

Advisory Council on Food and Environmental Hygiene

**Minutes of the Forty-third Meeting
Held at 2:30 p.m. on Thursday, 15 January 2009
at Room 2005, 20/F, Murray Building, Garden Road, Central**

Professor YUEN Kwok-yung, SBS, JP	(Chairman)
Professor HO Wing-shing, John	
Mrs. Elizabeth MOK	
Mr. LAU Yiu-fai, Ronald	
Dr. LO Chi-kin	
Dr. WONG Sin-ying, Lillian	
Dr. YUE Kwok-to	
Dr. TANG Shuk-ming, Winnie	
Professor HO Suk-ching, Sara	
Mrs. Stella HUNG, JP	Permanent Secretary for Food and Health (Food)
Mr. CHEUK Wing-hing, JP	Director of Food and Environmental Hygiene
Miss CHEUNG Siu-hing, JP	Director of Agriculture, Fisheries and Conservation
Dr. LEUNG Ting-hung, JP	Head, Surveillance and Epidemiology Branch, Department of Health

Absent with Apologies

Dr. LO King-shun
Professor WU Shiu-sun, Rudolf
Mr. KWOK Chun-wah, Jimmy, MH, JP
Mr. FONG Wo, Felix, JP
Miss LAM Chui-lin
Miss LAM Wai-ling, Leona, JP

In Attendance

Food and Health Bureau

Ms. Olivia NIP, JP	Deputy Secretary for Food and Health (Food)
Mr. Owin FUNG	Principal Assistant Secretary for Food and Health (Food) ³
Mr. Edward CHAN	Assistant Secretary for Food and Health (Food) Special Duties 1

Food and Environmental Hygiene Department

Miss Alice LAU

Deputy Director (Environmental Hygiene)

Dr. S Y LEE

Assistant Director (Food Surveillance and Control)

Agriculture, Fisheries and Conservation Department

Mr. LAY Chik-chuen

Assistant Director (Conservation)

Dr. SO Ping-man

Senior Conservation Officer (Biodiversity)

Environmental Protection Department

Mr. TANG Chi-leung

Assistant Director (Nature Conservation & Infrastructure Planning)

Opening Remarks

1. The Chairman welcomed Members to the meeting.

Agenda Item 1 : Confirmation of the Minutes of the Last Meeting

2. Members confirmed the minutes of the last meeting without amendments.

Agenda Item 2 : Matters Arising from the Minutes of the Last Meeting

3. There was no matter arising from the minutes of last meeting.

Agenda Item 3 : Review on Hawker Licensing Policy (ACFEH Paper 01/2009)

4. Miss Alice LAU introduced the paper.

5. A Member said that according to the consultation paper, a voluntary surrender scheme had been introduced to encourage hawkers to surrender their licences with a view to reducing the number of on-street hawkers. She wondered why there was now a policy change by issuing new hawker licences. She added that as she learned from newspapers, new licences had been issued to hawkers selling cigarettes.

6. Mr. CHEUK Wing-hing replied that there was a major difference between the voluntary surrender scheme for itinerant hawkers and the present proposal of issuing new hawker licences. He said that since itinerant hawkers were highly mobile in their mode of operation, they tended to ply their trade near busy locations such as MTR exits in order to maximize their profits. As a result, these licensed itinerant hawkers caused obstruction and invited public complaints. To alleviate this problem, a voluntary surrender scheme was therefore introduced. On the other hand, the present proposal of issuing new licences was connected with more than a thousand fixed pitch hawker stalls which had been left vacant for a long time. He said that these vacant stalls, which had already been in existence on the streets, were now intended to be offered to any interested operators. This also served the purpose of job creation. These vacant stalls would be allocated through drawing lots instead of price bidding. However, for back-row stalls where there were adjoining front-row fixed pitch hawkers in business, priority would be given to them to take up the adjacent vacant stalls.

7. As regards the issue of hawker licences to the eight cigarette hawkers, Mr. CHEUK said that they had historically been in existence for a very long period of time, and used to be properly licensed under the Dutiable Commodities Ordinance. They were not mobile in nature and occupied only a small area. The issue of licences to them was consistent with the new proposals set out in the consultation paper.

8. A Member opined that the Government should explain clearly the policy on the voluntary surrender scheme and the proposed issue of new hawker licences in order to facilitate public understanding and secure public support. She said that she was of the view the community would welcome the Government's relaxation on the hawker licensing policy. That said, she cautioned that the Government should not create any unfair competition. In this regard, she queried why the licensees of adjacent pitches were given the priority to use the vacant pitches. On the other hand, she wondered whether the control of "Dai Pai Tong" was more lenient as compared with restaurants which had to meet stringent hygiene requirements.

9. Mr. CHEUK Wing-hing said that the proposal was to offer long-existing vacant pitches to people interested to enter the trade. It was in line with the public demand for more street trading activities as part of the effort to preserve local culture. A case in point was the recent exercise of relocating on-street fixed pitch hawkers into the new Wanchai Market. The issue was hotly debated in the district and was eventually considered worthwhile in terms of cultural preservation to allow the fixed pitch hawkers to remain in situ. He emphasized that the new proposal would maintain the current number of fixed pitches and consideration would be given to issuing licences to new operators for trading in vacant pitches or allowing licensees of

adjacent pitches to use vacant pitches as an expanded business area. He added that hawker associations and district councils had been consulted and they were generally supportive of the proposal.

10. As regards “Dai Pai Tongs”, Mr. CHEUK said that since they were situated outdoor, some conventional requirements for restaurants such as toilet provision or fire escape means were not applicable to them. However, the hygiene standard required of “Dai Pai Tong” was comparable to that of other licensed food premises.

11. A Member said that she appreciated the proposed delegation of power to district councils to issue new hawker licences. However, she worried that Food and Environmental Hygiene Department (FEHD) might be in dilemma if the district councils’ views were different from the department’s.

12. Mr. CHEUK Wing-hing responded that while district councils were well positioned to offer their advice on the need of new hawker licences in their district, the final decision would rest with FEHD.

13. A Member said that he was also concerned about the hygiene standard of “Dai Pai Tongs” which was always considered inferior to that of restaurants. He opined that the hygiene standard of “Dai Pai Tongs” and restaurants should be the same. He suggested that the paper should focus more on food safety and environmental hygiene perspectives rather than setting out details on licence transfer or succession. He further commented that the paper did not address the question of illegal hawking which was the crux of the problem in terms of food safety and environmental hygiene.

14. Mr. CHEUK Wing-hing replied that some hygiene requirements on restaurants could not be applied to “Dai Pai Tongs” because of their unique features. That said, “Dai Pai Tongs” were still subject to regular inspections by FEHD’s health inspectors. He added that there had not been a single case of food poisoning associated with on-street “Dai Pai Dongs” in at least the past three years. As regards illegal hawking, FEHD had issued a guideline to frontline staff in 2001 to exercise flexibility in tackling illegal hawking activities unless they caused serious street obstruction, food safety concerns (such as selling cooked food), environmental nuisance or complaint.

15. In response to a Member’s further comments on the paper, Mr. CHEUK Wing-hing responded that the paper would be refined to make the core issues more prominent and easily understandable. He stressed that the voluntary surrender scheme was only applicable to “Dai Pai Tongs” and itinerant hawker licensees but not to fixed pitch hawker licensees. As regards small ice cream vendors, although they were itinerant in nature, their trading

mode was quite different from other types of itinerant hawkers. The small ice cream vendors usually stationed at the same location such as parks and beaches to do business. Such mode of operation seldom caused road obstruction. If new ice cream hawker licences were issued, consideration would be given to restricting their business within a certain district. For other new issue of licences, time restriction might be imposed so that the licence would only be valid for five years or so.

16. A Member asked about the policy of succession of hawker licence and would like to know whether there was any mechanism to examine the financial background of the potential successors. As regards soft ice cream van, he said that he was worried about the bacteriological standard of soft ice creams which was highly prone to deterioration. He asked FEHD to strengthen the control over the soft ice cream hawker licences.

17. Mr. CHEUK Wing-hing responded that it was quite difficult to assess the financial background of successors to hawker licences. As regards the bacteriological standard of soft ice cream sold by the soft ice cream vans, Mr. CHEUK said that FEHD had accorded high priority to the inspection of these vans to ensure food safety. There was no plan to issue new licence of the same kind.

18. A Member asked if it was FEHD's policy to completely phase out all itinerant hawker licences and to maintain the seven thousand fixed pitch licences. She said that FEHD should clearly spell out its objective in the paper in order to let the public know the general direction of the hawker licensing policy. Mr. CHEUK Wing-hing replied that FEHD would take account of members' views when presenting the proposal to the LegCo.

19. A Member generally agreed with the FEHD's proposed way forward for the hawker licensing policy. He pointed out that food safety and environmental hygiene should be of the most paramount concern. As regards the allocation of fixed pitches, he suggested that FEHD should give consideration in according priority to the assistants of the existing fixed pitch stall operators who might have more experience in the trade than other people.

20. Mr. CHEUK Wing-hing agreed and remarked that fixed pitch allocation was a controversial issue. FEHD would consult the trade and LegCo and act carefully.

21. A Member appreciated the government's efforts in mapping out new proposals on the hawker licensing policy. He echoed that food safety was of the highest importance. As regards the flexibility approach of enforcement actions, he expressed concern about the practice that the guidelines issued in 2001 had been kept in place for the past several years when there had been a number of ups and downs in the economic situation. Therefore the flexibility of the enforcement actions should be reviewed from time to time as the situation varied.

22. Mrs. Stella HUNG said that the proposals in the paper represented the collective view of FHB and FEHD. Although there was a voluntary surrender scheme some years ago to attract itinerant and cooked food hawker licensees to give up their licences, views from the LegCo and different sectors of the community had to be taken into account as the situation and considerations had changed. She assured members that there was no compromise on food safety as far as the review of the hawker licensing policy was concerned.

23. Mr. CHEUK Wing-hing shared the view that food safety would not be compromised under any circumstances. He pointed out that the 28 "Dai Pai Tongs" would continue to exist regardless of whether there was a review or not. Regular inspections would be conducted to ensure that they complied with relevant legislations. There was no doubt in the Government's determination in upholding food safety and public health. Regarding the issue of illegal hawking, although there had been flexibility in terms of enforcement in the past few years, the Government observed no significant increase in the number of unlicensed hawkers according to recent surveillance. He reassured members that itinerant hawker licence holders were not allowed to sell cooked food in any circumstances and such restriction would also apply to the proposed new fixed pitch hawker licences.

24. A Member supplemented that the two voluntary surrender schemes for "Dai Pai Tongs" and itinerant hawker licences were offered more than five years ago. Subsequently, more than four hundred itinerant hawker licence holders departed and about five hundred of them remained in the trade. As for "Dai Pai Tong", 34 of them opted for the scheme with only 28 remained. Hence, it was reasonable and opportune for the Government to initiate a review on the hawker licensing policy to cope with the new social and economical developments. She further said that the proposal of granting new licences mainly concerned existing vacant pitches and there would be no increase in the overall number of fixed pitches. It was also proposed that not more than 30 new Itinerant (Frozen Confectionery) Hawker Licences be issued in the first round for small ice cream vendors.

25. In response to a Member's query on illegal occupation of vacant pitches, Miss Alice LAU responded that the policy review did not cover this kind of day-to-day regulatory issues. She explained that licensees of adjacent pitches were often tempted to use the adjoining back-row vacant pitches to expand their business area. Such irregularities were addressed through regular enforcement actions, although the deterrent effect might not be sufficient to prevent recurrence. It was expected that the problem might be alleviated if the occupancy of vacant pitches could be improved under the new proposal.

26. The Chairman concluded that there was much discussion on the subject and suggested FEHD to take heed of members' views and suggestions when further deliberating the issue.

Agenda Item 4 : Proposed Legislation for the Implementation of the Biosafety Protocol (ACFEH Paper 02/2009)

27. Mr. LAY Chik-chuen introduced the paper.

28. In response to a Member's enquiry, Mr. LAY Chik-chuen replied that since the Biosafety Protocol did not concern food safety issue, the proposed legislation would not control genetically modified food from the food safety angle. However, the importers of living modified organisms (LMOs) for food purpose would be required to make a declaration that the shipment contained LMOs.

29. In response to a Member's question on any mechanism for the Mainland to communicate with Hong Kong on the subject of LMO control, Mr. LAY Chik-chuen said that AFCD maintained liaison with its Mainland counterparts. The Mainland side was aware that the Cartagena Protocol was not applicable to Hong Kong at the moment and that the Protocol should only be extended to Hong Kong after the relevant legislation was passed in the territory in the future.

30. The Chairman expressed his support to the proposed legislation for implementing the Cartagena Protocol on Biosafety in Hong Kong in order to minimize the risks from the possible adverse effects of LMOs on the environment.

Agenda Item 5 : Summary of Recent Food Incidents (other than Melamine) (ACFEH Paper 03/2009)

31. Dr. S.Y. LEE introduced the paper.

32. In response to a Member's query on any surveillance of trans fat in food and Sudan Red in eggs, Dr. S Y LEE responded that the surveillance of Sudan Red in eggs had been included in the annual sampling programme. On the other hand, the statutory requirement of nutrition labelling which would take effect in mid 2010 would cover trans fat in food.

33. In reply to the Chairman's concern about the detection of *Bacillus cereus* in "poon choi" and high *Bacillus* count, Dr. LEE replied that the unsatisfactory "poon choi" sampling results were due to prolonged storage of the food at room temperature before it was consumed. Necessary advice had been given to the food manufacturers concerned and follow-up samples were found to be satisfactory.

34. Two Members suggested that FEHD should devise relevant guidelines on safe preparation of "poon choi" for the trade to follow.

35. In response to the Chairman's enquiry on the incident of dioxin in pork in Ireland, Dr. LEE responded that the incident was associated with the contamination of feed by dioxin and that CFS had included pork in its routine surveillance. Mrs. Stella HUNG supplemented that all live pigs supplied to Hong Kong were sourced from registered farms in the Mainland with stringent quality control.

36. The Chairman concluded that food safety was a very complicated and ever-changing subject and the food authority would need some food experts and professionals to gather intelligence and follow up suspicious cases to identify problematic food before consumption by the general public.

Agenda Item 6 : Any Other Business

37. There being no further business, the meeting adjourned at 4:35 p.m. The Secretariat would inform members of the date of the next meeting in due course.

Secretariat

Advisory Council on Food and Environmental Hygiene

Food and Health Bureau

March 2009