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Legislative Council

LC Paper No. CB(2)830/17-18

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by the Administration)

Ref : CB2/PL/FE

Panel on Food Safety and Environmental Hygiene

Minutes of meeting

**held on Tuesday, 12 December 2017, at 2:00 pm
in Conference Room 3 of the Legislative Council Complex**

Members present : Hon Steven HO Chun-yin, BBS (Chairman)
Dr Hon KWOK Ka-ki (Deputy Chairman)
Hon LEUNG Yiu-chung
Hon Tommy CHEUNG Yu-yan, GBS, JP
Prof Hon Joseph LEE Kok-long, SBS, JP
Hon Starry LEE Wai-king, SBS, JP
Hon Claudia MO
Hon Michael TIEN Puk-sun, BBS, JP
Hon CHAN Chi-chuen
Hon CHAN Han-pan, JP
Hon LEUNG Che-cheung, SBS, MH, JP
Hon Alice MAK Mei-kuen, BBS, JP
Hon KWOK Wai-keung, JP
Dr Hon Helena WONG Pik-wan
Dr Hon Elizabeth QUAT, BBS, JP
Hon POON Siu-ping, BBS, MH
Dr Hon CHIANG Lai-wan, JP
Ir Dr Hon LO Wai-kwok, SBS, MH, JP
Hon Andrew WAN Siu-kin
Hon CHU Hoi-dick
Hon SHIU Ka-fai
Hon SHIU Ka-chun
Hon Wilson OR Chong-shing, MH
Dr Hon Pierre CHAN
Hon Tanya CHAN
Hon HUI Chi-fung
Hon LAU Kwok-fan, MH
Hon Kenneth LAU Ip-keung, BBS, MH, JP
Hon Jeremy TAM Man-ho

**Members
absent** : Hon CHAN Hak-kan, BBS, JP
Hon HO Kai-ming
Hon YUNG Hoi-yan
Hon KWONG Chun-yu

**Public Officers
attending** : Item IV

The Administration

Mrs Cherry TSE LING Kit-ching, JP
Permanent Secretary for Food and Health (Food)

Mr Daniel CHENG Chung-wai, JP
Deputy Secretary for Food and Health (Food) 1

Miss Diane WONG
Principal Assistant Secretary for Food and Health (Food) 2

Mrs Avia LAI WONG Shuk-han, JP
Head, Private Columbaria Affairs Office
Food and Environmental Hygiene Department

Ms Viola YIM Cheng-har
Superintendent (Private Columbaria Licensing Team)
Food and Environmental Hygiene Department

Item V

The Administration

Dr CHUI Tak-yi, JP
Under Secretary for Food and Health

Miss Diane WONG
Principal Assistant Secretary for Food and Health (Food) 2

Mr FORK Ping-lam
Assistant Director (Operations) 3
Food and Environmental Hygiene Department

Mr LEE Ming-wai
Pest Control Officer-in-charge
Food and Environmental Hygiene Department

Item VI

The Administration

Dr CHUI Tak-yi, JP
Under Secretary for Food and Health

Mr Kenneth CHAN Siu-yum
Principal Assistant Secretary for Food and Health (Food) 1

Dr Samuel YEUNG Tze-kiu
Consultant (Community Medicine) (Risk Assessment
and Communication), Centre for Food Safety
Food and Environmental Hygiene Department

Miss Janny MA Ka-ming
Scientific Officer (Standard Setting) 3, Centre for Food Safety
Food and Environmental Hygiene Department

The Hong Kong Polytechnic University

Dr YAO Zhongping
Associate Professor
Department of Applied Biology and Chemical Technology

Dr Maggie TANG Mei-ki
Scientific Officer
Department of Applied Biology and Chemical Technology

Mr Eugene LI Zhen-yan
Research Assistant
Department of Applied Biology and Chemical Technology

**Clerk in
attendance** : Miss Josephine SO
Chief Council Secretary (2) 2

**Staff in
attendance** : Ms Wendy LO
Senior Council Secretary (2) 2

Miss Michelle TANG
Council Secretary (2) 2

Miss Cally LAI
Legislative Assistant (2) 2

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I. Confirmation of minutes

(LC Paper No. CB(2)465/17-18)

The minutes of the policy briefing held on 31 October 2017 were confirmed.

II. Information papers issued since the last meeting

(LC Paper No. CB(2)386/17-18(01))

2. Members noted that a referral from the Panel on Public Service regarding the work of the Joint Offices for Investigation of Water Seepage Complaints had been issued since the last meeting.

III. Date of next meeting and items for discussion

(LC Paper Nos. CB(2)467/17-18(01) and (02))

3. Members agreed to discuss the following items at the next regular meeting to be held on Tuesday, 9 January 2018 at 2:30 pm:

- (a) Result of the public consultation on proposed amendments to the Food Adulteration (Metallic Contamination) Regulations (Cap. 132V); and
- (b) Work on the review of export control on powdered formulae.

Items for discussion at future meetings

4. The Chairman recapitulated that at the last Panel meeting held on 14 November 2017, concerns were raised about the composition and operation of the Liquor Licensing Board ("LLB"), its procedures for vetting liquor licence applications and the system of declaration of interests adopted by LLB. After his post-meeting discussion with the Administration, the Chairman had acceded to the Administration's proposal that relevant issues be discussed in the second quarter of 2018 under the item "Liquor licensing system in Hong Kong: enhancement measures" which had been placed on the Panel's list of outstanding items for discussion (i.e. item 17 of LC Paper No. CB(2)467/17-18(01)).

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5. The Chairman added that at the last meeting, there was a suggestion that the Administration should be requested to brief members on its responses to the observations and recommendations set out in The Ombudsman's direct investigation report on "Food and Environmental Hygiene Department's System of Safety Control for Imported Fruits and Vegetables". The Chairman informed members that the Administration had undertaken to issue in early January 2018 an information paper on its response to The Ombudsman's investigation report and brief members on its follow-up actions in response to the investigation report, together with the item "Report on the Food Surveillance Programme for 2017" (see items 3 and 4 of LC Paper No. CB(2)467/17-18(01)) at the Panel meeting in February 2018.

IV. Implementation of the Private Columbaria Ordinance, including matters relating to the Private Columbaria Appeal Board

(File Ref: FH CR 2/3751/07, LC Paper Nos. CB(2)421/17-18(01), CB(2)467/17-18(03) and (04))

6. At the invitation of the Chairman, Permanent Secretary for Food and Health (Food) ("PSFH(F)") took members through the Administration's paper (LC Paper No. CB(2)467/17-18(03)) which gave an account of the Administration's work progress in relation to the implementation of the Private Columbaria Ordinance (Cap. 630) ("the Ordinance") in the initial six-month period following enactment, including the two policy initiatives to address the land premium and traffic impact assessment ("TIA") issues of pre-cut-off columbaria seeking a licence under the Ordinance, and the proposed remuneration package for the non-official members of the Private Columbaria Appeal Board ("PCAB") to be constituted to hear and determine appeals lodged by an applicant or holder of a specified instrument aggrieved by a decision made by the Private Columbaria Licensing Board ("PCLB") or the Director of Food and Environmental Hygiene referred to in section 84(1) of the Ordinance. Members noted the information note prepared by the Legislative Council ("LegCo") Secretariat on the subject (LC Paper No. CB(2)467/17-18(04)).

Policy initiatives related to land premium and traffic impact assessment issues of pre-cut-off columbaria

Initiative relating to land premium

7. The Deputy Chairman, Mr LEUNG Yiu-chung, Ms Tanya CHAN, Dr Helena WONG and Mr SHIU Ka-chun queried the justifications for introducing the two policy initiatives. They expressed grave concern about the Government's decision to extend the waiving of relevant payments for regularization in respect of the pre-cut-off sold niches ("the waiving

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arrangement") from pre-cut-off columbaria eligible for an exemption in all other respects to pre-cut-off columbaria eligible for a licence in all other respects. It was pointed out that the decision to extend the waiving arrangement was not in line with previous deliberations of the Bills Committee on Private Columbaria Bill ("the Bills Committee"). According to the Administration, pre-cut-off columbaria (i.e. a columbarium that was in operation, and in which ashes were interred in niches, immediately before the announcement of the former Private Columbaria Bill ("the Bill") at 8:00 a.m. on 18 June 2014 (the cut-off time)), should comply with the land-related requirements. Any such columbarium seeking regularization in respect of breaches of relevant lease conditions and/or unlawful occupation of unleased land should be subject to payment of land premium, waiver fee or a short term tenancy ("STT") rental at full market value ("FMV")/rental as well as administrative fee for regularization, in order to be eligible for the issue of a licence. In these members' views, the decision to extend the waiving arrangement was a "relaxation" measure for pre-cut-off private columbaria at the expense of public coffers. It would also set a bad precedent that the Government could introduce administrative measures to relax certain regulatory requirements.

8. Ms Alice MAK, Mr LEUNG Che-cheung, Mr LAU Kwok-fan and Ir Dr LO Wai-kwok expressed concern that the two policy initiatives had attracted controversies within the community. They criticized that the Administration had failed to assess the situation (e.g. the actual number of private columbaria that might have difficulty in meeting the relevant eligibility requirements) before finalizing the regulatory regime. Ms MAK asked whether further administrative measures would be introduced to address other issues of concern to pre-cut-off columbaria to help tide over the difficulties they encountered in applying for a licence. Mr LAU expressed concern that following the introduction of the two policy initiatives, it would be much easier for a pre-cut-off columbarium to obtain a licence. He queried how the interest of consumers would be protected under such circumstances.

9. PSFH(F) and Deputy Secretary for Food and Health (Food) 1 made the following responses:

- (a) the Ordinance introduced for the first time a licensing regime to regulate the operation of private columbaria. The Administration needed to resolve properly the historical problems accumulated over decades. A lot of people had purchased niches from private columbaria or even interred the ashes of their deceased relatives therein before they knew about the proposed licensing regime on or after 18 June 2014. Given this, the Administration needed to adopt a pragmatic and sensitive approach towards the consumers

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who had purchased these niches, and the dedicated persons, to minimize their losses and any social disruption arising from massive displacement of interred ashes;

- (b) during previous deliberations at meetings of the Panel and the Bills Committee, some Members urged the Administration to address the land premium issue for regularizing pre-cut-off columbaria in a pragmatic manner so as to avoid "catastrophic" consequences. Information collected from the Notification Scheme in 2014 showed that there might be about 87 private columbaria that had commenced operation before 1990. However, according to the latest information available, there might be only around 28 such private columbaria (as the remaining 59 might not be able to provide any documentary proof). Taking into account Members' views, the dire consequences of not providing for any special arrangements for niches sold before the cut-off time in pre-cut-off columbaria, the overall interests of the community and the wishes of the descendants not to disturb the interred ashes of the deceased as far as practicable, the Administration announced the two policy initiatives. For waiving of relevant payments for regularization in respect of the pre-cut-off sold niches in pre-cut-off columbaria eligible for an exemption in all other respects (originally estimated to be 87 columbaria), if the intention was to continue to cover those 59 columbaria which might turn out to be seeking a licence, the Administration would need to, for parity, extend the same treatment to columbaria in like circumstances, i.e. the remaining 44 pre-cut-off columbaria which had not claimed pre-1990 status seeking a licence;
- (c) the decision to introduce the two policy initiatives neither contradict nor alter any provisions of the Ordinance. They were administrative measures without involving funding or legislative amendment. It should be noted that only those pre-cut-off columbaria confirmed to be eligible for a licence in all other respects might be considered for waiving the relevant waiver fees, STT rentals and administrative fees before and during the validity period of the specified instrument in respect of the niches sold before the cut-off time and its pre-cut-off religious ash pagoda fulfilling certain requirements, when they applied for regularizing breaches of relevant lease conditions and/or unlawful occupation of unleased land. In other words, the pre-requisites were that the columbarium must (i) be a pre-cut-off columbarium; (ii) fulfill the licensing criteria for a licence in all other respects, which included more than 10 relevant requirements on planning, building and fire

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safety, environmental protection, electricity and lift and escalator safety, management plan, financial proposal, right to use premises, deed of mutual covenant, etc. A pre-cut-off columbarium would not automatically get a licence as a result of the policy initiatives. Each application would be considered on a case by case basis, having regard to its circumstances and merits;

- (d) according to the Ordinance, the operation of a private columbarium in Hong Kong must be covered by a licence, an exemption or a temporary suspension of liability except during the grace period applicable to a columbarium. Only private columbaria that had obtained a licence might sell or newly let out niches. This fundamental principle had not been changed and would not be changed. Operators of private columbaria had the responsibility to abide by various licensing requirements as stipulated under the Ordinance; and
- (e) to ensure that the benefit would accrue to the consumers who had purchased (or rented) the pre-cut-off sold niches, the safeguards similar to those applicable to pre-cut-off sold niches in pre-cut-off columbaria seeking an exemption would also apply to pre-cut-off sold niches in pre-cut-off columbaria seeking a licence.

10. Despite the Administration's explanations, Ms Tanya CHAN considered that the decision to extend the waiving arrangement to cover pre-cut-off columbaria eligible for a licence in all other respects was too lenient to operators who had yet to pay land premium and had given rise to a non-level playing field from the perspective of operators who had paid land premium. In her view, PCLB should take into account the actual circumstances and merits of each application in considering whether the relevant waiver fees, STT rentals and administrative fees should be waived. She requested the Administration to provide information about the 131 private columbaria that had voluntarily joined the Notification Scheme and would likely to be benefitted under the waiving arrangement, including the name, address and size of those columbaria and the number of pre-cut-off sold niches in each of the columbaria.

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11. Mr LAU Kwok-fan was concerned that operators might be enticed to provide false information to PCLB in applying for a licence, claiming that their niches were sold before the cut-off time so as to benefit from the waiving arrangement. He considered that the Administration and PCLB should conduct audit checks and a full stock take of the number of pre-cut-off sold niches in private columbaria before processing applications for specified instruments.

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12. PSFH(F) said that the Food and Environmental Hygiene Department ("FEHD") had obtained information provided on a voluntary basis by private columbaria under the Notification Scheme. In future, columbaria should submit their applications for specified instruments as required by the Ordinance and PCLB would scrutinize the information as an integral part of processing the applications. According to section 99 of the Ordinance, a person who committed an offence of providing false or misleading information was subject to the maximum penalty of a fine of \$500,000 and imprisonment for two years. In addition, if an applicant for a specified instrument deceived the Government, thus resulting in prejudice to the Government, that person committed the offence of fraud under the Theft Ordinance (Cap. 210), the maximum penalty for which was imprisonment for 14 years.

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13. Mr Michael TIEN, Ms Tanya CHAN, Dr Helena WONG, Ir Dr LO Wai-kwok and Mr SHIU Ka-chun expressed grave concern about the financial implication associated with extending the waiving arrangement. They requested the Administration to provide information on the estimated amount of revenue forgone associated with extending the waiving of relevant payments for regularization from pre-cut-off columbaria eligible for an exemption in all other respects to pre-cut-off columbaria eligible for a licence in all other respects and the calculation method adopted/factors and variables taken into account in the Administration's assessment of land value premium to be paid by operators of those 131 columbaria claiming to be pre-cut-off columbaria. Mr TIEN suggested that to alleviate the financial burden, consideration might be given to requiring operators of pre-cut-off columbaria confirmed to be eligible for a licence to pay FMV land premium at a certain percentage (e.g. 20% to 30%) instead of waiving the relevant fees and rentals in whole.

14. PSFH(F) responded that the Lands Department normally assessed the land premium for a private columbarium at FMV based on the estimated proceeds from disposal of all its niches (unsold as well as sold niches) at present-day value. However, from the operators' perspective, some niches were sold over a long period of time by pre-cut-off columbaria in the past few decades at different prevailing prices, with some sold long time ago at prices far below the current prices. Most had not factored into account the land premium element. As the transaction had been consummated, it would not be possible for the columbaria to afford the FMV land premium or to recoup such FMV land premium from consumers. Having considered the above, it was decided that the waiving arrangement be extended to cover pre-cut-off sold niches in pre-cut-off columbaria eligible for a licence in all other respects. It was believed that the waiving arrangement would help prevent operators from clawing back the amounts from concerned consumers or using revenues from new licensed niches to cross-subsidize pre-cut-off sold niches, resulting in a substantial increase in the prices of new supply.

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15. PSFH(F) added that at this stage, it was difficult for the Administration to assess the actual number of columbaria and niches that could benefit from the waiving arrangement and hence its financial implications. The Administration would not know the number of columbaria making applications until 29 March 2018 (i.e. the deadline for the pre-cut-off columbaria to submit their applications). Besides, only those pre-cut-off columbaria confirmed to be eligible for a licence in all other respects could apply for waiving payments for the regularization exercise and the amount of relevant payments that might be waived depended on circumstances of individual sites (e.g. the location and the number of niches, etc.).

16. Ms Alice MAK said that the Administration should consider adjusting the land premium for private niches to facilitate the provision of medium-priced niches in the market. PSFH(F) responded that to help promote a policy on selling niches on a time-limited basis facilitating turnover and recyclability, the Administration would provide options on land premium availed administratively for post-cut-off sold niches in private columbaria. Applicants could opt for the option of FMV short-term waiver ("STW") waiver fees if niches were also let out to consumers for a period not longer than that for STW.

17. Citing a case where a private columbarium (namely Po Fook Ancestor Worship Hall) had to pay a substantial amount of land premium for lease modification years ago before the enactment of the Ordinance, Ms Tanya CHAN reiterated concern that the waiving arrangement had created a non-level playing field from the perspective of operators who had paid land premium. She surmised that the price of some private niches had factored into account the anticipated costs for the regularization exercise and the land premium element. In her opinion, the waiving arrangement would provide double benefit for some licensees.

18. PSFH(F) responded that the Administration would impose safeguards in order to guard against abuse of the waiving arrangement. Among others, operators were not allowed to impose additional fees, charges or other sums in respect of an interment right beyond the amounts provided in the original agreements with the consumers concerned. Such restriction would not apply to pre-cut-off niches for which FMV premium were paid. It was expected that private columbaria fulfilling all statutory requirements would have a higher chance of getting a licence and therefore should be able to resume the supply of niches earlier than its competitors. In response to the enquiries of Ir Dr LO Wai-kwok and Mr LEUNG Che-cheung, PSFH(F) said that to ensure compliance with the safeguards against abuse of the waiving arrangement, operators of private columbaria were required to provide PCLB with registers on unused or partially used pre-cut-off sold niches.

Initiative relating to traffic impact assessment

19. Members including Mr LEUNG Yiu-chung, Ms Tanya CHAN, Dr Helena WONG, Mr CHAN Chi-chuen, Mr SHIU Ka-chun and Mr LEUNG Che-cheung noted with concern that the Administration had decided to adopt an empirical evidence approach as the basis for assessing traffic impacts when relevant government departments processed the licence application from a pre-cut-off columbarium whose operation only involved the number of niches sold before 30 June 2017 (i.e. the enactment date of the Ordinance). These members pointed out that in some districts where private columbaria were situated, the traffic and pedestrian flow during the grave-sweeping seasons had caused serious nuisance to residents living nearby. Expressing concern about the traffic impact brought by this new policy initiative, they asked whether the Administration had drawn up any measures to resolve the traffic and pedestrian flow problem.

20. In response, PSFH(F) stressed that the TIA mechanism was normally adopted for newly planned establishments/facilities or large-scale activities that were expected to bring about additional traffic and pedestrian flow problem. The Administration had studied this issue in depth and had three observations. Firstly, the columbaria concerned were not newly planned establishments but had already been in existence and operation in the community for a long time. Their traffic impact could therefore be ascertained on an empirical rather than an assumed basis. Secondly, the traffic and pedestrian flow problem mainly surfaced during the grave-sweeping seasons (Ching Ming Festival and Chung Yeung Festival) and the situation outside the grave-sweeping seasons was usually not of a major concern. Thirdly, an applicant for a licence would have to submit a management plan covering the traffic and pedestrian flow management measures for prior approval by PCLB and was required to comply with the licensing conditions relating to the traffic and pedestrian flow management measures imposed by PCLB. The Administration noted that during the grave-sweeping seasons, traffic and pedestrian flow management arrangements tailored to the needs of the neighborhood were already implemented by relevant government departments and/or the operators in certain districts. According to on-site observation, with traffic and pedestrian flow management arrangements as well as contingency plans, the traffic and pedestrian flow level in those areas during the peak hours was still at an acceptable level.

21. PSFH(F) further said that according to the stock-taking exercise of the pre-enactment niche data of 131 columbaria claiming to be pre-cut-off columbaria, there were about 63 000 pre-enactment sold niches where ashes had yet to be interred in columbaria that need to seek planning permission. If only niches sold by 30 June 2017 of pre-cut-off columbaria were counted and

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as these niches where ashes had yet to be interred spread over a number of areas, the traffic and pedestrian flow level in those areas during the peak hours was, overall speaking, still at an acceptable level. PCLB would, having regard to the situation and views of government departments, vet the management plan of the operators and impose appropriate licensing conditions. In addition, if a pre-cut-off columbarium would like to sell or newly let out niches after 30 June 2017, or any post-cut-off columbarium would like to pursue their columbarium developments, the TIA mechanism was applicable to them in the context of the planning and licence applications.

Public consultation on the two policy initiatives

22. The Deputy Chairman, Mr LEUNG Yiu-chung and Ms Tanya CHAN expressed dissatisfaction that the Administration had not conducted consultations with relevant stakeholders including District Councils, before rolling out the two policy initiatives. They suggested that the Panel should hold a public hearing to receive public views on the two policy initiatives. The Chairman said that he would discuss with the Administration on the schedule of the public hearing.

23. PSFH(F) advised that under normal circumstances, the Administration would not conduct consultations on matters relating to the charging/waiving of land premium. After the announcement of the Bill in 2014, the Administration had all along maintained close communication with stakeholders including the trade, the residents, the District Councils, LegCo and other concern groups. It had participated in the public hearings held by the relevant committees of LegCo. PSFH(F) further said that the Administration understood that the two policy initiatives were of concerns to Members, members of the public and operators of private columbaria. In the Administration's view, it had grasped the very divergent concerns and views of different stakeholders. Given the huge financial interests involved, the very diverse circumstances of the columbaria and the need for confidentiality, the Administration had not made prior consultation with the trade on the concrete policy initiatives before announcing the Government's decision. PSFH(F) added that PCLB would make announcements according to the Ordinance after receiving applications for specified instruments from columbaria. By then, members of the public would know which private columbaria had applied for an exemption, a licence and temporary suspension of liability and could provide written submissions for PCLB's consideration. In other words, there were avenues for incorporation of community views in the deliberation on individual applications.

The proposed remuneration package

24. Mr LAU Kwok-fan, Mr CHAN Chi-chuen and Ms Tanya CHAN

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indicated support for the Administration's proposed remuneration package for the non-official members of PCAB as set out in paragraphs 20 to 22 of the Administration's paper.

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25. Dr Helena WONG suggested that to facilitate Members' consideration of the proposed remuneration package for the non-official presiding officers of PCAB, the Administration should provide, in its paper to be submitted to the Finance Committee ("FC"), detailed information on the caseload of PCAB, i.e. the estimated number of appeal cases to be received and processed by PCAB, in the initial licensing and appeal stages (i.e. in the first three years of the implementation of the licensing regime). The Administration undertook to address the said issue in its paper to be submitted to FC.

V. Anti-mosquito campaign for 2018 and prevention and control of biting midges

(LC Paper Nos. CB(2)467/17-18(05) and (06))

26. At the invitation of the Chairman, Under Secretary for Food and Health ("USFH") briefed members on the measures taken by FEHD in respect of the prevention and control against mosquitoes and biting midges, as detailed in the Administration's paper (LC Paper No. CB(2)467/17-18(05)). Members noted the background brief prepared by LegCo Secretariat on the subject (LC Paper No. CB(2)467/17-18(06)).

Anti-mosquito work

27. Mr CHAN Chi-chuen enquired about the criteria for selecting locations for detecting the larval breeding rate of Aedine mosquitoes and setting up ovitraps in those areas of surveillance for compiling the Area Ovitrap Index for Aedes albopictus ("AOI") and the Monthly Ovitrap Index for Aedes albopictus under the dengue vector surveillance programme. Pest Control Officer-in-charge, FEHD ("PCO I-c/FEHD") responded that FEHD followed the relevant advice of the World Health Organization ("WHO") in selecting locations for setting up ovitraps. FEHD's pest control staff would identify places with higher human concentration and potential for becoming a mosquito breeding ground for the purpose of placing ovitraps. The existing 52 surveillance areas covered housing estates, schools, hospitals, leisure venues, etc.

28. Referring to the monthly AOIs for the 52 surveillance areas tabulated at Annex II to the Administration's paper, Mr CHAN Chi-chuen enquired about the reasons for the substantial increase in AOI recorded in Tseung Kwan O North (i.e. from 1.6% in April 2017 to 55.9% in May 2017). He wondered whether the construction sites and idle government land in the district had become mosquito breeding grounds, causing such a rapid increase in AOI.

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Mr CHAN also enquired about the corresponding measures taken/to be taken by FEHD and relevant government departments to tackle the mosquito problem in Tseung Kwan O North.

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29. PCO I-c/FEHD advised that the situation of mosquito breeding in Tseung Kwan O North was found to be particularly serious in some schools and housing estates where accumulation of water was found in water storage devices and containers kept in gardens and at hillsides next to those premises. He assured members that when AOI of a particular area reached the alert level of 20%, FEHD would convene district task force meetings and activate the rapid alert system to step up the coordination of government efforts in mosquito control. Besides, FEHD would conduct inspections and if necessary, increase the frequency of inspection to eliminate potential mosquito breeding sites within a radius of 100 metres around ovitraps with positive finding. Upon Mr CHAN Chi-chuen's request, the Administration would provide more detailed information for members' reference.

30. Mr CHAN Han-pan expressed concern that ovitraps placed at selected locations under the dengue vector surveillance programme could only detect the larval breeding rate of Aedine mosquitoes but not other mosquito species, such as Culex tritaeniorhynchus and Anopheles mosquitoes which could respectively transmit Japanese encephalitis ("JE") and malaria. In his view, the Administration should introduce different indices having regard to the behaviour of various mosquito species, so as to reflect more comprehensively the mosquito problem in the territory.

31. PCO I-c/FEHD advised that other than placing ovitraps at selected locations to monitor the distribution of Aedes albopictus to guard against dengue fever ("DF"), FEHD also took preventive and control measures to minimize the risks of other mosquito-borne diseases, including JE and malaria. For instance, the JE vector surveillance programme was extended in 2017 to cover relatively high risk areas in seven districts, namely Yuen Long, Tuen Mun, Sai Kung, North, Sham Shui Po, Southern and Kwai Tsing, once every month. All the 851 samples of Culex tritaeniorhynchus collected and tested during January to October 2017 were found negative for JE virus. Besides, some 600 streams in the territory were covered under the malaria vector prevention programme for the prevention and control of Anopheles mosquitoes as the major local malaria vector mainly bred in clear water streams. Surveys to water streams were conducted regularly to detect the presence of malaria vector but breeding of which was not found in recent years.

32. The Chairman and Dr Helena WONG expressed concern whether any new measures/methods had been introduced by FEHD to control infestation of mosquitoes. Principal Assistant Secretary for Food and Health (Food) 2 ("PASFH(F)2") and Assistant Director (Operations) 3, FEHD

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("AD(Ops)3/FEHD") responded that a number of new measures had been implemented to strengthen mosquito prevention and control. For instance, five additional surveillance areas in Central & Western District, Kwun Tong District, Sha Tin District, Tsuen Wan District and Tuen Mun District would be covered in mid-2018, making up a total of 57 surveillance areas under the dengue vector surveillance programme. To lower the risks of *Aedes aegypti* entering Hong Kong via air traffic, the Port Health Office under the Centre for Health Protection of the Department of Health implemented new requirements on 26 April 2017, requiring all inbound aircraft from affected areas of Zika virus infection to provide the Port Health Office with information indicating that disinsection had been conducted prior to arrival. As for aircraft without proof of disinsection, the Port Health Office would require them to carry out on-arrival disinsection. This would help prevent the importation of diseases through infected mosquitoes. As at 27 October 2017, all 57 commercial airlines that operated incoming aircrafts from Zika-affected areas had adopted disinsection practice, among which 14 had experience of carrying out on-arrival disinsection. FEHD had also set up four Pest Control Inspection Teams to enhance inspection of construction sites and enforcement against mosquito breeding. Between late May and late November 2017, a total of 963 construction sites were inspected.

Admin

33. Dr Helena WONG requested the Administration to provide a list of the 269 construction sites against which prosecutions had been instituted by FEHD's District Pest Control Offices for mosquito breeding between late May and late November 2017, and the major types of construction works carried out in those sites.

34. Dr Helena WONG opined that FEHD should step up coordination among various departments for more effective implementation of mosquito control measures. PASFH(F)2 and AD(Ops)3/FEHD responded that FEHD would continue to work closely with the relevant bureau/departments to strengthen anti-mosquito work in venues under their management. FEHD would also provide technical advice to help them carry out effective measures for eliminating mosquitoes.

Admin

35. The Chairman said that it was his understanding that in local JE cases recorded in recent years, JE virus did not necessarily come from neighbouring pig farms. He considered that to avoid misunderstanding, the Administration should review whether there was a need to name pig farms when informing the public of details of JE cases. At his request, the Administration undertook to provide details of the technical assistance in mosquito prevention and control against JE provided to pig farmers by the Agriculture, Fisheries and Conservation Department in the past few years and whether any new measures had been introduced to prevent outbreak of JE in Hong Kong.

Prevention and control of biting midges

36. The Chairman, Mr CHAN Han-pan and Mr LAU Kwok-fan expressed concern about the infestation of biting midges in some public places and the irritation caused by biting midges to members of the public in recent years. They asked whether FEHD would make reference to the experience of other places and formulate new measures for prevention and control of biting midges. In their view, although no disease-carrying species of biting midges had been identified so far, the Administration should consider formulating indicator for assessing the infestation/activity of biting midges and alerting relevant departments to take preventive measures in response to index changes.

37. PCO I-c/FEHD responded that biting midges were not vectors of mosquito-borne diseases such as DF, JE and Zika virus infection and they had rarely been implicated as the primary vectors of pathogen transmission to or between humans. WHO had not published guidelines for systematic surveillance of biting midges. According to the understanding of the Administration, the Mainland, Taiwan, Singapore, Malaysia as well as some countries in America and Europe had not formulated any index for the surveillance of biting midges. To enhance control of biting midges, starting from mid-July 2017, FEHD had commenced a one-year territory-wide survey to investigate the distribution and species diversity of the blood sucking midges, with a view to confirming the presence of any disease-carrying biting midges and collecting reference information for devising more effective measures to control biting midges.

38. PCO I-c/FEHD further said that infestation of biting midges was seasonal and localized. Unlike mosquitoes, adult biting midges had very short flight ranges, usually not more than 100 meters from their breeding places. Routine anti-mosquito work and environmental improvement measures carried out by FEHD, such as removal of fallen leaves, decaying materials and silt in sand traps and surface channels, could help control their infestation by reducing the potential breeding places for biting midges. The number of complaints about the problem of biting midges received by FEHD had dropped from 432 in May to June 2016 to 63 in April to June 2017. Given that environmental measures targeted at areas with dense vegetation, which were prone to infestation of biting midges, could reduce breeding of biting midges and effectively contain their infestation, the Administration considered that it might not be necessary to introduce specific indicator reflecting the extensiveness of biting midges throughout the territory for the time being. FEHD would continue to monitor the infestation of biting midges in public places through routine inspections and handling of complaints, and would provide technical assistance to relevant government departments in the prevention and control of biting midges in areas under their purview.

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Motion proposed by a member

39. Mr CHAN Han-pan indicated his intention to move a motion. The Chairman ruled that the motion was directly related to the agenda item under discussion and members present agreed that the motion should be dealt with. Since, at this point of time, there was a lack of quorum, the Chairman ordered that the quorum bell be rung to summon members before proceeding to deal with the motion.

40. A quorum was subsequently present. The Chairman put the following motion moved by Mr CHAN Han-pan to vote:

(議案中文措辭)

鑒於現行在選定地點擺放誘蚊產卵器的蚊患監察方式只能監察伊蚊的活動情況，未能監察其他品種蚊子(例如庫蚊、按蚊)的活動，而這些蚊子亦會傳播瘧疾及日本腦炎等嚴重疾病；加上近年本港蠓患問題日趨嚴重，但政府未有制訂相關機制監察蠓患情況；就此，本事務委員會促請政府：

- (一) 檢討現行的蚊患監察制度，因應不同品種蚊子的習性引入不同的監察指標，以更全面反映本港的蚊患情況；及
- (二) 研究將其他有害生物(例如蠓蟲)納入為監察對象，並制訂相關指標，以便根據指數的不同制訂相應的預防與應對策略。

(English translation of the motion)

Given that the current approach of monitoring the mosquito problem by placing ovitraps at selected locations can only detect activities of Aedine mosquitoes but not other mosquito species (such as Culex and Anopheles mosquitoes) which also transmit serious diseases including malaria and Japanese encephalitis, and that despite the worsening infestation of biting midges in Hong Kong in recent years, the Government has yet to formulate a surveillance programme on the problem of biting midges, this Panel urges the Government to:

- (a) review the current surveillance system on the mosquito problem by introducing different indices having regard to the behaviour of various mosquito species, so that the mosquito problem in the territory could be reflected more comprehensively; and

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- (b) examine the inclusion of other pests (such as biting midges) under the surveillance system and formulate the relevant indices, so as to map out prevention and control strategies in response to index changes.

41. The Chairman invited members to vote for or against the motion by a show of hands. Nine members voted for the motion, no member voted against it and one member abstained from voting. The Chairman declared that the motion was carried.

VI. Study on "cooking oils in use"
(LC Paper No. CB(2)467/17-18(07))

42. At the invitation of the Chairman, USFH briefed members on the progress of the study on "cooking oils in use" ("the study") and the formulation of the guidelines on good practice of using frying oils ("the guidelines"), as detailed in the Administration's paper (LC Paper No. CB(2)467/17-18(07)). With the aid of power-point presentation, Associate Professor, Department of Applied Biology and Chemical Technology of the Hong Kong Polytechnic University ("PolyU") highlighted the proposed scope and methodologies of the study.

(Post-meeting note: The softcopy of the power-point presentation materials was issued to members vide LC Paper No. CB(2)516/17-18(01) on 12 December 2017.)

Proposed scope and methodologies of the study

43. Dr Helena WONG declared that she was a lecturer of PolyU but she had no pecuniary interest in the work of the PolyU Technology and Consultancy Company Limited ("Study Consultant") which was commissioned by the Centre for Food Safety ("CFS") of FEHD to conduct the study. She welcomed the study which sought to, inter alia, assess the level of harmful substances and the changes in quality of cooking oils after repeated uses during the course of cooking (specifically for frying seafood and vegetables).

44. The Chairman enquired how the findings of the study and the good practice to be recommended would complement the proposed regulation of edible fats and oils and recycling of "waste cooking oils" in future. He considered that to ensure the trade's receptiveness to those recommendations, the Administration should fully consult the trade before formulating the guidelines.

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45. Principal Assistant Secretary for Food and Health (Food) 1 ("PASFH(F)1") responded that the relevant safety standards for edible fats and oils were stipulated in the subsidiary legislation under the Public Health and Municipal Services Ordinance (Cap. 132) ("PHMSO"). It was not a common practice in other countries/places to apply the same set of safety and quality standards for fresh oils to "reused oils" or "cooking oils in use". The level of harmful substances and the quality of cooking oils might change during the course of cooking food due to the reactions between the frying oils and (a) the food; (b) moisture and (c) oxygen in the air. Since there were diversified cooking methods among the catering industry, the Administration considered it more appropriate to commission the study and to issue a set of guidelines on good practice on the use of "reused oils", with specific recommendations having regard to the circumstances of the industry (e.g. the maximum number of times the oils could be reused before they had to be disposed of), for the trade's reference and adoption. PASFH(F)1 advised that the study would be conducted in five stages, as detailed in paragraphs 7 to 11 of the Administration's paper. Before submitting the final draft of the guidelines to CFS, the Study Consultant would consult the trade and invite the trade to try out the recommendations proposed to be included in the guidelines so as to assess the operability of, and the trade's receptiveness to, those recommendations.

46. In response to Dr Helena WONG's enquiry, Associate Professor, Department of Applied Biology and Chemical Technology of PolyU said that other than taking samples of cooking oils in use from selected food premises for testing, the Study Consultant would conduct its own frying seafood and vegetable experiments based on the information obtained from the market surveys and the views expressed by the trade. Laboratory analyses would include arsenic, lead, benzo[a]pyrene, aflatoxins, erucic acid, acid value and total polar compounds, etc. The purpose was to evaluate the changes of different safety and quality parameters of cooking oils during frying so as to make the guidelines more specific.

47. Dr Helena WONG expressed concern that the guidelines would have no binding effect on local food premises. In her view, to strengthen the protection of the safety of edible fats and oils, the Administration should regulate and specify comprehensively safety standards for edible fats and oils and should strengthen the regulation of metallic contaminants and harmful substances in edible fats and oils through legislative means. She suggested that the Administration should consider publicizing information on the quality of cooking oils used by food premises to facilitate consumers to make informed dining choices.

48. PASFH(F)1 responded that the Food and Health Bureau ("FHB") and CFS had completed the public consultation on the proposed regulation of

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metallic contaminants (arsenic and lead) and harmful substances (erucic acid, aflatoxins and benzo[a]pyrene) in edible fats and oils. The proposed regulation involved amending various items of subsidiary legislation under PHMSO. The Administration would kick start the law amendment work gradually. FHB and CFS had also completed the public consultation on the proposed amendments to the Food Adulteration (Metallic Contamination) Regulations (Cap. 132V) which sought to, among others, specify metallic contamination standards for individual food/food groups which covered also edible fats and oils. The Administration would brief members on the results of the public consultation exercise and its proposed way forward at the regular Panel meeting in January 2018. The Administration was also reviewing the Harmful Substances in Food Regulations (Cap. 132AF) which regulated, among others, the presence of harmful substances in food (e.g. mycotoxins and other harmful substances generated during the cooking process) imported to and sold in Hong Kong. A public consultation would be launched in 2018 to collect public views on the legislative proposals.

49. PASFH(F)1 further said that the consultant would present the recommendations of the study with reference to the consolidated findings of the food premises which participated in the study, and the Administration would keep the Panel abreast of the findings and recommendations of the study when ready.

Recycling of "gutter oils"

50. Mr Tommy CHEUNG declared that he owned a company with business in recovering "waste cooking oils". He said that the "substandard lard" incident in 2014 had raised public concern over the safety and quality of edible fats and oils. He expressed dissatisfaction that the study had not covered the regulation of recycled use of "gutter oils". He urged the Administration to conduct studies to find out whether there was any testing method for detecting whether the oils used in cooking were "gutter oils", so that the Administration could introduce effective measures to prevent substandard cooking oils from re-entering the local food chain as edible oil products.

51. PASFH(F)1 responded that there was no universal or generally accepted testing standard to identify the so-called "gutter oils" in the international community. Regulatory authorities in other jurisdictions could only focus on testing for or identifying harmful substances possibly present in the so-called "gutter oils", and used the testing results as a reference indicator of whether the oils concerned were fit for human consumption, but it was impossible to determine whether they were "gutter oils". PHMSO stipulated that all food for sale must be fit for human consumption. This requirement covered all food including edible fats and oils. The subsidiary legislation under PHMSO

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regulated the individual safety standards of food, including edible fats and oils. CFS had been monitoring the quality of local edible fats and oils by taking samples at the import, wholesale and retail levels for chemical testing under its regular Food Surveillance Programme. To facilitate recycling and prevent "waste cooking oils" from being illegally processed into edible oils, FEHD had imposed additional licensing conditions to require all restaurants, factory canteens, food factories and bakeries to hand over their "waste cooking oils" to collectors, processors and exporters registered by the Environmental Protection Department ("EPD"). The new licensing conditions had come into effect gradually since November 2017.

(The Chairman ordered that the meeting be extended for 10 minutes to allow sufficient time for discussion.)

52. Dr Helena WONG expressed concern that some food premises might reuse the cooking oils repeatedly and mix "reused oils" with other oils during cooking. She asked whether there were any testing methods for assessing the safety and quality of cooking oils used by food premises. Mr Tommy CHEUNG shared his experience in the recovery of "used cooking oils" for export to overseas countries for the production of biodiesel. According to his understanding, "gutter oils" were turned from "used cooking oils" recycled from restaurants or discarded animal parts or animal/vegetable fats. He suggested that the Administration should study whether it was feasible to detect "gutter oils" by using DNA analysis or by testing the level of sulphur (commonly found in "gutter oils") in the oils.

53. Associate Professor, Department of Applied Biology and Chemical Technology of PolyU advised that the detection of "gutter oils" mainly involved the discovery of certain food residue markers or toxic and carcinogenic chemicals in the oil samples. However, due to the diverse groups of compounds that might be found in "gutter oils" and the fact that target compounds could be removed during processing, a universal strategy to detect gutter oils was not available at present. Nevertheless, PolyU researchers had developed a simplified method for direct analysis of edible oils using matrix-assisted laser desorption/ionization mass spectrometry ("MALDI-MS"). The MALDI-MS approach only involved simple sample preparation, automatic data acquisition and simple data processing. High quality and highly reproducible MALDI-MS spectra results could be obtained using this method, and a spectral database of labeled edible oils available in the market had been set up. Since different types of edible oils had different MALDI-MS spectral patterns, the authenticity of an edible oil sample could then be determined within five minutes by comparing its MALDI-MS spectrum with that of those labeled oils in the established database. This method was capable of

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authenticating edible oils, and also enabled a rapid screening of gutter oils, given fraudulent mislabeling was a common feature of gutter oils.

54. Dr Helena WONG suggested that the Administration should consider requiring collectors of "waste cooking oils" to add certain chemicals with vivid colour/strong smell into the "waste cooking oils" so that the oils could not be used as ingredients for the production of edible fats and oils after processing. PASFH(F)1 said that he would convey Dr WONG's suggestion to EPD for consideration.

VII. Any other business

55. There being no other business, the meeting ended at 4:33 pm.

Council Business Division 2
Legislative Council Secretariat
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