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**Meeting of Panel on Food Safety and Environmental Hygiene
on 13 November 2007**

Background Brief prepared by Legislative Council Secretariat
Preservatives in Food Regulations

Purpose

This paper summarises the issues and concerns raised by the Panel on Food Safety and Environmental Hygiene (the Panel) relating to the Administration's proposal for amending the Preservatives in Food Regulations (Cap.132BD) ("the Regulations") in the 2006-2007 session.

Background

2. In Hong Kong, food safety is safeguarded and regulated by the Public Health and Municipal Services Ordinance (PHMSO) (Cap.132). PHMSO stipulates that all food on sale must be wholesome, unadulterated and fit for human consumption. The regulation of the conditions of the use of preservatives and antioxidants and the maximum levels that the specified food may contain is governed by the Regulations.

3. Under the Regulations, "Preservative" is defined as "any substance which is capable of inhibiting, retarding or arresting the process of fermentation, acidification or other deterioration of food or of masking any of the evidence of putrefaction". "Antioxidant" means "any substance which delays, retards or prevents the development in food of rancidity or other flavour deterioration due to oxidation". At present, there are a total of 12 permitted preservatives and 91 specified foods in Part I of the First Schedule to the Regulations, and seven permitted antioxidants and eight specified foods in Part II of the First Schedule.

4. According to the Administration, there is an international trend of moving away from "product-specific" legislation to horizontal provisions aimed at all food types. Under the General Standard on Food Additives (GSFA) of the Codex Alimentarius Commission (Codex), food items are grouped under major food categories and sub-categories. GSFA contains the list of food additives, including preservatives and antioxidants, permitted for use in food items and sets forth the conditions under which the permitted food additives can be used.

The Administration's proposal

5. On 14 November 2006, the Administration briefed the Panel on the review of and proposed scope for amendment to the Regulations. The Administration advised that the current Regulations are not in line with GSFA in the following major areas -

- (a) antioxidants under the Regulations do not include those additives which protect food items against colour changes caused by oxidation;
- (b) permitted preservatives and antioxidants under the Regulations are a simple combination of the permitted additives and the specified food items (i.e. product-specific);
- (c) the Regulations do not acknowledge the multifunctional property of additives even if an additive can technologically serve both functions of a preservative and an antioxidant; and
- (d) some common preservatives and antioxidants which are proven safe by international standards, e.g. Codex's standards, are not included in the Regulations.

6. In view of the deficiencies in the Regulations as compared with the international standards, the Administration proposed to amend the Regulations in the following areas -

- (a) amending the definitions of preservatives and antioxidants to bring them in line with the corresponding definitions in the Codex documents;
- (b) developing a food category system based upon the food category system adopted by Codex for use in GSFA;
- (c) combining Part I and Part II of the First Schedule to the Regulations to combine the lists of preservatives and antioxidants; and
- (d) incorporating those preservatives and antioxidants, as well as their permitted levels of use, that are listed in the Codex's GSFA into the Regulations.

7. The Administration conducted a public consultation exercise from 14 December 2006 to 28 February 2007 on the proposed amendments to the Regulations, and held two public consultation forums in January and February 2007. The majority of the respondents fully supported or agreed with the scope of the proposed amendments. They generally agreed that there was no need to conduct a Regulatory Impact Assessment. The Panel was informed that the Centre of Food Safety (CFS) would hold a series of technical meetings commencing in April 2007 to consult the trade on the outline of the proposed amendments to the Regulations.

Discussions by the Panel

Use of preservatives and antioxidants in food

8. Some members expressed concern over the difficulty for consumers to comprehend the names of preservatives and antioxidants which appeared on the labels of food. They were also worried about the safety of food products imported from the Mainland (such as chilled fish) and non-pre-packaged food (such as fermented bean curd and salty pickled cabbages) which would not be subject to the food labelling requirements at retail level.

9. The Administration pointed out that, when the Food and Drugs (Composition and Labelling) (Amendment) Regulation 2004 came into force on 9 July 2007, food labels of the pre-packaged food should indicate specifically the name or code of the food additive used, and also declare the presence of substances which were known to cause allergy in some individuals. Although the labelling requirements only applied to pre-packaged food, food containing preservatives or antioxidants would be covered by the Regulations irrespective of whether they were pre-packaged or not. Moreover, CFS would conduct regular inspection and testing of food samples of both pre-packaged and non-pre-packaged food in retail sale under its regular food surveillance programme.

Use of carbon monoxide and food colour

10. Mr Fred LI expressed concern about the unscrupulous use of carbon monoxide and food colour to conceal the staleness of food by some food traders in the Mainland. The Administration explained that it was an offence under the existing legislation to add preservatives to fresh meat. However, there was presently no specific regulation on the application of carbon monoxide to food. The Administration would consider this issue when reviewing the Regulations. The control of the use of food colour, however, was governed by a separate regulation under the Ordinance.

Food standards/ guidelines of the Codex Alimentarius Commission

11. Mr Tommy CHEUNG and Mr Vincent FANG held the view that the Administration should maintain a consistent stance on bringing its food standards in line with Codex standards/guidelines. He also conveyed the concern of the food industry that, given that over 90% of food products in Hong Kong were imported from other countries/places, the food industry had practical difficulties in sourcing and importing food products from the Mainland as well as other countries/places should the food standards put in place in Hong Kong not follow the prevailing international standards. Mr CHEUNG considered that the Administration should take a consistent approach by making reference to and adopting Codex standards in developing the food-related standards and regulations in Hong Kong. He considered that, in view of the Mainland's market size, the Administration should take note of the standards and regulations in respect of food additives in the Mainland.

12. Mr Fred LI, however, was of the view that the Administration should not fully adopt Codex standards in formulating its food-related standards and regulations. He considered that the Administration should accord priority to public health needs in developing its standards, policies and legislations in respect of food.

13. The Administration explained that the food standards and guidelines developed by Codex did not have any mandatory status and it was up to governments to develop their own food standards. When formulating food regulations and standards, individual country/place could make reference to the minimum requirements as recommended in Codex standards/guidelines and also take into account its circumstances, so as to meet the needs of its people in respect of health and nutritional intake. The Administration also advised that the Mainland authorities were currently revising its regulations, including amending the definitions of preservatives and developing a food category system, to incorporate the Codex's format.

Transitional arrangement

14. Members in general were supportive of the Administration's proposal of amending the Regulations and urged the Administration to introduce the legislative proposal into the Legislative Council (LegCo) expeditiously. On the premise of public health and food safety, they considered that the proposed amendments to the Regulations should come into force as early as possible, and suggested that the grace period to be provided by the Administration should not be more than 12 months.

15. The Administration responded that its plan was to introduce the legislative proposal into LegCo by the end of 2007. As regards members' views on the grace period, the Administration undertook to consider the suggestion of providing a grace period of less than 12 months should a consensus be reached with the food industry.

Latest developments

16. The Administration will consult the Panel on 13 November 2007 on the proposed amendments to the Regulations.

Relevant papers

17. The Administration's paper and other relevant papers for the Panel meetings are available on the Council's website at <http://www.legco.gov.hk/english/index.htm>.

Appendix

Relevant Papers/Documents

<u>Meeting</u>	<u>Meeting Date</u>	<u>Papers</u>
Panel on Food Safety and Environmental Hygiene	14 November 2006	Paper provided by the Administration - Paper No. CB(2) 304/06-07(01) Minutes of meeting - LC Paper No. CB(2) 593/06-07
	10 April 2007	Paper provided by the Administration - Paper No. CB(2)1514/06-07(01) Background paper prepared by the LegCo Secretariat - Paper No. CB(2) 1514/06-07(02) Minutes of meeting - LC Paper No. CB(2) 1747/06-07