

立法會

Legislative Council

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Report of the Panel on Food Safety and Environmental Hygiene for submission to the Legislative Council

Purpose

This report gives an account of the work of the Panel on Food Safety and Environmental Hygiene in the 2005-06 session. It will be tabled at the meeting of the Legislative Council (LegCo) on 5 July 2006 in accordance with Rule 77(14) of the Rules of Procedure of LegCo.

The Panel

2. The Panel was formed by a resolution passed by the Council on 20 December 2000, as amended on 9 October 2002, for the purpose of monitoring and examining Government policies and issues of public concern relating to food safety, environmental hygiene and agriculture and fisheries. The terms of reference of the Panel are in **Appendix I**.

3. Hon Fred LI Wah-ming and Hon WONG Yung-kan were elected Chairman and Deputy Chairman of the Panel respectively. The membership list of the Panel is in **Appendix II**.

Major work

Control of avian flu

4. Given the spread of avian influenza outbreaks in different parts of the world, the Panel kept close watch on the developments in the world especially those in neighbouring places. The Panel held a number of meetings, including two joint meetings with the Panel on Health Services, to discuss with the Administration the comprehensive plan for dealing with the global problem of avian influenza.

5. In October 2005, the Administration briefed the Panel on the strengthened precautionary measures, including additional biosecurity requirements imposed on local poultry farms, control measures for import of pet birds, and surveillance measures for pet shops and wild birds. The Administration reiterated its intention to cull all chickens in Hong Kong in the event of two confirmed H5N1 cases in local poultry farms, and thereafter, terminate the local live poultry trade on a compulsory basis. The Administration would also announce its plan to cull all live poultry in Hong Kong's retail markets if there were two confirmed H5N1 cases in local retail markets.

6. While the Panel supported the additional biosecurity and surveillance measures to guard against avian influenza outbreaks, some members expressed reservations about the need to cull all chickens when there were outbreaks in two local farms. Concerns were also raised about the effectiveness of the vaccination of chickens and the risk posed by the "smuggling" of chickens and other birds from the Mainland. In view of the increased risk of avian influenza outbreaks, some members urged the Administration to expedite the establishment of a regional or central slaughtering plant for poultry, as a long-term measure to reduce human contact with live poultry. Members also suggested that the Administration should resume temperature screening of passengers at border control points, step up surveillance of migratory birds and pet birds, and also ban duck rearing at Mai Po Reserve.

7. The Panel noted that some outbreaks in other places started in backyard farms where there were no biosecurity measures to prevent contact of poultry with wild birds which might carry H5 viruses, and some of these outbreaks resulted in human infection. To guard against such risk, some Panel members considered that the Administration should regulate or ban backyard poultry keeping activities in Hong Kong. The Administration subsequently briefed the Panel in February 2006 on the legislative proposal to ban backyard poultry keeping. The legislation was gazetted on 8 February and came into operation on 13 February 2006.

8. At the request of the Panel, the Administration briefed members in early 2006 on its plan to develop a poultry slaughtering plant in Sheung Shui, and the interim measures to segregate poultry from human at retail markets. The Administration informed the Panel that a suitable site had been identified for the poultry slaughtering plant which had the advantage of being close to the border and the local poultry farms and being served by an established transportation network. The site was also not in close proximity to major residential areas. It was the Administration's intention that the plant would be developed by the private sector, and that upon the operation of the plant in 2009, the sale of live poultry at retail outlets would be prohibited. Legislation would be introduced to provide for a licensing regime for the operation of the proposed slaughtering plant, and to prohibit the sale of live poultry at retail markets.

9. While some members supported early development of the poultry slaughtering plant as a long-term measure to reduce human contact with live poultry, some other members expressed reservations about the viability of such a plant given the keen competition from the chilled chickens supplied from across the border. Some members stressed that the Administration should ensure a level-playing field for all operators in the trade and avoid creating a monopoly situation for the supply of slaughtered chickens in Hong Kong. Concerns were also raised about the future price level of slaughtered chickens and whether “warm chickens” would still be provided to meet the demand of the community. To assist members in further discussing with the Administration the mode of operation of the proposed slaughtering plant, the Panel planned to conduct a duty visit to Singapore and Kuala Lumpur in July 2006 to observe the operation of poultry slaughtering plants in these places.

10. As the proposed prohibition of sale of live poultry at retail markets would significantly affect the live poultry trades, the Panel urged the Administration to fully consult the affected trades and assist them in switching to the new mode of operation. Some members also urged the Administration to increase the attractiveness of the voluntary surrender of licence/tenancy scheme for live poultry farmers and traders, in order to encourage them to cease operation and change to other business.

11. Following the confirmed case of human infection with H5N1 in Shenzhen in June 2006, a joint meeting was held with the Panel on Health Services to discuss with the Administration measures taken to control the spread of avian influenza to Hong Kong. Members noted that it now took a shorter time for Guangdong to notify Hong Kong of suspected cases of human infection with H5N1. Given the proximity of Shenzhen to Hong Kong, members urged the Administration to step up vigilance of suspected cases of H5N1 infection in poultry and human across the border, and strengthen the surveillance and control measures in Hong Kong.

12. As the livelihood of live poultry trades had been adversely affected by the suspension of import of live poultry, day-old chicks and pet birds from Guangdong Province upon confirmation of the human infection case in Shenzhen, members urged the Administration to consider setting up an emergency relief fund to provide financial assistance or loans to the affected trades and their employees, to assist them to tide over the difficult period. A motion to this effect was passed at the joint meeting on 17 June 2006.

Food safety control

Fish and aquatic products

13. In the summer of 2005, the discovery of the presence of malachite green in eels and freshwater fish supplied to Hong Kong aroused much public concern about the safety of fish and fish products. The supply of Mainland freshwater fish was suspended after the malachite green incidents. The Panel held a series of meetings to discuss with the Administration and freshwater fish traders the regulatory measures for live fish and aquatic products, and the resumption of supply of freshwater fish from the Mainland.

14. The Administration advised that live freshwater fish mainly came from the Mainland by sea. To ensure food safety at source, Hong Kong had reached agreement with the Mainland authorities to allow supply of freshwater fish to Hong Kong only from farms registered by the Mainland authorities and approved by Food and Environmental Hygiene Department (FEHD). Such fish must be accompanied by health certificates issued by the relevant Mainland authorities. The Administration also introduced legislative amendments to prohibit the import and sale of food (including live fish) containing malachite green. Sample checks would continue to be conducted at import, wholesale and retail levels to ensure that there was no malachite green in fish and fish products.

15. As regards the safety of live marine fish, the Administration advised the Panel that all live marine fish wholesalers operated under licence. While live fish was not regulated as food under the current legislation, FEHD had, in consultation with the trade, developed a voluntary Code of Practice on the import and sale of live marine fish. However, compliance by the trade had not been satisfactory, and the Administration was now exploring longer term measures such as requiring importers to obtain import permits and designating landing points.

16. The Panel had expressed concern about the loopholes in legislation as live fish was not regulated as food, and there was “smuggling” of fish from unregistered fish farms and unknown sources. The Panel was of the view that the Administration should introduce legislation to regulate the importation, wholesaling and distribution of live fish and fishery products, in order to ensure such food was fit for human consumption. To address these concerns, the Administration agreed to introduce legislation providing for a registration system for all fishery product traders, requiring landing of live fish at designated landing points, and keeping of records relating to the import, sale and purchase of fish and fishery products. The relevant authorities would also be empowered to inspect, test and recall fishery products on public health grounds. The Administration would revert to the Panel when the proposed legislation was ready.

Vegetables

17. There was much public concern about the findings of Greenpeace that residues of banned pesticides were found in a number of vegetable samples obtained from the retail outlets of two major supermarket chains (PARKnSHOP and Wellcome), while residues of permitted pesticides exceeding the acceptable levels were also found in some samples. The Panel raised the issue with the Administration and sought clarification on the regulatory mechanism for monitoring pesticide residues in vegetables.

18. The Administration informed the Panel that over 90% of fresh vegetables supplied to Hong Kong came from the Mainland, while local produce only accounted for 4%. The Hong Kong and the Mainland authorities had agreed on a set of administrative measures requiring that all Mainland vegetables supplied to Hong Kong must come from registered farms. Inspections were made regularly by the Mainland to the registered farms, and Hong Kong also conducted inspections on imported vegetables and collected samples for testing at Man Kam To. According to the Administration, out of the 20 000 samples of imported vegetables taken for testing in 2005, only 10 samples were found not complying with Hong Kong's requirements. The Administration also clarified that Hong Kong followed the guidelines set by Codex Alimentarius Commission in the testing of pesticide residues in vegetables, and the testing method was in line with international practice.

19. As regards local production, out of the 8 900 samples of local vegetables tested by the Vegetable Marketing Organisation, only six samples were found to have pesticide residues exceeding the acceptable levels. The Administration informed the Panel that FEHD took samples of highly perishable farm produce, including vegetables, from wholesale and retail markets, to test for pesticide residues. Only a very low percentage of such samples was found to have pesticide residues exceeding the acceptable levels.

20. The PARKnSHOP informed the Panel that 80% of its vegetables were sourced from accredited farms in the Mainland and a Farm Check system was implemented to ensure the safety of such produce. The low level of pesticides found in the three samples collected from its retail outlets was caused by environmental contamination and a mistake made in harvesting the vegetable earlier than required. The company would further improve its testing and source tracing system for its vegetables and other farm produce. The Wellcome Company informed the Panel that it had traced and terminated the supply of the affected products, and implemented revised procedure to improve the tracing and testing of produce supplied.

21. The Panel was of the view that the Administration should tighten the monitoring of the presence of pesticide residues in vegetables and improve the source tracking system. The Administration would follow up the test findings of Greenpeace with the two supermarket chains, and would explore the feasibility of introducing a voluntary registration system for farmers engaged in commercial production of food produce.

Importation of chilled pork from the Mainland

22. Given that discussion on arrangements for importation of chilled pork from the Mainland had started between Hong Kong and the Mainland since 2002, the Panel asked the Administration to brief the Panel on the progress. The Panel noted that the Administration had reached agreement with the Mainland authorities on the sanitary requirements and mechanism for supply of chilled pork from the Mainland. FEHD had conducted inspections to four processing plants and their associated farms in Guangdong and Shenzhen. Further information had also been received from the Mainland on the laboratory support, testing methods and other arrangements. According to the Administration, Hong Kong was now ready to accept the supply of chilled pork from selected plants in the Mainland.

23. Some Panel members were of the view that before allowing import of chilled pork from the Mainland, the Administration should first address the problem of some unscrupulous traders selling defrosted chilled pork as fresh pork, by requiring separate licences for the sale of fresh pork and chilled/frozen pork. These members considered that the “one licence for one shop” proposal could enable consumers to differentiate chilled pork from fresh pork as these would be sold at different premises, and would facilitate enforcement of compliance with the additional licence conditions for the sale of chilled pork.

24. Some other members were of the view that implementation of the proposal should not be a pre-requisite for allowing import of chilled pork from the Mainland if such pork could satisfy Hong Kong’s hygiene and import requirements, especially when chilled pork from other places was being imported in the absence of such an arrangement. Nevertheless, the Panel agreed that the Administration should expedite the introduction of legislation to implement the “one licence for one shop” proposal to better safeguard consumers’ interest and public health.

25. The Administration had responded that that if the drafting of the legislation posed no problem, the legislation would be ready for introduction into the Legislation Council around June/July 2006. The Administration also pointed out that the proposed legislation would have impact on about 300 food premises which currently had endorsements to sell both fresh and chilled meat.

26. The meat trade expressed divergent views on the “one licence for one shop” proposal. While some traders welcomed the proposal, some other traders, including the Hong Kong Retail Management Association, objected to the proposal. To balance the interests of consumers and that of the trade, the Administration proposed in June 2006 that while separate licences would be required for the sale of fresh pork and chilled/frozen pork, exemptions would be considered subject to certain conditions, including pre-packaging and labelling of the chilled pork and compliance with the temperature and storage/display requirements for the sale of chilled pork. The proposed legislation would be ready before the end of the 2005-06 session.

New food safety regulatory framework

27. Following the announcement in the Chief Executive’s Policy Address of the plan to reorganise the government departments to pool the resources for better food safety control in Hong Kong, the Panel held a number of meetings to discuss with the Administration and the stakeholders including representatives of the relevant industries, academics and professional associations, and staff in the affected department.

28. The Panel noted that while most stakeholders supported the proposal to reorganise the food safety framework and to establish the Centre for Food Safety to strengthen food safety control, many staff associations in the affected departments expressed strong views against the Administration’s proposal of splitting up and reorganising the Agriculture, Fisheries and Conservation Department (AFCD) and FEHD, and transferring AFCD’s nature conservation and country/marine park staff to the Environmental Protection Department (EPD).

29. Panel members generally supported the proposal of establishing the Centre for Food Safety and assigning one dedicated department to regulate all matters relating to food safety, in order to exercise effective control at source and strengthen monitoring of safety of food in Hong Kong. However, some members expressed reservations about the proposal that the regulatory and facilitation functions in respect of agriculture and fisheries activities should be carried out by two separate departments. Some members requested the Administration to provide the policy objectives and performance targets, as well as the justifications for the request of new posts under the new establishment.

30. In view of the concerns expressed by Panel members and staff associations, the Administration subsequently revised its reorganisation plan. In the revised proposal presented to the Panel in January 2006, the Administration proposed to set up the Centre for Food Safety as the first step to enhance food safety control, while the proposals in relation to the separation of regulatory and promotion functions for agriculture and fisheries industries and

the transfer of country/marine park functions to EPD were withheld pending further consultation with the stakeholders.

31. The Panel welcomed the revised proposal and supported the speedy establishment of the Centre for Food Safety. The Administration's proposal was approved by the Finance Committee on 7 April 2006. The Panel would further discuss with the Administration when a comprehensive plan for the food safety framework was available.

Food labelling

Genetically modified food

32. The issue of introducing a labelling system for food with genetically modified (GM) ingredients had been discussed for some years by LegCo and the Panel. The Panel noted that the Administration had conducted public consultation in 2002 and completed a regulatory impact assessment on introducing a labelling system for GM food in 2003. Given that most views collected during the public consultation exercise and the majority of LegCo Members expressed support for a mandatory labelling system, the Panel expressed disappointment with the lack of progress by the Administration in introducing a mandatory labelling system for GM food.

33. In view of the recent findings of Greenpeace about the presence of GM ingredients in infant food and other products, the Panel urged the Administration to expedite actions to regulate the sale of food with GM ingredients. At the meeting in May 2006, the Panel reiterated its support for a mandatory labelling system for GM food, although some members did not object to introducing a voluntary system at the initial stage.

34. The Administration informed the Panel that a working group had been formed to devise a set of guidelines for the implementation of a voluntary labelling system for GM food. The working group comprised representatives from the manufacturing, wholesale and retail sectors, consumer groups and trade associations. The proposed threshold level for labelling of GM food was 5%, and negative labelling was not recommended for food without GM counterparts as it would be misleading to consumers.

35. Some members expressed the view that a voluntary labelling system would not be effective. As many countries including the Mainland had already put in place mandatory labelling requirements for GM food, they urged the Administration to provide a timetable for introducing a mandatory labelling system in Hong Kong. The Administration agreed to review the effectiveness of the voluntary labelling system 12 months after its implementation and revert to the Panel.

Durability period

36. The Panel expressed concern about reports that some retail markets sold pre-packaged food after expiry of the “use by” date or “best before” date. The Administration explained that such dates were determined by the manufacturer to reflect the period when the food safety or food quality was guaranteed. While it was not an offence to sell such food after expiry of the “best before” date, it was an offence to sell prepackaged food after the “use by” date.

37. The Panel considered that there were grey areas in the durability labelling for prepackaged food. The Panel suggested that FEHD should increase the inspection and sampling tests of food sold at retail markets to ensure that the food sold was fit for human consumption. The Panel also suggested the Administration to review the durability labelling requirements for prepackaged food to better safeguard public health.

Regulation of food business

Demerit Points System

38. In March 2006, the Administration consulted the Panel on the proposal to revamp the Demerit Points System (DPS) for licensed food premises. In Team Clean’s “Report on Measures to Improve Environmental Hygiene in Hong Kong” published in August 2003, it was recommended that FEHD should critically review the existing DPS, both in terms of the overall mechanism and the number of demerit points assigned to individual offences, to enhance its effectiveness.

39. The Panel supported the Administration’s proposal to simplify the existing DPS and to better reflect the nature and severity of offences committed. The Panel welcomed the proposal of according higher demerit points to offences with higher risks of food safety and public hygiene, and according lower demerit points to offences with less risks.

40. Regarding the proposal for suspension and cancellation of licence, members considered it too stringent to impose a 21-day suspension of licence on accumulating 15 demerit points for the first time, and cancellation of licence on accumulation of 15 demerit points for the second time. The Panel requested the Administration to consider maintaining the present arrangement of imposing a seven-day suspension for accumulating 15 demerit points for the first time, and then a further suspension of 21 days if another 15 demerit points were accumulated. Cancellation of licence should apply if 15 demerit points were again accumulated after the second suspension of licence.

41. The Panel also commented that some provisions in the schedule of offences for the DPS were outdated, for example, the requirement for displaying no spitting notices and maintaining spittle receptacles in the proper manner. In this connection, the Panel had gauged the views of the food industry on the Administration's proposal. The Panel suggested that the Administration should take the opportunity to update the schedule of offences for DPS, taking into account the views expressed by members and the food industry.

Unauthorised extension of food business

42. The Administration consulted the Panel in June 2006 on the proposal to amend the Food Business Regulation to better control unauthorised extension of food business. According to the Administration, there was an increasing number of complaints in this respect but there were difficulties to take prosecution actions against such malpractice under the current legislation. To overcome the problem that some licensees evaded responsibility by claiming that they had no knowledge of the unauthorised food business activities, the Administration proposed to amend the Regulation to enable FEHD to take prosecution action against any person, in addition to the licensee, in connection with such unauthorised business.

43. While the Panel supported taking effective enforcement actions against unauthorised food business activities which posed public health hazards and caused nuisance to the neighbourhood, some members expressed concern that employees of the food business would be held liable for the offence. They requested the Administration to explore ways to regulate extension of food business, such as assisting suitable food premises to obtain approval from FEHD for providing outside seating accommodation (OSA). Some members were of the view that the OSA could promote tourism and the Administration should take a proactive approach in considering such applications. The Panel also reminded the Administration to consult the food business trade before introducing the legislative proposal.

Changes to food business licensing procedures

44. The Panel discussed with the Administration the background and justifications for the recent changes to the food business licensing procedures, in view of the strong objection raised by the catering industry. The Panel noted that from 18 April 2006 onwards, applicants for new food business licence or transfer of food business licence were required to confirm that their premises under application were free of unauthorised building works (UBWs) and were in compliance with the Government lease conditions and the statutory plan restrictions. According to the Administration, the changes in procedures were made to implement the recommendations in Team Clean's Report in 2003 and in The Ombudsman's investigation report in 2002.

45. The Administration explained that the changes only applied to new licence or transfer of licence, and the existing licences and their renewal were not affected. The trade and the professional bodies had been consulted before implementation of the changes. To streamline the licensing process, FEHD accepted professional certification that the premises were free from UBWs. As regards compliance with Government lease conditions and statutory plan restrictions, FEHD had reminded the applicants of the need to confirm compliance with such conditions.

46. Given that the food business trade had expressed grave concern about the changes, the Panel would hold a special meeting in July 2006 to listen to the trade's views before further discussing with the Administration.

Restricted dining places

47. As regards the proposed regulatory framework for restricted dining places (which were commonly known as "private kitchens"), the Panel generally accepted that such premises should be brought under regulatory control but subject to less stringent conditions in view of their small-scale, family-type operation. The Panel requested the Administration to issue clear guidelines on the licensing requirements for restricted dining places. Some members expressed concern about difficulties in enforcing the licensing conditions, such as the restricted business hours and number of patrons. There were also concerns about the fire risks in buildings where a number of restaurants or restricted dining places were in operation.

48. The Administration explained that restricted dining places would still be required to comply with the basic food safety and hygiene requirements, and the only relaxation was food room area and toilet requirements. In assessing applications for operation as restricted dining places, the Fire Services Department and Buildings Department would take into account the type of business in the buildings concerned. As for food premises which wanted to operate for longer hours and serve more customers, they could apply for appropriate food business licences under the existing mechanism. During the past years, many previous "private kitchens" had obtained food business licences or operated as clubs, and only 20 premises still remained in operation as "private kitchens".

Environmental hygiene

Crematorium and columbarium facilities

49. In November 2005, the Administration briefed the Panel on the shortage of public crematorium and columbarium facilities, and the plans to increase cremation capacity and to alleviate the problem of insufficient niches. The Panel noted that despite the rising demand for cremation and niches in recent years, most people did not favour the presence of crematorium and columbarium in their neighbourhood.

50. The Panel supported the Administration's policy to provide more niches to alleviate the shortage and to shorten the waiting time for such services. However, as cremation facilities would cause nuisance to the nearby residents, members reminded the Administration to consult the districts concerned on the plans to provide new cremators. Given the limited land supply, the Panel requested the Administration to explore more options to meet the anticipated shortfall of crematorium and columbarium facilities.

Penalty for repeat cleanliness offenders

51. The Administration further consulted the Panel in December 2005 on the proposal to impose community service orders and increase the penalty for repeat cleanliness offenders. The Panel generally had no objection to imposing community service orders to repeat offenders, but some members suggested that the Administration should also step up enforcement against and increase the penalty for unauthorised posting of bills and posters.

Anti-mosquito campaign

52. The Administration informed the Panel that according to the territory-wide survey of the Japan encephalitis (JE) vector in 2004 and 2005, no parts in Hong Kong were considered to be high risk areas for transmission of JE. Noting that samples with positive results of JE virus were collected from Yuen Long where there were pig farms and migratory birds, Panel members urged the Administration to step up the anti-mosquito actions in areas where the JE vector was found. The Administration undertook to strengthen anti-mosquito work in problem areas, and additional contract staff would be engaged for anti-mosquito work where necessary. The Administration also advised that the enactment of the Public Health and Municipal Services (Amendment) Ordinance 2006 would facilitate anti-mosquito actions to be taken at abandoned huts, dilapidated buildings structures and deserted farmlands.

Other issues

53. In the 2005-06 session, the Panel discussed several financial proposals, including the compensation package for the voluntary surrender of pig farming licences, the general improvement works for five markets, and the loan schemes for fishermen.

54. The Panel was also consulted on the timetable for introducing legislation on matters under the purview of the Panel, and legislative proposals relating to the increase of penalty under the Prevention of Cruelty to Animals Ordinance (Cap. 169), and the revision of fees for animal/bird exhibition licence.

55. From July 2005 to June 2006, The Panel held a total of 28 meetings, including four joint meetings held with the Panel on Environmental Affairs and two joint meetings held with the Panel on Health Services. The Panel also conducted visits to local fish farms and organic farms, and the live poultry stalls in Tai Kok Tsui Market.

Council Business Division 2
Legislative Council Secretariat
30 June 2006

**Legislative Council
Panel on Food Safety and Environmental Hygiene**

Terms of Reference

1. To monitor and examine Government policies and issues of public concern relating to food safety, environmental hygiene and agriculture and fisheries.
2. To provide a forum for the exchange and dissemination of views on the above policy matters.
3. To receive briefings and to formulate views on any major legislative or financial proposals in respect of the above policy areas prior to their formal introduction to the Council or Finance Committee.
4. To monitor and examine, to the extent it considers necessary, the above policy matters referred to it by a member of the Panel or by the House Committee.
5. To make reports to the Council or to the House Committee as required by the Rules of Procedure.

**Legislative Council
Panel on Food Safety and Environmental Hygiene**

Membership list for 2005-2006 session

Chairman	Hon Fred LI Wah-ming, JP
Deputy Chairman	Hon WONG Yung-kan, JP
Members	Hon Bernard CHAN, JP Hon Andrew CHENG Kar-foo Hon TAM Yiu-chung, GBS, JP 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 (Total : 10 members)
Clerk	Mrs Constance LI
Legal adviser	Mr Stephen LAM
Date	13 October 2005