

**For Discussion  
On 13 November 2007**

## **LegCo Panel on Food Safety and Environmental Hygiene**

### **Proposed Regulatory Framework for Pesticide Residues in Food in Hong Kong**

#### **PURPOSE**

This paper aims to brief Members on the proposed regulatory framework for pesticide residues in food in Hong Kong.

#### **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, could 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. The introduction of specific regulation on pesticide residues in food is considered necessary to enhance the effectiveness of regulatory control and enforcement in this area.

3. The Expert Committee on Food Safety (Expert Committee), in light of the current situation, recommended that a high priority be accorded to prescribing pesticide residue levels in food in the law; and this recommendation was supported by the Advisory Council on Food and Environmental Hygiene (Advisory Council) in early 2007. To take this initiative forward, a Working Group on Standard Setting for Pesticide Residues in Food (Working Group) has been formed under the Expert Committee in April 2007. The Working Group comprises representatives from the Centre for Food Safety, the Agriculture, Fisheries and Conservation Department, the Government Laboratory, as well as members of the Expert Committee. The Working Group has examined the major principles related to regulatory control of pesticide residues in food,

factors to be considered in devising the framework, and international practices. The Expert Committee and the Advisory Council have indicated support to the Working Group's recommendations.

## **PROPOSED REGULATORY FRAMEWORK**

4. The Working Group is of the view that the proposed regulatory framework for pesticide residues in food in Hong Kong should achieve the following objectives:

- a. Better protect public health;
- b. Facilitate effective regulatory control; and
- c. Promote harmonization between local and international standards.

5. Having regard to the above objectives, the local situation, international practices, and other relevant factors, a proposed regulatory framework for controlling pesticide residues in food has been drawn up. The salient features of the proposed regulatory framework are summarized below.

### *Definition of "pesticides" and other related terms*

6. In defining the key terms in the new subsidiary legislation, e.g. "pesticide", "pesticide residue", "maximum residue level" (MRL), "extraneous maximum residue limit" (EMRL), it is proposed to make reference mainly to the definitions adopted by the Codex Alimentarius Commission<sup>1</sup> (Codex), which emphasize the use of pesticide during the production, storage, transport, distribution and processing of food. Adoption of the Codex definitions will have the advantages of allowing our stakeholders, in particular our trade partners, a better understanding of the scope of our regulatory regime, and facilitating our selection of the appropriate standards for relevant pesticides in the new subsidiary legislation.

### *A "positive list" approach*

7. Regulating pesticide residues in food in the international arena can be broadly classified into the "non-positive list" approach and "positive list" approach. Under a "non-positive list" approach, while MRLs of a list of pesticides are laid down in the legislation, it does not mean that those pesticides

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<sup>1</sup> The Codex Alimentarius Commission was established in 1963 by the World Health Organization (WHO) and the United Nations Food and Agriculture Organization (FAO) to develop international food standards, guidelines and related texts.

for which no standards are specified are not allowed to be found in food. As such, the presence of pesticide residues in food without specified MRLs may not necessarily contravene the legislation. On the other hand, under a “positive list” approach, MRLs of pesticides that are allowed to be found in food are specified in the legislation whereas any other pesticide residues without specified MRLs are either not allowed or the residual level of which should not exceed a “default value”. As compared with the “non-positive list” approach, the “positive list” approach, which clearly defines which pesticides are allowed and the corresponding standards, will facilitate the trade to clearly understand the legal requirement, offer a more comprehensive control and bring about more effective enforcement actions. We therefore propose to adopt this approach in our regulatory framework for pesticide residues in food. This approach has been adopted in a number of overseas jurisdictions such as Australia, European Union, Japan, New Zealand, Singapore and the United States of America.

### *Determining standards*

8. Since Hong Kong depends almost entirely on imported food, it is of little practical use to conduct our own supervised field trials for establishing our own MRLs, or to assess pesticide residue data provided by the industry. A two-step approach is therefore proposed to determine the standards for Hong Kong. The first step is to adopt the standards recommended by the Codex as the backbone, supplemented by standards of the Mainland and other major food-supplying countries for Hong Kong, notably Thailand and the United States of America. This approach is considered pragmatic taking into account the heavy reliance of Hong Kong on imported food. As a second step, risk assessment studies will be conducted using internationally accepted methods to assess whether the proposed standards are adequate to protect public health in the local setting. It is estimated that MRLs of some 400 pesticides will be adopted.

### *“Default value” and a list of “exempted substances”*

9. To tie in with the “positive list” approach, it is necessary to deal with pesticide residues for which no standards have been specified in the subsidiary legislation. It is proposed to set a “default value” – the residue level below which is considered acceptable, for those chemicals with no standards specified. The establishment of a “default value” can facilitate the trade in monitoring pesticide residues in their products and the laboratories in conducting corresponding analyses. The “default value” approach has been adopted in a number of overseas jurisdictions, such as the European Union, Japan and New Zealand.

10. On the other hand, in order to facilitate the trade to use pesticides that are natural and the residues of which are identical to or indistinguishable from natural food components, it is proposed to develop a list of “exempted substances”. The principles of developing such a list are: (a) the substances used fall under the definition of pesticides; (b) MRLs are considered not necessary by other regulatory authorities; and (c) the substances will not pose any public health risk. It should however be noted that such a list of “exempted substances” is not available from Codex. It is proposed to make reference to the lists adopted by our major food-supplying regions.

#### *Classification of food*

11. A classification of food is considered necessary for uniform nomenclature among international trade and for the purpose of establishing group MRLs for food commodities of similar characteristics and residue potential. As it is proposed to adopt Codex MRLs as the backbone of the local set of MRLs for pesticide residues in food, to ensure compatibility, it is also proposed to make reference to Codex when developing such classification system under the new regulatory framework.

#### *Grace period*

12. To allow sufficient time for the trade to comply with the new regulatory requirement, and the private and government laboratories to develop testing methods for the relevant pesticides, a two-year grace period for this new piece of subsidiary legislation is proposed.

### **WAY FORWARD**

13. The Administration will embark on a 2½-month public consultation on 13 November 2007, during which a public consultation document with details of the proposed regulatory framework for pesticide residues in food in Hong Kong as mentioned above will be issued and consultation forums and meetings with stakeholders will be held. The consultation document will be distributed to all LegCo Members on 13 November 2007.

## **ADVICE SOUGHT**

14. Members are invited to comment on the proposed regulatory framework for pesticide residues in food.

**Centre for Food Safety  
Food and Environmental Hygiene Department  
Food and Health Bureau  
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