

立法會
Legislative Council

Ref : CB2/PL/FE+EA

LC Paper No. CB(2) 2559/05-06
(These minutes have been seen by the
Administration)

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

**Minutes of Joint Meeting
held on Tuesday, 17 January 2006 at 5:00 pm
in the Chamber of the Legislative Council Building**

Members present : Panel on Food Safety and Environmental Hygiene

Hon Fred LI Wah-ming, JP (Chairman)
* Hon WONG Yung-kan, JP (Deputy Chairman)
Hon Bernard CHAN, JP
Hon TAM Yiu-chung, GBS, JP
Hon Andrew CHENG Kar-foo
Hon Tommy CHEUNG Yu-yan, JP
Hon Vincent FANG Kang, JP
Dr Hon Joseph LEE Kok-long
Hon Alan LEONG Kah-kit, SC
Dr Hon KWOK Ka-ki

Members of the Panel on Environmental Affairs

Hon Emily LAU Wai-hing, JP (Deputy Chairman)
Hon Martin LEE Chu-ming, SC, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon LEE Wing-tat
Hon Jeffrey LAM Kin-fung, SBS, JP

(* Also member of the Panel on Environmental Affairs)

Member attending : Hon WONG Kwok-hing, MH

Members absent : Members of the Panel on Environmental Affairs

Hon CHOY So-yuk, JP (Chairman)
Hon CHEUNG Man-kwong
Hon SIN Chung-kai, JP
Hon LAU Kong-wah, JP
Hon Miriam LAU Kin-ye, GBS, JP
Hon Albert CHAN Wai-yip

Public Officers Attending : Mrs Carrie YAU
Permanent Secretary for Health, Welfare and Food

Miss Vivian KO
Principal Assistant Secretary (Food & Environmental Hygiene)
Special Duties
Health, Welfare and Food Bureau

Mrs Stella HUNG
Director of Agriculture, Fisheries and Conservation

Mr Gregory LEUNG
Director of Food and Environmental Hygiene

Dr LEUNG Ting-hung
Deputy Director of Health

Mr Eric CHAN
Assistant Director (Conservation)
Environmental Protection Department

Clerk in Attendance : Mrs Constance LI
Chief Council Secretary (2)5

Staff in Attendance : Ms Elyssa WONG
Deputy Head, Research and Library Services

Mr Jackie WU
Research Officer 1

Mr Thomas WONG
Research Officer 4

Miss Betty MA
Senior Council Secretary (2)1

Miss Josephine SO
Council Secretary (2)1

Ms Anna CHEUNG
Legislative Assistant (2)5

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I Election of Chairman

Mr Fred LI was elected Chairman of the joint-meeting.

II The Administration's response on the reorganisation plan for the food safety regulatory framework

2. Permanent Secretary for Health, Welfare and Food (PS(HWF)) said that at the joint meetings of the Panel on Food Safety and Environmental Hygiene (FSEH Panel) and Panel on Environmental Affairs held on 15 December 2005 and 6 January 2006, the Administration had listened to the views of representatives of the affected staff, academic institutions, professional organisations and relevant trade associations on the Administration's proposed reorganisation plan. The Administration noted that while representatives of the agriculture and fisheries trades and staff of the Agriculture, Fisheries and Conservation Department (AFCD) expressed objection to the splitting up of AFCD, other deputations expressed general support for the early establishment of the Centre for Food Safety (CFS) to enhance the existing work on food safety.

3. PS(HWF) informed members that in view of the imminent need to enhance the existing food safety control functions, the Administration had revised its proposal in that the CFS would be set up initially within the Food and Environmental Hygiene Department (FEHD) as the first step in enhancing food safety. The CFS would be subsumed under the new dedicated department responsible for food safety control, if so formed at a later stage. The Administration also proposed that the new post of Controller of CFS be pitched at D4 level, which would be created by upgrading the existing Deputy Director (D3 level) post in FEHD. Two new Principal Medical Officer (D1 level) posts would also be created in CFS to provide the necessary support. In addition, the Administration proposed to create a new Permanent Secretary (D8 level) post in the Health, Welfare and Food Bureau (HWFB), in order to put HWFB on par with other multi-department type of bureaux which had two Permanent Secretary posts at D8 level.

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4. The Chairman said that four further submissions on the reorganisation proposal had been received and issued to members. The Chairman further said that the Research and Library Services Division (RLSD) of the Legislative Council (LegCo) Secretariat had prepared information notes on the authorities responsible for food safety regulation and agriculture/fisheries promotion in some selected places, the regulatory framework of food safety in Singapore, and the Government's policies on agriculture and fishery industries in Taiwan.

5. Referring to the information note on the authorities responsible for food safety regulation and agriculture/fisheries promotion in six selected places, Deputy Head, RLSD said that in these six places the formulation of policy for food safety regulation and agriculture/fisheries promotion came under the same authorities (i.e. policy portfolio of agriculture). However, these places adopted different arrangements for the implementation of functions on food safety regulation and agriculture/fisheries promotion. In Taiwan and Singapore, the two functions were carried out by the same department. In Canada and United Kingdom, the implementation of regulatory functions was separated from the trade facilitation functions. In Australia, these were carried out by different divisions within the same department. In the Republic of Korea, such functions were carried out by different departments according to types of food.

6. Mr WONG Kwok-hing expressed appreciation that the Administration had revised its proposal after listening to the diverse views on the reorganisation proposal. He welcomed the establishment of CFS without involving the reorganisation of AFCD as previously proposed. However, he expressed concern that the Administration might propose to split up AFCD at a later stage.

7. PS(HWF) responded that the establishment of CFS was the first step to respond to the strong call from the community to enhance the food quality and safety standards. The Administration would need more time to engage the stakeholders in further discussion on the reorganisation plan. The approval of LegCo would be required for the transfer of statutory responsibilities and the proposed funding if the reorganisation plan was to be taken forward.

8. Mr WONG Kwok-hing noted that the Administration proposed to create 69 non-directorate posts within FEHD in relation to the setting up of CFS. Mr WONG asked about the proposed staff establishment of CFS and why no new posts of veterinarians were included, since CFS was to enhance veterinary public health control and to exercise food regulatory control at source.

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9. PS(HWF) said that the Administration was still vetting the proposed non-directorate posts to be created to support the enhanced food safety functions, and had just completed the vetting of the first batch of posts which involved 69 new non-directorate posts. As there were veterinary officer vacancies at the moment, recruitment was in progress to fill such vacancies. Director of Food and Environmental Hygiene (DFEH) added that there were currently some 400 staff in FEHD responsible for food safety matters. In the first stage, 69 new non-directorate posts would be created in FEHD and another 140 new non-directorate posts were being examined.

10. Mr Vincent FANG said that the community supported the establishment of CFS to enhance food safety and control at source, and he had no strong views on whether CFS should be formed within FEHD or AFCD. He would support the revised plan and the staffing proposals. However, he did not find any additional resources for source management in the Administration's paper which mainly proposed new posts of health inspectors for stepping up inspections and enforcement actions. He questioned how CFS could enhance control at source, and requested the Administration to provide the full picture of the proposed regulatory framework.

11. PS(HWF) said that the food safety regulatory framework in Hong Kong was in line with international practices. While management at source was part of the control framework, it was equally important to enhance food surveillance based on a risk-based approach. PS(HWF) further said that the Administration had already reached agreement with the Mainland authorities on the inspection and quarantine arrangements for freshwater fish in relation to management at source. Similar arrangements had already been adopted for the importation of live poultry from the Mainland.

12. PS(HWF) added that 69 non-directorate posts were proposed to be created in the first stage to support the enhanced food safety functions at the working level. More posts would be sought subject to the increase in workload and after vetting by the relevant bureaux and departments.

13. Mr Bernard CHAN said that he was in support of separating the food safety regulatory functions from the trade facilitation functions, and also the establishment of CFS as soon as possible.

14. Mr Tommy CHEUNG said that he could not support the revised proposal at the present stage because there was incomplete information on the future structure. The present proposal was only a transitional plan to address the criticisms on the original plan, and not a long-term plan on the food safety regulatory framework. Mr CHEUNG further said that he did not see the need for the creation of one new Permanent Secretary post in HWFB. He asked whether the proposed new directorate post was included in the Administration's overall plan for additional directorate posts presented to LegCo earlier.

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15. Referring to paragraph 14 of the Administration's paper, PS(HWF) said that the Administration's plan to create the proposed new directorate posts in CFS had been included in the Note for Establishment Subcommittee (ESC) of Finance Committee (FC) on "Overall Directorate Establishment Position" in November 2005. On the long-term plan for the food safety regulatory framework, PS(HWF) said that it was the Administration's intention to establish a dedicated department responsible for food safety control. She pointed out that the proposed structure was in line with the international practice that all food safety and food regulatory matters are grouped under one single authority. PS(HWF) further said that there was a strong call from the community for the speedy establishment of CFS. As it was necessary for Hong Kong to keep in pace of international developments, the Administration would regularly review the structure and resources for enhancing food safety control functions. The Administration would continue to examine the best way forward for the food safety regulatory framework, and seek approval for the necessary resources.

16. Dr Joseph LEE supported the revised plan which involved less costs and no reorganisation of existing departments was proposed. Dr LEE noted that some principal new posts to be created would be mainly responsible for risk management. He asked whether this was the existing function of FEHD and whether conducting 3 000 more food samples a year would be sufficient. He further asked what new responsibilities would be added to the new posts, what performance indicators would be put in place to evaluate the effectiveness of the enhanced risk assessment, and when CFS would come into operation.

17. PS(HWF) said that subject to members' views, the Administration would submit the establishment proposal to ESC and FC on 8 February 2006 and 7 April 2006 respectively for consideration and approval. If the new posts could be created on 1 May 2006, CFS was expected to come into operation in mid 2006. PS(HWF) further said that the effectiveness and performance of CFS would be reflected and assessed by its timely response to food crises.

18. DFEH supplemented that about 60 000 food samples for testing were collected each year under the regular food surveillance programme. With additional resources provided for CFS, an additional 3 000 samples would be collected for testing. While conducting more food sample tests could not guarantee that all foods sold were safe for consumption, making available the test results would increase public awareness of the food safety standards. DFEH added that the 69 new non-directorate posts to be created in FEHD were to cope with the additional workload arising from conducting more sampling tests on food and handling food complaints. Additional resources might have to be sought later to cope with additional/new services as and when necessary.

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19. Dr KWOK Ka-ki said that the revised proposal was in the right direction as it no longer focussed on reorganisation of government departments. While he did not have any strong views on the revised proposal, the Administration's paper did not explain how food safety could be enhanced after the creation of such posts. Dr KWOK queried why the proposed new posts only concentrated in certain grades and did not include professionals and experts of other disciplines. He pointed out that the food safety regulatory structure in some overseas countries was headed by professionals. The Chairman asked whether the Administration had conducted studies on the food safety regulatory framework in other countries.

20. PS(HWF) said that a Food Safety Committee (FSC) would be set up under CFS to strengthen the existing consultative framework. The proposed FSC would consist of academics, professionals, food experts and trade representatives and be responsible for the formulation of food safety measures and review of food safety standards. There would also be several specialist subcommittees under the FSC to advise on specific issues, such as food standards and risk communication strategy. PS(HWF) further said that the Administration had conducted studies on the food safety regulatory mechanism in overseas countries, and such information could be made available to members if required. She added that while overseas experience provided useful reference, Hong Kong would need to draw up its own food safety regulatory framework to meet our needs.

21. Mr WONG Yung-kan said that while he had no objection to setting up the CFS, the revised proposal had deviated from the objective of exercising control at source. He commented that the Administration had adopted a piecemeal approach and would not address the problems until they surfaced. Mr WONG expressed concern that no veterinary officer posts would be created to support the enhanced food safety functions. He was not satisfied with the performance target of taking 3 000 additional food samples for testing after the creation of 69 new non-directorate posts in FEHD. He was of the view that CFS should formulate clear objectives of enhancing food safety standards, rather than increasing food sampling tests. Mr WONG pointed out that the agriculture and fisheries trade, veterinarians and Mainland experts had advocated that CFS should be formed within AFCD. He urged the Administration to draw reference to the food safety regulatory framework in Singapore where 90% of its food was imported.

22. PS(HWF) assured members that the role of veterinary officers in enhancing food safety would not be neglected. As she had explained earlier, recruitment was in progress to fill existing veterinary officer vacancies and the new posts. To her understanding, Director of Agriculture, Fisheries and Conservation (DAFC) had met with serving veterinary officers and explained to them the Administration's stance. PS(HWF) added that the Administration planned to create additional posts including agriculture and fisheries officers and other professionals.

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23. DAFC said that recruitment was in progress to fill five existing veterinary officer posts, i.e. two existing vacancies in AFCD and three new posts in FEHD. DFEH added that there were a total of 17 serving veterinary officers in Government. Six of them (three on permanent establishment and three on contract terms) were in FEHD. Three new veterinary officer posts would be created in FEHD once the selected candidates could resume duty. DFEH said that there would be an increase in the establishment of veterinary officers.

24. Ms Emily LAU shared the views of Mr Vincent FANG and Mr WONG Yung-kan that Hong Kong should control food safety at source, as some traders and the consumers would not know whether the food they bought was safe for consumption. Ms LAU noted that the Administration's proposal sought to create 44 health inspector posts and four medical and health officer posts in CFS, but no veterinary officer post. Ms LAU said that the Administration seemed to rely on food surveillance and the professional advice from medical doctors only in monitoring food safety. Ms LAU asked how the Administration could exercise control at source without involving veterinarians as they were familiar with the poultry and livestock farming practices. Ms LAU further asked whether the Administration had discussed the revised proposal with veterinary officers.

25. PS(HWF) reiterated that it was Government's responsibility to ensure food safety of fresh food and processed food products. While veterinarians had expertise in poultry and livestock farming, food safety control required multi-disciplinary input in view of the great variety of foods consumed in Hong Kong. PS(HWF) pointed out that food safety control aimed at minimising risks, and medical doctors also had training in public health matters. Moreover, the post of Controller of CFS would be created by upgrading the existing Deputy Director (Food and Public Health) post in FEHD which was currently filled by a medical officer. The filling of the Controller post by a medical officer would provide continuity in respect of food safety control matters.

26. The Chairman said that the Administration originally proposed to set up five branches under a new Department of Food Safety, Inspection and Quarantine to undertake matters related to food safety, veterinary public health and related inspection and quarantine matters. He asked which departments would assume the responsibilities of these five branches under the revised plan. He further asked why the Controller post had to be filled by a medical officer and not other professionals.

27. The Chairman further said that the revised proposal was merely a transitional arrangement. The Administration should continue to consult the stakeholders on the details of the reorganisation plan. He considered that the regulation of local agriculture and fisheries product which constituted a small portion (about 4%) of total food consumption should be transferred from AFCD to CFS in future. He asked the Administration when it would revert to the Panel on the long-term proposal for the food safety regulatory framework.

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28. PS(HWF) responded that the Administration would need more time to engage the stakeholders in further discussion on the reorganisation plan with a view to achieving consensus in this regard. Therefore, the Administration had decided to put forward the proposal for setting up CFS under FEHD, as the first step to address the imminent need to enhance the existing food safety control functions and to meet growing public expectation for better food quality and higher safety standard. PS(HWF) said that it was still the Administration's intention to establish a dedicated department responsible for food safety control in the long term. She assured members that the Administration would continue to discuss with the stakeholders the best approach for the food safety regulatory framework.

29. Concerning filling the post of the Controller of CFS by a medical officer, PS(HWF) said that as she had explained earlier, food safety control matters in Hong Kong had traditionally been led by medical officers. If the Controller of CFS post was to be filled by a professional other than a medical officer, the Administration would need to consult the affected staff and relevant professionals on the grading of the post. Approval of the Standing Committee on Directorate Salaries and Conditions of Service should be required for the creation of a new grade, so that professionals from different disciplines could be considered for filling the post. This would inevitably delay the establishment of CFS. PS(HWF) further said that the Administration would not rule out the possibility of filling the Controller post by a professional other than a medical officer in future.

30. Referring to the new non-directorate posts to be created in CFS, Mr WONG Kwok-hing said that the Administration had placed more emphasis on providing additional manpower for stepping up inspection and enforcement actions than undertaking laboratory work. Mr WONG expressed concern that the Administration would seek additional manpower for conducting food tests in future. He enquired about the number of food tests to be conducted by the Government Laboratory after the setting up of CFS, and whether the proposed additional staff was adequate to perform the anticipated increase in food tests.

31. DFEH replied that more than 60 000 food samples were collected each year for testing under the regular food surveillance programme. It was envisaged that 2 000 to 3 000 additional food samples would be collected for testing in the next year. As regards the 44 additional health inspector posts, they would also be deployed to deal with food complaints which had increased from some 2 000 to some 5 000 cases in the past two years. DFEH said that testing of food samples could be conducted by the Government Laboratory or the universities. If necessary, contract staff could be engaged to carry out more food tests. DFEH added that more food samples would be taken for testing with the increase in population and the kinds of high-risk foods. At the request of Mr WONG Kwok-hing, DFEH agreed to provide information on the guidelines for the number of food samples to be taken for testing based on the population.

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32. Mr Tommy CHEUNG reiterated that he did not see the need for creating an additional post of Permanent Secretary as no new responsibilities or new departments were placed under HWFB. Mr CHEUNG expressed concern whether the new posts to be created in CFS could achieve the purpose of enhancing food safety, as most of these posts were for health inspectors who were not responsible for conducting sampling tests. The Administration should critically examine whether there was a mismatch of manpower within CFS. Mr CHEUNG further said that the current proposal was only an intermediary step to enhance food safety. He urged the Administration to provide a comprehensive plan for the food safety regulatory framework.

33. PS(HWF) explained that the present proposal of setting up CFS was in response to the community expectation of enhancing food safety. It was still the Administration's intention to establish a dedicated department responsible for food safety control. Regarding the creation of a new post of Permanent Secretary in HWFB, PS(HWF) said that HWFB oversaw wide portfolio consisting of policy areas of very different nature (including medical and health, social welfare, food safety and environmental hygiene), which represented one-third of Government's annual recurrent expenditure. These issues were all livelihood-related, crisis-prone and of great concern to the community. PS(HWF) further said that HWFB was facing new challenges such as the health care financing scheme, and there was a genuine need for an additional post of Permanent Secretary to be created in HWFB to cope with the wide spectrum of policy responsibilities of the Bureau.

34. Mr Vincent FANG considered that it would not be appropriate for a medical doctor to oversee livestock matters. In his view, it was more appropriate for veterinarians and food scientists to take up the leadership role in food safety control, especially in exercising control at source. Mr FANG commented that the Administration did not provide a comprehensive plan for the food safety regulatory framework, and the proposed approach of taking more food samples for testing and stepping up inspection and enforcement actions was too passive, and it could not solve the problem at root. Mr FANG stressed that the most effective way to enhance food safety was to exercise control at source.

35. PS(HWF) said that while management at source was important in enhancing food safety, it was impossible to exercise control over all food sources, and the effectiveness of control at source depended on the cooperation of the exporting countries. To conduct risk assessment studies on food and food tests, and promulgate findings of such were also important work areas in food safety control. PS(HWF) further said that the Administration had established regular liaison with the Mainland and overseas countries about food safety matters. In case problematic food was identified, the relevant overseas authorities would be informed for taking appropriate follow-up actions. She added that the Administration had reached a new arrangement with the Mainland authorities on audit inspections to Mainland farms.

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36. Mr WONG Yung-kan held a strong view that food safety could only be ensured by exercising control at source, as it was not possible to substantially increase the number of sample tests on food given the large volume of imported food. Mr WONG expressed grave concern that without the involvement of veterinarians at the policy-making level, CFS would not be able to exercise effective control at source. He did not consider it necessary to follow the tradition of deploying a medical officer to be in charge of food safety matters. As there was already a considerable number of medical officers in CFS, he strongly urged that consideration should be given to filling the Controller post by a suitable professional from another relevant discipline.

37. PS(HWF) said that the Administration fully agreed that exercising control at source was important. However, implementing control at source could not replace taking enforcement actions at source by the exporting country. Audit inspections to Mainland farms were necessary to ensure that such farms complied with the food safety requirements as agreed between the Mainland and Hong Kong. PS(HWF) further said that veterinary officers and other professionals in government departments made equally important contribution to food safety control.

38. Ms Emily LAU said that the post of Controller of CFS should be filled by the most suitable officer and not necessarily a medical officer. Ms LAU further said that the Administration should not rely on inspection and enforcement actions at retail level to identify problematic food. It would be unfair to prosecute the food retailers for selling problematic food as they might not know that the food in question was unsafe for consumption. It was Government's responsibility to ensure that no problematic food was allowed to be imported into Hong Kong. She agreed to establish a dedicated department responsible for food safety control in the long run.

39. DFEH said that if problematic food unsafe for consumption was identified during FEHD's regular inspection, the retailers would first be asked not to sell the problematic food. Prosecutions would only be taken if the retailers did not take heed of the warning.

40. PS(HWF) reaffirmed that it was the Administration's intention to bring the food safety regulatory framework in line with international practices by establishing a dedicated department responsible for food safety control.

41. Dr KWOK Ka-ki commented that some members had raised concern about filling the post of the Controller of CFS by a medical officer because the Administration had not explained clearly the objective of CFS. He was open-minded on whether the Controller post should be filled by a medical officer or any other relevant professional. The most important consideration was whether the candidate possessed the requisite qualities and experience in food safety control. He considered that the Administration should involve veterinarians and relevant professionals in the food safety regulatory framework. He stressed that CFS should be established as soon as possible, and the structure could be further improved.

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42. PS(HWF) reiterated that the setting up of CFS was to enhance food safety control. Enforcement actions would be taken if there was sufficient evidence. PS(HWF) said that additional staffing resources were needed to cope with increased inspections and enforcement actions in Hong Kong arising from an increasing volume of imported food.
43. The Chairman sought members' view on whether they had any objection to the Administration submitting the staffing proposal to ESC for consideration on 8 February 2006.
44. Mr Tommy CHEUNG said that he supported the establishment of CFS, but opposed to the creation of a new Permanent Secretary post at D8 level. Mr CHEUNG considered that the Administration should put forward a comprehensive plan for the food safety regulatory framework instead.
45. Mr WONG Yung-kan said that he did not object to the setting up of CFS. The Panel could further discuss with the Administration when a comprehensive food safety regulatory framework was formulated.
46. Dr KWOK Ka-ki said that he did not object to the staffing proposal, but the Administration should address the concerns raised by members on the reorganisation plan.
47. Mr TAM Yiu-chung said that members of the two Panels had no objection in principle to the establishment of CFS. He considered it acceptable for the Administration to submit the staffing proposal to ESC on 8 February 2006, and the Panel(s) could follow up the outstanding issues at a later stage.
48. Mr Vincent FANG said that he did not object to the establishment of CFS, but considered the current proposal only a mid-way arrangement. Ms Emily LAU said that most members had urged the Administration to formulate comprehensive food safety regulatory framework. The Administration should take into account members' views in deciding whether it would submit the staffing proposal to ESC as planned.
49. The Chairman said that members had divergent views on the Administration's revised proposal. The Administration might wish to take into account members' views and decide whether it would submit the staffing proposal for consideration by ESC on 8 February 2006. The Chairman further said that if the Administration would further revise its proposal, further joint meetings would be held.
50. PS(HWF) said that the Administration would fully take into account members' views before taking a decision on the timing for submitting the staffing proposal to ESC.

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51. The Chairman said that the FSEH Panel would follow up the issues on the qualifications for the post of CFS Controller, and whether the regulatory and facilitation functions of agriculture and fisheries activities should be performed by two separate departments. Members agreed. To facilitate members' discussion, the Chairman requested RLSD of the LegCo Secretariat to provide further information on the regulatory framework in overseas countries/places.

52. There being no other business, the meeting ended at 6:40 pm.

Council Business Division 2
Legislative Council Secretariat
26 June 2006