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Panel on Food Safety and Environmental Hygiene

**Background brief prepared by the Legislative Council Secretariat
for the meeting on 12 July 2011**

Regulation on pesticide residues in food

Purpose

This paper gives an account of the past discussions by the Panel on Food Safety and Environmental Hygiene ("the Panel") on the regulation of pesticide residues in food.

Background

2. At present, the import, manufacture, formulation, distribution, sale and supply of pesticides in Hong Kong is regulated under the Pesticides Ordinance (Cap. 133), which is enforced by the Agriculture, Fisheries and Conservation Department. While the general provision under the Public Health and Municipal Services Ordinance (Cap. 132), which stipulates that all food on sale must be wholesome, unadulterated and fit for human consumption, can be relied on for cases related to pesticide residues in food, there is currently no legal provision that specifically directs at controlling the level of pesticide residues in food. With a view to enhancing the effectiveness of regulatory control and enforcement in this respect, the Administration proposed in November 2007 to put in place a new regulatory framework for pesticide residues in food. The salient features of the proposed regulatory framework were as follows -

- (a) making reference mainly to the definitions adopted by the Codex Alimentarius Commission¹ ("Codex") for the key terms in the new subsidiary legislation, e.g. "pesticide", "pesticide residue", "maximum residue level" ("MRL"), "extraneous maximum residue limit" ("EMRL");
- (b) adopting a "positive list" approach in the proposed regulatory framework for pesticide residues in food, under which MRLs of pesticides that were allowed to be found in food were specified in the legislation whereas any other pesticide residues without specified MRLs were either not allowed or the residual level of which should not exceed a "default value";
- (c) taking a two-step approach in determining the standards of pesticide residues in food (i.e. adopting the standards recommended by the Codex as the backbone and supplemented by standards of the Mainland and other major food-supplying countries for Hong Kong, notably Thailand and the United States of America, and conducting risk assessment studies to assess whether the proposed standards were adequate to protect public health in the local setting);
- (d) setting a "default value" (i.e. the residue level below which was considered acceptable) for those chemicals with no standards specified and developing a list of "exempted substances" to facilitate the trade to use pesticides that were natural and the residues of which were identical to or indistinguishable from natural food components; and
- (e) adopting the Codex MRLs as the backbone of the local set of MRLs for pesticide residues in food, and making reference to the Codex when developing such classification system under the new regulatory framework.

Past discussions by the Panel

3. At its meeting on 13 November 2007, the Panel was briefed by the Administration on the above proposed regulatory framework for pesticide

¹ The Codex Alimentarius Commission was established in 1963 by the World Health Organization and the United Nations Food and Agriculture Organization to develop international food standards, guidelines and related texts.

residues in food in Hong Kong. Members expressed grave concern about the legislative timetable for the new regulation. They considered that the proposed two-year grace period for the trade to comply with the new regulatory requirement was too long, and the new regulation should be enacted as soon as possible.

4. The Administration advised members that it planned to submit the legislative proposal to the Legislative Council ("LegCo") for scrutiny by the end of 2008. In deciding on the duration of the grace period, the Administration had to take into consideration the views of the trade and whether private laboratories could offer sufficient testing services for pesticide residues in food to the food trade. Should there be a consensus among the food trade, other parties concerned and the community, the Administration would have no objection to the suggestion of shortening the grace period. The Administration would hold two public forums for introducing and discussing the proposed regulatory framework for pesticide residues in food in December 2007.

5. As the Mainland was the Hong Kong's major food supplier, there was a view that the proposed pesticide residues standards should synchronize with that on the Mainland. In this regard, members enquired whether the Centre for Food Safety ("CFS") would increase the number of inspections and the number of food samples taken for testing under its food surveillance programme, and whether the implementation of the new piece of subsidiary legislation would have any adverse impact on the number and variety of vegetables and fruits imported from the Mainland.

6. According to the Administration, the Mainland adopted the "non-positive" approach to regulate pesticide residues in food and there were some 100 pesticides listed in the Mainland's national standard for pesticide residues. In the Administration's proposed list of pesticides under the new piece of subsidiary legislation, there would be some 400 pesticides comprising some 200 pesticides on the list of pesticides adopted by Codex, some 100 pesticides adopted by the Mainland and some 100 pesticides adopted by Hong Kong's major food importing countries/places. The Administration had maintained close contact and frequent exchanges with the relevant Mainland authorities on the proposed list of pesticides, including the Guangdong Entry-Exit Inspection and Quarantine Bureau and the Shenzhen Entry-Exit Inspection and Quarantine Bureau ("Shenzhen CIQ"). A meeting with Shenzhen CIQ was held on 12 November 2007 to discuss various issues, including inspection and quarantine requirements and testing of pesticide residues on fruits and vegetables.

7. Given that the current list of pesticides adopted by the Mainland was in line with the standards of Codex, the Administration took the view that its proposed regulatory framework would not have any significant impact on most food products imported from the Mainland. On the other hand, the enactment of the regulatory framework would facilitate the enforcement actions of the Food and Environmental Hygiene Department in regular food inspection and testing of food samples at Man Kam To ("MKT") Boarder Control Point as there would be clear provisions in the new piece of subsidiary legislation regulating the permitted levels of pesticide residues in food. Apart from conducting tests on imported vegetables and fruits at the import level at MKT Border Control Point, the Administration pointed out that CFS also took samples of vegetables and fruits for testing of pesticide residues and other harmful substances at wholesale and retail levels under its regular food surveillance programme. After the implementation of the new regulatory control over the pesticide residues, the Administration would increase the number of prohibited or restricted chemicals to be tested in food samples. CFS would also make appropriate changes to the types of pesticides to be analyzed from samples taken at the import, wholesale and retail levels.

8. Members also raised concern about the development of new veterinary drugs used for food-producing animals (e.g. application of Chinese herbal medicine to pig feeds) and the health risk posed by these new veterinary drugs. Members were advised that the Administration proposed to develop a list of "exempted substances" to facilitate the trade in the use of pesticides that were natural and the residues of which were identical to or indistinguishable from natural food components. In developing such a list, the Administration would base on the following principles -

- (a) the substances used fell under the definition of pesticides;
- (b) the substances were considered not necessary to require any MRLs by other regulatory authorities; and
- (c) the substances would not pose any public health risk.

On the application of Chinese herbal medicine to animal feeds, members were informed that this issue would be considered when reviewing the Public Health (Animals and Birds) (Chemical Residues) Regulation (Cap. 139N), which governed the use of veterinary drugs in food animals.

9. At its meeting on 15 October 2010, the Panel noted that the Administration was further refining the proposed regulatory framework for pesticide residues in food, and setting statutory maximum residue limits for

different kinds of food involving about 400 pesticides. As for veterinary drug residues in food, the Panel was advised that the Administration was working out the details of the proposed regulatory framework and drawing up the timetable for the next stages of work. The trade and members of the public would be consulted on the issue in due course.

Relevant papers

10. A list of the relevant papers on the LegCo website is in the **Appendix**.

Council Business Division 2
Legislative Council Secretariat
6 July 2011

Relevant papers on regulation of pesticide residues in food

Meeting	Date of meeting	Paper
Panel on Food Safety and Environmental Hygiene	13.11.2007 (Item V)	Agenda Minutes CB(2)289/07-08(03)
	15.10.2010 (Item I)	Agenda Minutes CB(2)50/10-11(01)
Legislative Council	12.1.2011	[Question 16] Asked by: Hon Fred LI Regulation of pesticide residues in food

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