Dr FUNG Ying
Head (Tobacco and Alcohol Control Office)
Department of Health
- Dr Manny LAM
Senior Medical and Health Officer (Tobacco and Alcohol
Control Office) 1
Department of Health
- Mr CHAN Tsz-tat
Assistant Commissioner (Intelligence and Investigation)
Customs and Excise Department
- Mr Manuel NG
Senior Government Counsel
Department of Justice
- Clerk in attendance** : Ms Maisie LAM
Chief Council Secretary (2) 3
- Staff in attendance** : Ms Wendy KAN
Assistant Legal Adviser 6
- Ms Catherina YU
Senior Council Secretary (2) 3
- Miss Alison HUI
Legislative Assistant (2) 3

I. Meeting with the Administration

[File Ref.: FH CR 1/3231/19, LC Paper Nos. LS48/18-19, CB(3)397/18-19, CB(2)966/18-19(02), CB(2)1175/18-19(01), CB(2)1431/18-19(04), CB(2)1651/18-19(01), CB(2)244/19-20(01) and CB(2)794/20-21(01) and (02)]

The Bills Committee deliberated (index of proceedings attached at Annex).

Action

2. The Bills Committee requested the Administration to:
 - (a) provide, on the basis of scientific evidence, a comparison of the respective health risks caused by the emissions of conventional tobacco products and heated tobacco products ("HTPs") to their users and the bystanders;
 - (b) in respect of its advice that it was recommended that there was no need for places with low smoking prevalence to introduce novel tobacco products, which claimed to have reduced risk and could be substitutes of conventional tobacco products, into markets, provide the publication of the World Health Organization in this regard;
 - (c) advise the changes in the total sales of conventional cigarettes and the overall smoking prevalence in Japan since the introduction of HTPs into its market; and
 - (d) provide the full report of the school-based survey on smoking in 2016-2017 conducted by the School of Public Health of The University of Hong Kong which should cover, among others, the sampling and data collection methods, the number of respondents and the findings.

3. Members noted that the proposal of some members that a full ban should only be imposed on electronic cigarettes but not HTPs would be brought to the attention of the Secretary for Food and Health and the Administration would advise members its position on the above proposal in due course.

II. Any other business

4. There being no other business, the meeting ended at 4:22 pm.

**Proceedings of the fourth meeting of
Bills Committee on Smoking (Public Health) (Amendment) Bill 2019
(2020-2021 session)
held on Tuesday, 23 February 2021, at 2:30 pm
in Conference Room 3 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)/Discussion	Action required
<i>Agenda item I: Meeting with the Administration</i>			
000519 - 000717	Chairman	Opening remarks	
000718 - 001729	Chairman Admin	Briefing by the Administration on its response to the follow-up actions arising from the discussion at the meeting on 19 January 2021 [LC Paper No. CB(2)794/20-21(02)]	
001730 - 002425	Chairman Dr Pierre CHAN Admin	<p>In response to Dr Pierre CHAN's enquiries, the Administration advised that:</p> <p>(a) since electronic cigarettes ("e-cigarettes") and heated tobacco products ("HTPs") were novel tobacco products, data on the changes in the overall smoking prevalence and the use of these products by adolescents in those countries which had introduced regulatory measures on these products was limited. In Canada and the United States, there was a noticeable increase in the uptake of e-cigarettes by adolescents. In Japan and South Korea, the use of HTPs was in the uptrend and a great majority of HTPs users dually used conventional cigarettes. There was no evidence that the introduction of HTPs into these countries, which already recorded a downward trend in smoking prevalence, had accelerated the decline of the use of conventional tobacco products; and</p> <p>(b) according to the Thematic Household Survey conducted by the Census and Statistics Department, it was estimated that there were less than 1 000, some 5 700 and some 7 200 daily smokers aged 15 or above who consumed e-cigarettes in Hong Kong in 2015, 2017 and 2019 respectively; and there were some 13 100 daily smokers aged 15 or above who consumed HTPs in 2019, accounting for 0.2% of all persons aged 15 or above. Findings of the school-based survey on smoking among students in 2018-2019 revealed that 0.8% of secondary one to secondary six students were current e-cigarettes users.</p> <p>Dr Pierre CHAN enquired how the Administration would address the problem of easy access to and use of novel tobacco products by primary and secondary students. In response, the Administration advised that it would conduct inspections and take enforcement actions against illegal sale of novel tobacco products. Separately, the Hong Kong Council on Smoking and Health ("COSH") had carried out various publicity programmes (e.g. production of TV and radio Announcements in the Public Interest) and education programmes in schools to raise the awareness of the public and students of the hazards of smoking and novel tobacco products.</p>	
002426 - 002700	Chairman Mr Tommy CHEUNG Mr Jimmy NG	While supporting the prohibition of the import, manufacture or sale and the restriction of the giving, possession or promotion ("full ban") of e-cigarettes and the imposition of age restriction	

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		for selling HTPs, Mr Tommy CHEUNG requested the Administration to distinguish between e-cigarettes and HTPs in answering members' questions in order not to confuse the public.	
002701 - 003623	Chairman Mr YIU Si-wing Admin	<p>Given that some studies had suggested that HTPs might help smokers cut down or quit smoking, Mr YIU Si-wing considered that the Administration should make reference to the practices of some overseas places and set out safety standards for HTPs but not impose a full ban on these products. The Administration might consider subcontracting the examination of the safety level of HTPs; increasing tax on these products; and studying the respective proportions of users of HTPs who were new smokers and users of conventional cigarettes who had completely switched to HTPs.</p> <p>The Administration explained that the World Health Organization ("WHO") had pointed out that for places that had achieved a low smoking prevalence, the introduction of novel tobacco products might not bring public health benefits. Given the negative impacts of HTPs such as maintenance of tobacco use in current smokers who might otherwise have quit, picking up of the smoking habit by adolescents due to the appeal of these products and exposing users to a range of known and unknown toxicants present in aerosols of these products, putting in place any measure to facilitate the introduction of HTPs that were known to be harmful could not be appropriate for public health protection.</p>	
003624 - 004158	Chairman Mr LAU Kwok-fan Admin	<p>Declaring that he was a non-smoker, Mr LAU Kwok-fan said that he was not convinced that a full ban should be imposed on HTPs as the Administration had failed to provide comprehensive information and clear scientific evidence to back the proposal. In response, the Administration stressed that there was yet scientific evidence to suggest that HTPs were less harmful than conventional cigarettes. There was a need for the Administration to prevent the harm of novel smoking products from taking root in the local market.</p> <p>At Mr LAU's request, the Administration undertook to provide, on the basis of scientific evidence, a comparison of the respective health risks caused by the emissions of conventional tobacco products and HTPs to their users and the bystanders.</p>	Admin
004159 - 005321	Chairman Mr SHIU Ka-fai Admin	<p>On Mr SHIU Ka-fai's concern that the Administration's paper for this meeting [LC Paper No. CB(2)794/20-21(02)] was only provided the day before the meeting, the Administration assured members that it would endeavour to provide the meeting papers as early as possible in the future.</p> <p>Taking the view that WHO's recommendation on the introduction of novel tobacco products for places with low smoking prevalence as cited by the Administration at the earlier part of the meeting had connoted that HTPs could bring health benefits, Mr SHIU Ka-fai said that it was illogical to deprive smokers in Hong Kong of the right to access to these products. He pointed out that many Member States of the European Union ("EU"), which were Parties to the World Health Organization Framework Convention on Tobacco Control ("FCTC"), did not impose a full ban on HTPs.</p>	

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		<p>The Administration advised that FCTC proposed to the Parties to prohibit or restrict the manufacture, importation, distribution, presentation, sale and use of HTPs, as appropriate to their national laws and public health objectives. For EU, the prevailing Tobacco Products Directive which sought to approximate regulatory approaches in certain aspects across EU had echoed the FCTC's recommendation. Member States of EU were free to regulate other matters within the remit of their jurisdictions. At present, HTPs were banned as smokeless tobacco products in Malta. For Hong Kong, the tobacco control policy was to discourage the use of tobacco products to further lower the smoking prevalence.</p> <p>Mr SHIU Ka-fai requested the Administration to provide the publication of WHO in respect of its recommendation on the introduction of novel tobacco products for places with low smoking prevalence.</p>	<p>Admin</p>
005322 - 005918	<p>Chairman Mr Jimmy NG Admin</p>	<p>Mr Jimmy NG provided the following information for members' reference:</p> <ul style="list-style-type: none"> (a) HTPs were currently marketed in 64 countries. A majority of these countries were developed countries, such as Denmark, France, Germany, Italy, Portugal and Spain; (b) new tobacco product research institutes had been set up in Henan, Shandong, Shanghai, Wubei, Wunan and Yuanan, etc. to study these products in a scientific manner. According to a study conducted by the General Administration of Quality Supervision, Inspection and Quarantine of People's Republic of China in early 2018 and an article published by the Vice President of Shanghai New Tobacco Product Research Institute, the levels of emission of some toxic substances by HTPs were significantly lower (over 90%) than those by conventional tobacco products; and (c) an article entitled "What is accounting for the rapid decline in cigarette sales in Japan?" revealed that with the introduction of HTPs, there was an accelerated decline in the sales of conventional cigarettes in Japan since 2016 (13% in 2017, 12% in 2018 and 9% in 2019 as compared to a 2% to 4% steady decline in cigarette sales during the period of 2011 to 2016). The overall smoking prevalence of Japan had dropped from 21.8% in 2008 to 16.7% in 2019. <p>The Administration stressed that a lower level of emission of certain toxic substances by HTPs did not translate into reduced health risk in comparison to conventional cigarettes. The Chairman remarked that in that case, conventional cigarettes should also be banned.</p>	
005919 - 011347	<p>Chairman Mr Tommy CHEUNG Admin</p>	<p>Mr Tommy CHEUNG expressed dissatisfaction that (a) the Administration's late provision of its paper for the meeting had made members not having sufficient time to study the paper; and (b) the Administration was lopsided and only provided information favourable to its legislative proposals, which had unnecessarily prolonged the scrutiny of the Bill. He called on the Administration to actively consider the proposal of some members that a full ban should only be imposed on e-cigarettes but not HTPs.</p>	

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		<p>Pointing out that the smoking prevalence of Hong Kong was already very low, Mr Tommy CHEUNG enquired whether there was an increase in the number of adolescent users of HTPs. In response, the Administration referred members to the findings set out in the Thematic Household Survey Report No. 70 and the school-based survey on smoking in 2016-2017. The Chairman and Mr Tommy CHEUNG requested the Administration to provide the full report of the school-based survey on smoking in 2016-2017 which should cover, among others, the sampling and data collection methods, the number of respondents and the findings, for members' reference.</p>	Admin
011348 - 011753	Chairman Deputy Chairman Admin	<p>The Deputy Chairman's view that it was illogical to deprive smokers in Hong Kong of the right to access to HTPs which, in his view, were less harmful than conventional tobacco products. The Chairman shared the view. In response, the Administration reiterated the advice of WHO that there was no need to introduce novel tobacco products for places with low smoking prevalence.</p> <p>The Deputy Chairman remarked that the Administration should first regulate HTPs and consider imposing a full ban on these products only when scientific evidence on all toxicants and harms of the products was known.</p>	
011754 - 012612	Chairman Dr CHENG Chung-tai Admin	<p>Dr CHENG Chung-tai requested the Administration to reconsider the need to press ahead with the completion of the legislative process of the Bill within the current legislative session given the little progress made so far in the scrutiny of the Bill and that both the Administration and Members had to accord priority to the five major legislative exercises mentioned by the Chief Executive on 4 February 2021 (i.e. (a) stipulating oath-taking requirements by public officers in the law; (b) enactment of legislation on the admission of non-locally trained doctors; (c) enactment of legislation to impose the tenancy control of subdivided units; (d) enactment of legislation on enhancing fire safety in old buildings; and (e) enactment of legislation to combat acts of intrusion of privacy and dissemination of hate speech, discriminatory remarks or false information).</p> <p>On Dr CHENG Chung-tai's view that there was an urgent need to impose a full ban on e-cigarettes as some smokers and youths might substitute the consumption of conventional cigarettes by the use of e-cigarettes if there would be an increase in tobacco duty rates in the 2021-2022 Budget, the Chairman opined that this might not be the case. However, any increase in tobacco duty rates would fuel the already burgeoning illicit trade in conventional cigarettes.</p>	
012613 - 014818	Chairman Mr SHIU Ka-fai Admin Mr Tommy CHEUNG	<p>Referring to Dr Pierre CHAN's concern about the use of novel tobacco products by primary and secondary students, Mr SHIU Ka-fai remarked that the products being sold at low prices in small shops would most likely be e-cigarettes not containing nicotine but not HTPs.</p> <p>Mr SHIU Ka-fai said that it was crudely estimated by various sources that HTPs users accounted for around 20% of smokers and duty-not-paid conventional cigarettes accounted for around 30% of the cigarette consumption in the local market. Given that</p>	

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		<p>the problem of illicit tobacco trade had worsened and the use of HTPs was not prohibited under the Bill, he enquired about the Administration's assessment on the activities in relation to illicit trade of HTPs if the Bill was passed, and the respective quantities of illicit conventional cigarettes, HTPs and "cheap whites" seized by the Customs and Excise Department ("C&ED") in 2020.</p> <p>The Administration advised that:</p> <p>(a) a majority of smokers consumed duty-paid cigarettes, as reflected by the fact that the revenue collected from tobacco duty had increased by around 20% in 2020. Efforts had been and would continuously be made by C&ED to combat illicit cigarette activities rigorously. The total quantity of duty-not-paid cigarettes seized by C&ED was 205 million sticks in 2020, which included 6.26 million sticks (i.e. around 3%) of HTPs. It did not have the figure on the proportion of "cheap whites" on hand; and</p> <p>(b) the objective of the Bill was to prevent the harm of new smoking products from taking root in the local market to protect public health. Imposing a full ban on these products before they became widely used in Hong Kong could curb a rise of the demand for these products. The Administration would monitor the use of HTPs after the Bill was passed.</p> <p>Mr SHIU Ka-fai remarked that three more countries had allowed the sale of HTPs since the last Bills Committee meeting. In response to Mr SHIU Ka-fai's enquiry about the findings of the article quoted by Mr Jimmy NG concerning the total sales of conventional cigarettes and the overall smoking prevalence in Japan since the introduction of HTPs into its market, the Administration undertook to study the findings in detail.</p>	Admin
014819 - 015616	Chairman Mr Tommy CHEUNG Admin	<p>In response to Mr Tommy CHEUNG's enquiry about the Administration's position on the proposal of some members that a full ban should only be imposed on e-cigarettes but not HTPs, the Administration advised that it would endeavour to fully explain the justifications for its legislative proposals. It would carefully study the proposed amendments to the Bill to be submitted by members to the Bills Committee for consideration, if any. In the meantime, the above proposal would be brought to the attention of the Secretary for Food and Health. The Administration would advise members its position on the above proposal in due course.</p> <p>The Chairman called on the Administration to decide on the way forward of the Bill after giving due regard to the views expressed by members.</p>	Admin
<i>Agenda item II: Any other business</i>			
015617- 015630	Chairman	Closing remarks	