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Panel on Food Safety and Environmental Hygiene

**Background Brief prepared by Legislative Council Secretariat
for the meeting on 20 January 2009**

**Prohibition on abstraction of seawater from specified areas
for live seafood keeping**

Purpose

This paper gives an account of the past discussions by the Panel on Food Safety and Environment Hygiene (the Panel) on the Administration's proposal to prohibit abstraction of seawater from specified areas for keeping live seafood to enhance the quality of fish tank water.

Background

2. At present, the Food and Environmental Hygiene Department (FEHD) adopts a number of measures to control the quality of water used for keeping live fish and shell fish intended for sale for human consumption.

Legislative control

3. Section 10A of the Food Business Regulation (Cap. 132 sub. leg. X) provides that no person shall in the course of any food business keep any live fish or shell fish intended for human consumption in water of a quality below the standard specified by the Director of Food and Environmental Hygiene by notice published in the Gazette. The specified standard is "E. coli less than 610 per 100 ml and absence of pathogenic organisms". Contravention of the provision is liable to a maximum fine of \$10,000 and imprisonment for three months upon conviction.

Inspection regime

4. In accordance with the licensing requirements/conditions and market tenancy conditions of FEHD, licensed food premises and markets stalls are required to install

and maintain proper filtration and disinfection facilities to filter and disinfect water used for keeping live fish and live shell fish intended for human consumption. Licensees/stallholders are also prohibited from using flushing water for keeping live seafood. The same requirements and conditions are applicable to live fish wholesalers under a permit system administered by FEHD.

5. FEHD staff inspect market fish stalls and wholesale premises once every eight weeks and conduct regular inspections to supermarkets, fresh provision shops and restaurants in accordance with a risk-based inspection system to ensure that operators comply with the licensing requirements/conditions and market tenancy conditions. Verbal and written warnings are given for non-compliance. Repeated breaches of requirements and conditions may lead to cancellation of licence or permit or termination of tenancy.

Water sampling and surveillance

6. In addition to routine inspections, fish tank water samples are collected from all licensed food premises, including supermarkets and seafood stalls, for *E. coli* and *Vibrio cholerae* testing. Under a risk-based surveillance programme implemented since January 2004, while the normal frequency of testing for *E. coli* for each premise remains at once every eight weeks, the action level is set at 180 per 100 ml. This provides an early alert signal to those premises with deteriorating quality of fish tank water or failing disinfection system so that remedial measures can be carried out in a timely manner. Upon receipt of any report exceeding this action level, FEHD staff will inspect the premises concerned within three working days to give advice to the operators to carry out proper maintenance work. If the test results of the follow up samples remain unsatisfactory, FEHD staff will continue to conduct site inspections and take samples until the irregularities are rectified.

7. In addition, at least one sample will be taken from each premise for *Vibrio cholerae* testing between May and September every year. Once the presence of highly infectious *Vibrio cholerae* is detected in a water sample, FEHD will close the premise concerned on health hazard grounds under the authority conferred by section 128C of the Public Health and Municipal Services Ordinance (Cap. 132).

Quality Seawater Assurance Scheme

8. A voluntary Quality Seawater Assurance Scheme was launched in January 2006 to enhance the quality of seawater supplied by seawater suppliers, to assist seafood traders to have better control of the quality of their fish tank water for compliance with the legal standards and to help inform the public about the quality of the fish tank water of seafood restaurants and sales outlets. Under the Scheme, seawater suppliers who comply with the accreditation criteria can be accredited as "Accredited Quality Seawater Suppliers". They are not allowed to abstract seawater from areas which show a high level of *E. coli*. Seafood restaurants/sales outlets which acquire seawater from Accredited Quality Seawater Suppliers or prepare their

own synthetic seawater using marine salt and tap water are eligible to apply for accreditation as "Quality Seawater Logo Holders".

Past discussions

9. The Administration briefed the Panel on 15 April 2005 on the proposal to amend the Food Business Regulation to prohibit abstraction of seawater from specified areas which showed a consistently high level of E. coli. As section 10A of the Food Business Regulation only made reference to water quality and not the source of the water, an operator would be considered to have breached the provision only if the test result of the water sample taken from the fish tank was found to be over the prescribed standard.

10. The Administration intended to amend the Food Business Regulation to prohibit abstraction of seawater from the Victoria Harbour, typhoon shelters, areas surrounding Hong Kong Island, including Ap Lei Chau, and the western side of the New Territories for live seafood keeping. According to the data collected by the Environmental Protection Department on marine water quality in various locations from 2002 to 2004 and in typhoon shelters during the same period, a consistently high level of E. coli was detected in waters in these areas.

11. Whilst recognising the need to prohibit abstraction of seawater from areas which showed a consistently high level of E. coli for live seafood keeping, concern was raised about the enforceability of the proposal in view of the extensiveness and lack of clear boundaries of the prohibited areas.

12. The Administration acknowledged that there was a certain degree of difficulty in enforcing the proposed legislation. FEHD staff would have to collect evidence that the seawater abstracted from the prohibited areas would be used for keeping live seafood. As regards the boundaries of the prohibited areas, they would be indicated when the Amendment Regulation was introduced into the Legislative Council (LegCo).

13. Hon Tommy CHEUNG pointed out that the quality of seawater for live seafood keeping could not be ensured if seawater transporters were not brought under the regulatory framework.

14. The Administration advised that the proposed accreditation scheme for seawater suppliers would include operators of seawater delivery vehicles. The Administration would not rule out the possibility of making the scheme mandatory if there was no improvement to the quality of seawater for keeping live seafood.

Recent Development

15. The Panel was advised on 13 October 2006 that the Administration had conducted several consultation sessions with the trade and members of the District Councils and Area Committees on the legislative proposal to prohibit abstraction of seawater from specified areas in July and August 2006. The trade and the district representatives were generally supportive of the proposal.

Relevant papers

16. Members are invited to access LegCo website (<http://www.legco.gov.hk>) for details of the relevant papers and minutes of the meetings.

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