

立法會
Legislative Council

LC Paper No. CB(2)1558/12-13

Ref : CB2/PL/FE

**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 ("the Panel") during the 2012-2013 Legislative Council ("LegCo") session. It will be tabled at the Council meeting of 17 July 2013 in accordance with Rule 77(14) of the Rules of Procedure.

The Panel

2. The Panel was formed by resolution of the Council on 8 July 1998 and as amended on 20 December 2000, 9 October 2002, 11 July 2007 and 2 July 2008 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. The Panel comprises 15 members, with Hon Alan LEONG Kah-kit and Hon Steven HO Chun-yin elected as Chairman and Deputy Chairman respectively. The membership list of the Panel is in **Appendix II**.

Major work

Matters relating to food

Measures to stabilize supply of formula products for infants and young children

4. There was a run on certain brands of powdered formula in Hong Kong in early 2013, rendering them out of stock at the retail level. As many local parents complained that they were unable to buy powdered formula for their babies and young children, the Administration announced on 1 February 2013 a series of measures to stabilize the supply of powdered formula in Hong Kong. These measures included setting up a 24-hour special hotline to assist local parents in purchasing powdered formula in the market; strengthening enforcement efforts against parallel trading activities; and introducing a legislative proposal to prohibit export of powdered formula from Hong Kong except with a licence issued by the relevant authority.

5. Some members agreed that there was a need to step up enforcement efforts against parallel trading activities in order to ensure adequate supply of powdered formula for local babies and young children. Some other members, however, questioned the need to combat parallel trading activities as parallel trading activities per se was not an offence. Holding the view that Hong Kong was a free market economy, they expressed strong objection to the Administration's proposal to impose export restrictions on powdered formula.

6. In the Administration's view, the supply chain failure in relation to powdered formula was closely related to parallel trading activities. The legislative proposal was introduced with a view to combating the problem of parallel traders diverting large quantities of powdered formula away from the supply chain in Hong Kong.

7. Members also expressed concern about the enforcement efforts to be taken by the Customs and Excise Department ("C&ED") in examining passengers and goods at the boundary control points. To combat parallel trading activities, members considered that the Administration should enlist the support of the relevant Mainland authorities. Given that parallel trading activities had become increasingly frequent in recent years, some members pointed to the need to review the "multiple entry permits" arrangement.

8. Some members took the view that it should be the suppliers' responsibility to ensure a sufficient and stable supply to meet both the local needs and the demand from the Mainland. The first and foremost task of the Administration was to ensure that the suppliers of powdered formula would effectively strengthen their supply chain to ensure a sufficient and steady supply of powdered formula for local babies and young children, instead of providing a 24-hour special hotline.

Implementation of the Import and Export (General) (Amendment) Regulation 2013

9. Following the announcement of the series of measures to stabilize the supply of powdered formula on 1 February 2013, the Administration published on 22 February 2013 in the Gazette the Import and Export (General) (Amendment) Regulation 2013 ("the Amendment Regulation") which sought to impose export restrictions on powdered formula. The Amendment Regulation came into operation on 1 March 2013, and the House Committee agreed at its meeting held on the same day to form a subcommittee to study the Amendment Regulation. Various concerns had been expressed by the members of the Subcommittee. To address members' concerns, the Administration agreed that it would give notice to amend the definition of powdered formula in the Amendment Regulation at the Council meeting of 17 April 2013.

10. The attention of the Panel had been called at the House Committee meeting on 19 April 2013 to the implementation of the Amendment Regulation. At the meeting, some Members expressed deep concern about the implementation of the Amendment Regulation in its original form since the amendments proposed to the Amendment Regulation could not be dealt with owing to an early adjournment of the Council meeting of 17 April 2013. The Panel was asked by the House Committee to follow up on the matter.

11. The Panel was briefed on the implementation of the Amendment Regulation and the measures for the improvement of the supply chain in relation to powdered formula. Some members were of the view that the export restrictions on powdered formula should not be made permanent and called on the Administration to set a timeline to review the effectiveness and necessity to continue with the export control. They were deeply concerned about the circumstances under which the Administration would consider it appropriate to discontinue the implementation of the Amendment Regulation.

12. According to the Administration, it was also aware that suppliers of powdered formula had implemented various measures to improve the supply chain management in order to ensure a sufficient and stable supply of powdered formula to meet the local needs. However, the measures implemented had to be proved and shown that they were sustainable and able to cope with the peak demand periods such as the National Day Golden Week and the run-up to the Chinese New Year. In this regard, the Administration would conduct stress tests during the National Day Golden Week to ascertain the effectiveness and sustainability of the improvement measures implemented before deciding on the need to continue or discontinue the implementation of the Amendment Regulation.

13. Some members, however, took the view that if the Administration wanted to fully assess the effectiveness of the improvement measures implemented by the suppliers, it should first discontinue the implementation of the Amendment Regulation. Some members stressed the need for including a sunset clause in the Amendment Regulation as it set a timeline for a review of the effectiveness of the Amendment Regulation. Some other members, however, objected to add a sunset clause to the Amendment Regulation for fear it might bring about a revival of parallel activities.

14. Some members were strongly dissatisfied with the Administration for its refusal to make public the list of powdered formula regulated by the Amendment Regulation compiled by the Food and Health Bureau as well as the enforcement guidelines for the frontline staff of C&ED which set out the scope, nature and targeted consumers of the powdered formula subject to regulation. While noting that the Administration had planned to publish to the public a new and detailed pamphlet providing examples to illustrate the scope, nature and targeted consumers of the powdered formula subject to regulation, these members considered that such arrangement would violate the rule of law principle under which the Government and the governed should be subject to the same law which should be publicly promulgated and equally enforced.

15. Some members expressed deep concern about the exemption arrangement for personal use in the Amendment Regulation. They called on the Administration to revise the exemption arrangement from first departure from Hong Kong within a 24-hour period to within the same day. The Administration considered that such proposal would cause more parallel trading activities as parallel traders might take advantage of the exemption before and after midnight at the land boundary control point which operated 24 hours a day. These members considered that the current exemption arrangement would bring

unnecessary inconvenience to both travellers and frontline enforcement staff. They urged the Administration to exercise enforcement or prosecutorial discretion when dealing with minor violations of the exemption arrangement.

Legislative proposals relating to the nutritional composition and labelling of formula products and foods for infants and young children

16. The Panel was consulted on the legislative proposals relating to the nutritional composition and labelling of formula products and foods intended for infants and young children under the age of 36 months in Hong Kong. The legislative proposals, which had adopted the standards developed by the Codex Alimentarius Commission, aimed to impose nutritional composition requirement on infant formula and nutritional labelling requirement on all formula products and foods intended for infants and young children under the age of 36 months.

17. Pointing out that all formula milk products available in Hong Kong were imported from overseas, some members expressed concern on the supply of formula milk products in Hong Kong if the legislative proposals were to be implemented. According to the Administration, surveys had been conducted to ascertain the extent of compliance of formula milk products on sale in Hong Kong with the Codex requirements. Based on the findings of the surveys, the Administration was optimistic that the trade should be able to comply with the proposed nutritional composition and labelling requirements. Members were also advised that there would be a suitable grace period to ensure the smooth implementation of the legislative proposals. At the request of members, the Administration extended the consultation period of the legislative proposals to allow more time for the trade and the public to give views on the legislative proposals.

18. During the subsequent briefing on the outcome of the public consultation exercise on the legislative proposals, members noted that the public and the trade in general welcomed the Codex-based approach and supported the legislative proposals to impose nutritional composition and labelling requirements. While members in general were also supportive of the legislative proposals, some members expressed concern that the proposed nutritional labelling requirement of "1+33" for infant formula as compared to the energy and 29 nutrients ("1+29") requirement specified by Codex might constitute a possible trade barrier. There was also concern about the exemption arrangement for formula products for special medical purposes intended for infants. Some members considered that these formula products, which were specially manufactured to meet the special nutritional requirements of infants with

special medical conditions, should be exempted from the nutritional composition and labelling requirements.

19. Members expressed diverse views on the suitable length of the grace period. Some members considered that a grace period of about nine months to one year should be sufficient for the purpose, while some other members considered that a two-year grace period was necessary for the trade to comply with the proposed requirements. According to the Administration, given the diverse views on the length of the grace period, it would look into it with regard to the trade and laboratories' readiness for the proposed changes and aspirations of the general public before finalizing the duration of the grace period.

20. Some members were disappointed that the regulation of claims was not included in the legislative proposals and urged the Administration to do so as soon as possible. According to the Administration, in view of the complexity and controversies concerning the regulation of claims, more time was needed for consultation among stakeholders and the public before a consensus could be reached. It would address the issue of the regulation of claims at a later stage after the introduction of the nutritional composition and labelling requirements.

Production, sale and use of substandard cooking oil ("gutter oil")

21. Following widespread media coverage on a suspected unlicensed establishment supplying suspected substandard cooking oil to local restaurants, the Panel held a special meeting to discuss follow-up measures taken by the Food and Environmental Hygiene Department ("FEHD") and its Centre for Food Safety ("CFS") on suspected substandard cooking oil.

22. Noting that public confidence in the safety of cooking oil used by local restaurants had plummeted following the incident, some members criticized the Administration for its slow response to the incident and urged it to carry out expeditiously follow-up measures to rebuild public confidence in the safety of cooking oil. In particular, members called on the Administration to step up its enforcement actions to inspect cooking oil manufacturers, food processing establishments and distributors.

23. Members noted that in the course of CFS's investigation into the incident, non-compliance with the registration requirement of food importers and distributors and the record keeping requirement under the Food Safety Ordinance (Cap. 612) was revealed. Members queried whether the Administration had possessed all the relevant information on cooking oil traders to allow them to take necessary enforcement actions.

They also queried whether the transaction records could provide proof for the quality of cooking oil. In their view, CFS should increase the frequency and number of cooking oil samples for testing. There was also a suggestion that the tests on the existence of Benzo[a]pyrene ("BaP"), which was a harmful substance, should be included in the routine food surveillance programme. According to the Administration, CFS adopted a risk-based approach to conduct food surveillance. The current food tracing mechanism under the Food Safety Ordinance was considered effective in enhancing food traceability and ensuring food safety. The Administration would consult the Expert Committee on Food Safety on the contents of the food surveillance programme.

24. Members noted that the European Union and the Mainland had established limits on BaP for fats/vegetable oil, and the trade in Hong Kong was also supportive of regulating BaP by legislation. They queried why the Administration did not stipulate a statutory limit on BaP in food. According to the Administration, BaP was ubiquitous in the environment and might be found in trace amounts in various types of food. It had to carefully examine the need of regulating BaP by legislation. The Panel passed a motion at its meeting on 3 January 2013, urging the Government to expeditiously amend the legislation to regulate the carcinogen BaP, so as to guarantee the safety consumption of cooking oil by the public.

Supply of live cattle in Hong Kong

25. The Panel was deeply concerned about the surge in the price of fresh beef. Many members were of the view that the current arrangement of supplying all live cattle to Hong Kong through a single agent had rendered the supply and wholesale price of fresh beef susceptible to manipulation. They urged the opening up of the live cattle wholesale market in order to bring down the price of fresh beef. The Panel passed a motion at its meeting on 28 May 2013, urging the Government to expeditiously open up the market of imported live cattle, and to draw up an implementation timetable as soon as possible.

26. According to the Administration, it was equally concerned about the recent surge in the price of fresh beef. It was the policy of the Government to maintain a stable and adequate supply of foodstuffs from diverse sources, in addition to ensuring food safety. However, the role of the Government was to enhance market transparency with a view to facilitating the effective operation of the market but the food prices should be determined by the forces of supply and demand in a free market. As regards the suggestion of opening up the market of live cattle, members were advised that the authority to approve the export agent for

the supply of live cattle to Hong Kong rested with the Ministry of Commerce. The Administration had already liaised with the relevant Mainland authority to explore the feasibility of opening up the market. While the Administration was open-minded about the opening up of the market, it cautioned that if the upward trend in the price of live cattle was mainly attributable to the tight supply and high demand in the market, an increase in the number of distributing agents might not help ameliorate the situation.

Report on the consultancy study on organic food

27. The Panel was briefed on the findings of the consultancy study on organic food. Members in general found that the policy options proposed by the consultant, i.e. awareness raising and administrative measures, feasible as they would enhance public education and public awareness of organic food and organic farming. They urged the Administration to conduct a review on the effectiveness of the administrative measures one year after their implementation in order to examine the need for legislation in the future. Some other members, however, were of the view that the Administration should eventually introduce legislation to regulate the labelling of organic products to safeguard consumer interests.

28. Some members considered a certification and labelling scheme essential to facilitate differentiation between authentic organic foods from the counterfeit ones. Some other members, however, queried the viability of the certification schemes. Since Hong Kong had no legal definition of the term "organic", it would be difficult to prove whether or not a product was organic through laboratory testing. According to the Administration, organic farming was a holistic production management system under which chemical herbicides, pesticides and fertilizers were avoided to be used in growing crops. The Hong Kong Organic Resource Centre had developed a set of stringent standards to ensure that the processes adopted by an organic farm complied with the specific set of organic agriculture and production standards. Enhancing promotion and education as well as providing consumers with clear information on how to identify organically grown produce were effective means to raise consumer awareness of organic products.

Safety of genetically-modified food

29. The Panel was consulted on the Administration's proposal to regulate genetically-modified ("GM") food by introducing a mandatory pre-market safety assessment scheme ("PMSAS") in Hong Kong. Members were advised that most of the GM food currently available on

the international market had passed risk assessments of the food safety regulatory bodies of other economies and were not likely to be harmful to human health. In the Administration's view, the introduction of a mandatory PMSAS in Hong Kong would provide a further mechanism to enhance the food safety control over GM food and provide the legal basis for preventing unauthorized GM products from entering the local market.

30. Members in general welcomed the Administration's proposal and urged the Administration to launch a public consultation exercise on the proposal as soon as possible. Although members were advised that GM food might not be unsafe, many members considered it important to provide information on the GM contents on the food labels to enable consumers to make informed food choices. They were of the view that the Administration should also introduce simultaneously a mandatory GM food labelling scheme. According to the Administration, it was primarily concerned with public health and food safety when considering whether new food regulatory measures should be introduced. Given that GM food currently available on the market was unlikely to present risks for human health, there was a lack of strong justification for the mandatory labelling of GM food on food safety grounds. Encouraging the trade to adopt a voluntary labelling system would be a practical alternative to a mandatory labelling system.

The business environment of public markets

31. The subject of the improvement of the business environment of public markets was high on the agenda of the Panel. The Panel had scheduled three meetings in January, April and July 2013 respectively to monitor the Administration's progress in developing proposals on the improvement of the business environment of public markets, the rental adjustment mechanism and the air-conditioning charging policy. The Panel also made two visits with the Secretary for Food and Health to six selected public markets and received the views of deputations at one meeting to better understand the difficulties faced by the public market stall tenants.

32. There was a broad consensus among members that improving the business environment of the public markets, including the provision of air-conditioning facilities to all public markets, was of utmost importance. There was also broad recognition in the Panel that unless the business environment of public markets had been substantially improved, there would not be any ready support for any proposals to adjust the rentals of public market stalls. In this regard, the Panel requested the Administration to conduct a comprehensive review of public markets including the policy, positioning, functions and usage of public markets.

The Panel also stressed the need for the Administration to put forward concrete proposals for improving the business environment of public markets such as upgrading market facilities and strengthening promotional activities.

33. The Administration fully recognized members' concerns and undertook to conduct a thorough review covering the policy, positioning, functions and usage of public markets. It would engage a consultant with expertise in retail consulting to assist in coming up concrete proposals for a sample of public markets which differed in locations, physical conditions, business viability, and intensity of competitive rivalry. The consultant would also give general advice on how to draw more customers to public markets and enhance consumer satisfaction. Following the report of the consultancy, an inter-departmental task force comprising FEHD and other relevant department staff, such as the Architectural Services Department, the Electrical and Mechanical Services Department and the Efficiency Unit, would be set up to examine and take forward measures to improve the operating environment of public markets as recommended by the consultant. The Administration undertook to keep the Panel informed of the progress made in relation to the review being undertaken and the initiatives to be taken to improve the business environment of public markets. It would also revert to the Panel on the outcome of the consultancy study by 2013.

34. Members agreed at the meeting on 5 February 2013 to set up a Subcommittee on Issues relating to Public Markets to study and review issues relating to the policy and business environment of public markets, assess the demand for public markets according to the district-based principle, examine the Administration's proposals for the rental adjustment mechanism and air-conditioning charging arrangement for public markets and make timely recommendations. Since the Subcommittee was awaiting its turn for activation, the Panel would continue to follow up on the issues.

Assistance scheme for hawkers in fixed-pitch hawker areas

35. The Panel examined in detail the Administration's proposal on the five-year assistance scheme for licensed hawkers operating in 43 fixed-pitch hawker areas ("the Assistance Scheme"). Some members expressed grave concern about the impact of the Assistance Scheme on hawkers. In their view, while the Assistance Scheme might be able to reduce the potential fire risks posed by on-street hawking activities, the voluntary licence surrender arrangement under the Assistance Scheme would inevitably reduce the number of hawkers which would not be conducive to the vibrancy and revitalization of the trade. Some

members also considered that if there was an overwhelming response to the voluntary licence surrender arrangement, consideration should be given to re-issuing new hawker licences to fill the vacant stalls.

36. Some members were dissatisfied that the voluntary licence surrender scheme was only available to the licensed hawkers operating in the 43 fixed-pitch hawker areas. They were of the view that the ex-gratia payment ("EGP") under the voluntary licence surrender scheme should be made available to all hawkers as the purpose of the voluntary licence surrender scheme was to expedite the release of vacant stalls for the relocation of stalls with higher fire risks.

37. According to the Administration, it had conducted two public consultation exercises on proposals to reduce fire risks posed by on-street hawking activities subsequent to the two fires broke out at the hawker stalls at Fa Yuen Street. The Assistance Scheme was developed having taken into account the views of the trade, the stakeholders as well as the views collected during the public consultation exercises.

Columbarium facilities and promotion of green burial

Supply of public niches

38. The provision of columbarium facilities and the regulation of private columbaria remained high on the agenda of the Panel. The Panel was briefed on the progress made by the Administration in taking forward the development of the 24 potential sites identified for public columbarium use and a proposal to develop columbarium and crematorium facilities at the Sandy Ridge Cemetery.

39. Members in general expressed support for the Administration's proposal to develop a cluster of funeral parlour, crematorium and columbarium facilities at Sandy Ridge to provide one-stop service for the public. They urged the Administration to expeditiously increase the supply of public columbarium facilities. Some members expressed concern that the 120 000 new public niches to be provided at Sandy Ridge might not be enough to meet the demand. They urged the Administration to review the supply of public funeral and burial facilities in the light of demographic changes in the coming years. They were also of the view that the Government should take the lead to provide such facilities and services for the public. Consideration should also be given to re-planning the use of land at cemeteries for building more columbaria; introduction of time-limited lease of public niches; and introduction of an incentive scheme for the return of public niches for further use.

40. According to the Administration, it had been adopting all feasible measures to increase the supply of public niches, including recovering the land no longer serving the purpose of burial grounds. Members were advised that land of a size suitable for development of public columbarium facilities comparable in scale to that of Sandy Ridge was scarce. In taking forward various sites for columbarium development, the Administration had to properly address the concerns of neighbouring residents and the concerned District Councils. Due regard also had to be given to the added impact on traffic, noise and environment that might be brought about by increasing the number of niches available in any given site.

Regulation of private columbaria

41. The Panel was consulted on the legislative proposals for regulating private columbaria based on the outcome of the second public consultation exercise on the proposed licensing scheme for private columbaria. The Administration proposed to introduce a statutory licensing scheme under a new Private Columbaria Ordinance. Members in general expressed grave concern about the proposed duration of the licensing period. Pointing out that consumers would normally expect a very long-term deposit of the cremains, some members were of the view that the licensing period should be extended from the proposed five years to a longer period so as to provide greater certainty for consumers. Some other members expressed concern that the licence renewal requirement might lead to a price increase every five years.

42. Members also expressed concern about the roles and responsibilities as well as the membership of the Private Columbaria Licensing Board which was proposed to be set up under the new Private Columbaria Ordinance as the statutory licensing authority for private columbaria. Some members considered a clear delineation and division of responsibilities between the Licensing Board and FEHD important for the public to lodge or follow up complaints against any breaches of licensing conditions. Given the potentially enormous financial returns involved in the business of private columbaria, some members urged the Administration to exercise extreme care and caution in the selection and appointment of members to the Licensing Board to remove any doubts of using the appointments as recompense for political services.

43. Some members expressed grave concern about the proposed exemption arrangement for long-existing columbaria from the Licensing Scheme. In their view, this exemption arrangement might create loopholes for the unauthorized columbaria to exploit and continue to sell niches. They stressed the need to have a clear definition of

"long-existing private columbaria" to plug the loophole. Some other members noted with grave concern about the provision of temporary storage of cremains in the licensed premises of the undertakers of burials. Pointing out the serious nuisance to neighbouring residents by the undertakers and the inadequate supply of public niches in the territory, these members were afraid that what was meant for temporary storage might become a facility for long-term occupation.

44. Many members asked the Administration to be mindful of the need to provide storage for the cremains deposited with those unauthorized private columbaria which would be very likely to fail to meet the regulatory requirements. As such, the Licensing Scheme might jeopardize the interest of people who had spent a considerable sum of money to purchase niches from those unauthorized private columbaria.

45. The Administration agreed that there was a need for the Government to provide temporary storage for those displaced cremains. It, however, stressed that the storage service for the displaced cremains should be temporary in nature and would not be used for the purpose of long-term occupation in order to be fair to those queuing up for public niches and to avoid encouraging the development of unauthorized columbaria.

Usage and promotion of Gardens of Remembrance, scattering cremains at sea and Internet memorial service

46. The Panel was briefed on the usage of the Gardens of Remembrance ("GORs"), scattering cremains at sea and the Internet Memorial Service as well as the Administration's efforts in the promotion of green burial. While members generally welcomed the Administration's proposal to promote more sustainable and environmental friendly way of interment, they also cautioned that green burial should be regarded as an alternative form of handling cremains and should not be used to replace the traditional interment arrangement. The Government should continue to provide the cremation service as well as increase the supply of public niches.

47. Some members expressed concern about the designated areas for scattering cremains. They considered that the designated areas should be far away from the marine fish culture zones and populated areas so as to minimize obstruction to marine traffic, nuisance to the people on land and other environmental pollution problems.

48. On members' suggestion of stepping up publicity on green burial to elderly centres and schools, the Administration advised that FEHD had

enhanced collaboration with various government departments and non-governmental organizations in promoting more sustainable means of interment. It had also distributed publicity materials to organizations which promoted life and death education or provided after-death service. FEHD would also beef up the green burial materials and prepare more Announcements in Public Interest on green burial.

Animal welfare

Cremation services for animals

49. Following media coverage on the lack of cremation services for animals, the Administration was requested to brief the Panel on the existing arrangements for the disposal of dead animals as well as the current control on cremation services for pets under the respective legislation. Some members expressed strong dissatisfaction with the lack of planning and co-ordination among government departments in the provision of the cremation service for animals. Pointing out that the Administration had put forward legislative proposals to strengthen regulation of pet breeding and trading with a view to enhancing animal welfare, some members were appalled to learn that the current arrangement was to dispose of pet carcasses as other municipal solid waste at landfills. They strongly criticized the Administration for its handling of pet carcasses as solid waste. They stressed the need for the Government to provide hospice services including cremation service for pet animals. There was also a suggestion that the Administration should consider extending the cremains scattering services in GoRs and at sea to the cremains of pet animals.

50. According to the Administration, there was an increasing trend for pet owners to arrange for cremation of their pets after death. Relevant government departments, under their respective mandates, would conduct inspections on premises where private pet cremation service was provided to check compliance with the relevant legislation and requirements. The Administration would explore the feasibility of extending the cremains scattering services at GoRs and at sea to the cremains of pet animals.

Regulation of pet trading

51. The Panel discussed the Consultation Document on Better Regulating Pet Trading to Enhance Animal Health and Welfare and received views of deputations on the Consultation Document at its meeting on 13 November 2012. The Consultation Document proposed a series of measures to tighten up the regulation of the breeding of dogs for

sale, which included requiring all individuals to obtain a licence or permit before they could sell dogs.

52. Pointing out that many pet animals had been subjected to horrific conditions due to unregulated breeding and trading of pet animals, some members shared some deputations' views that the proposed regulation should be in operation as soon as practicable. Some other members, however, expressed worry that the threshold of the proposed licensing system for the breeding of dogs for sale was too low and would attract new participants to the pet breeding and trading business. They also considered that the proposed One-off permit might create a loophole for home breeders to abuse the licensing arrangement. They urged the Administration to impose additional and more stringent licensing conditions for the breeding of dogs for sale. Noting that the proposed licensing mechanism only applied to dogs, they also called on the Administration to extend the scope of licensing to cover cats and other pet animals. The Administration was also requested to consult the trade on the draft detailed licensing requirements and conditions.

53. According to the Administration, there were divergent views on how to regulate the pet trade. On the one hand, there were views that all kinds of pet trading should be prohibited. On the other hand, there were advocates who considered that only hobby breeding, which was a source of abuse by commercial breeders, should be prohibited. The Administration would seek to find a balanced way forward, having regard to the diverse views expressed by different stakeholders. More specific conditions and measures would be defined after the general direction was agreed on.

54. The Panel was subsequently briefed on the outcome of the public consultation on the legislative proposals to better regulate pet trading. Members were advised that the Administration had received very strong support (85%) for its proposed measures to enhance regulation on pet trading as stated in the consultation document. The Administration would prepare the legislative amendments and planned to table the amendment regulation before the Legislative Council within 2013.

55. Some members expressed strong dissatisfaction with the consultation exercise conducted by AFCD. They considered that views of some animal rights groups had not been awarded sufficient consideration during the consultation exercise. Some other members were not satisfied that the Administration would not include cats in its legislative proposal. As regards the regulation of hobby breeders, some members maintained their view that all breeders should be subject to the more stringent licensing control in order to discourage hobby breeding.

They also cast doubt on the legal advice sought by the Administration about a complete ban on the trading of pets by private pet owners would likely cause a breach of the relevant provisions of the Basic Law in relation to individual rights to property ownership. They asked the Administration to clarify the legal advice to the Panel. They also queried whether AFCD would have the adequate manpower resources to carry out regular inspections on the premises of the licensees to ensure compliance with the licensing conditions.

56. In the Administration's view, dogs were by far the most vulnerable pet group as they comprise the largest share of the pet market and based on past records, the welfare of dogs was compromised more frequently and to a greater extent than other types of pets. The Administration assured members that it would assess the need to extend the coverage of the regulation to other pet animals at a later stage. As regards the regulation of hobby breeders, the Administration maintained its view that its current proposal was stringent enough having regard to the operating characteristics of hobby breeding. The Administration was also of the view that based on the legal advice sought, a complete ban on pet trading would be equivalent to an infringement of individual rights which was considered disproportionate when compared with the objective to regulate commercial pet breeders.

57. The Panel passed a motion at its meeting on 16 April 2013, urging AFCD to issue under its proposed licensing requirements a single animal breeder licence only and which applied to all commercial and private animal breeders and traders, so as to further protect the welfare of animals in Hong Kong.

Ex-gratia allowance for trawler owners affected by the trawl ban

58. The Panel continued to follow up on the progress of dispersing ex-gratia allowance ("EGA") to trawler vessel owners affected by the trawl ban. Some members expressed grave concern about the vetting process of EGA applications. Pointing out the substantial discrepancy between the estimated and actual amount of EGA payable to eligible trawler owners, some members shared the concern of some fishermen about the impartiality of the Inter-departmental Working Group ("IWG") which was tasked to handle EGA applications. They also criticized IWG for its lack of transparency in handling EGA applications. They were dissatisfied that the Administration had not made public the vetting criteria of EGA applications as well as the findings of the surveys conducted by AFCD which had played a significant role in assessing the eligibility and apportionment of EGA among the trawlers. They urged IWG and the Fishermen Claims Appeal Board ("FCAB") to exercise

flexibility with a view to accommodating the needs of the fishermen when reviewing their applications and appeals.

59. The Administration assured members that all information being considered and processed by IWG in relation to EGA applications would be submitted to FCAB for consideration. FCAB would also consider any new information, oral or written, submitted by fishermen in support of their applications. Flexibility would also be exercised in considering EGA applications and their appeals subject to the principles endorsed by the Finance Committee.

Sustainable Fisheries Development Fund

60. The Chief Executive announced in his 2013 Policy Address the promulgation of a Sustainable Fisheries Development Fund to help fishermen adopt a sustainable and high value-added operation mode and subsidize relevant programmes and research so as to enhance the overall competitiveness of the industry. The Panel was consulted on the parameters of the Fund, including the scope of projects that might benefit from the Fund, who should be eligible to apply and matters related to the governance and administration of the Fund.

61. Members generally expressed support for the sustainable development of the fisheries industry. They raised no objection to the categories of projects proposed by the Administration to be supported by the Fund.

62. Some members, however, stressed the need for a comprehensive policy for the sustainable development of the fisheries industry. They cast doubt on the effectiveness of the Fund to promote the sustainable development of the fisheries industry having regard to the lack of a policy on the general direction and long-term goals for the industry. Some other members considered the \$500 million-Fund insufficient for the purpose. They also questioned the positioning and objectives of the Fund having regard to other funding sources that the fishermen might tap, such as the Fisheries Development Loan. They urged the Administration to first develop a comprehensive blueprint for actions to be taken for the sustainable development of the fisheries industry before deciding on the funding arrangement.

Avian influenza vaccination programme in local chicken farms

63. Members were briefed on the latest developments on the avian influenza ("AI") vaccination programme adopted in local chicken farms. Some members commented that while the local chicken farmers were

supportive of the introduction of the new Re-6 vaccine, many of them found the related procedures unduly inhibiting. They urged the Administration to simplify the procedures. According to the Administration, each chicken had to be administered with two doses of the new Re-6 vaccine in order to achieve satisfactory antibody level. The requirement of labelling chickens vaccinated with the new Re-6 vaccine was considered necessary as some chicken farmers were still using the Intervet vaccine in stock and the labelling could facilitate the identification of the types of vaccines administered to the flock.

64. Some members expressed concern about the safety of live chickens imported from the Mainland. They urged the Administration to take measures to ensure that chickens reared in the Mainland for export to Hong Kong were not infected with AI. According to the Administration, all live chickens supplied to Hong Kong from the Mainland should come from registered farms. They would be quarantined for five days and tested free of antibodies to the AI virus before released for sale in retail outlets. Members were further advised that CFS conducted regular inspection visits to the registered chicken farms on the Mainland to monitor their compliance with the bio-security requirements.

Liquor licensing

65. Some members were extremely dissatisfied with the lack of a clear definition of "upstairs bars" in the draft "Guidelines on Assessing Liquor Licence Applications" prepared by the Liquor Licensing Board ("LLB") and the response given by the Administration and LLB to their enquiries. They were also concerned about whether the Fire Services Department and the Buildings Department had carry out any fire risk assessments of the whole building in which the bars were located in addition to the fire risk assessments of individual bar premises. While members in general did not oppose the proposed additional licensing condition which required licensees to attend "Seminar on Liquor Licensing", they were deeply concerned about the justification for introducing a more stringent capacity limit for upstairs bars as another additional licensing condition. They queried the need for introducing such safety margin of the capacity limit for upstairs bars and the basis for setting such safety margin at 90% of the capacity limit. Some other members criticized LLB for its over-reliance on the views of the Police in deciding on liquor licensing applications.

66. The Panel passed a motion at its meeting on 13 June 2013, urging the Food and Health Bureau to comprehensively review LLB in respect of its composition, functions, operational transparency, the complaint

mechanism to be put in place and etc., so as to ensure public interests are safeguarded. The Panel would continue to follow up with the Administration and LLB on the revised Guidelines.

Alignment of fees and charges of the Food and Environmental Hygiene Department

67. The Panel was consulted on the Administration's proposal to align the different levels of fees and charges for similar municipal facilities and services in the urban area and the New Territories based on the lower of the two levels. Members were advised that the alignment exercise would be followed by a comprehensive review by FEHD of its fee levels and charging policy. While members in general supported the Administration's alignment exercise, some members expressed concern about the conduct of the comprehensive review after the alignment exercise. They were worried that the Administration would increase the fees and charges following the comprehensive review in order to recover the reduction of Government revenue during the alignment exercise.

68. According to the Administration, there was a need to conduct the comprehensive review as the fees and charges inherited from the two former Municipal Councils had remained unchanged since 2000. While cost recovery would be one consideration in determining the fee levels and charging policy, the Administration assured members that affordability of the public and the trade would also be taken into account when determining fee adjustments. The Administration would also review the relevant procedures and streamline the operations with a view to reducing their costs.

Rodent control

69. The Panel was briefed on the rodent prevention and control measures implemented by FEHD. Members noted that FEHD had been making use of the rodent infestation rate ("RIR") and the trend movement of RIR as the basis for devising anti-rodent measures and assessing the overall efficacy of rodent prevention and disinfestation work. Members were advised that the overall RIR for 2012 was 2.4%, indicating that rodent infestation in the public areas of Hong Kong remained generally under control.

70. Many members questioned the methods and techniques for rodent control adopted by the Administration. They queried whether RIR could genuinely reflect the rodent problem of the various districts in Hong Kong. In particular, some members pointed out that RIRs for some districts were 0% which implied that these districts were rodent-free,

while RIRs for some other districts could be as high as 7.9%, indicating that those districts were having quite serious rodent problems, albeit all these districts were not so dissimilar in terms of human activities and characteristics. These members questioned the yardstick for measuring the effectiveness of the rodent prevention and control measures of FEHD.

71. According to the Administration, FEHD had been adopting a comprehensive approach in rodent control including encouraging active participation of the public and local organizations in anti-rodent work. As there was no internationally adopted RIR, FEHD had made reference to the practices adopted by different countries and places and tried out different methods when devising its RIR. The method currently adopted was considered suitable for Hong Kong with respect to the local situation and environment.

Other issues discussed

72. Other issues discussed by the Panel included the Administration's proposals to amend the Veterinary Surgeons Registration Ordinance (Cap. 529) which aimed to expand and strengthen the membership of the Veterinary Surgeon Board of Hong Kong ("VSB") and improve the complaint-handling procedures of VSB, electronic applications for licences, food surveillance programme including the mechanism for monitoring falsely described food, review on the ban on keeping backyard poultry and on the moratorium on issuing new fish culture licences.

Meetings held

73. During the period between October 2012 and June 2013, the Panel held a total of 15 meetings, including one joint meeting with the Panel on Health Services. Another meeting has been scheduled for July 2013.

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.

Panel on Food Safety and Environmental Hygiene

Membership list for 2012-2013 session

Chairman Hon Alan LEONG Kah-kit, SC

**Deputy
Chairman** Hon Steven HO Chun-yin

Members Hon James TO Kun-sun
Hon Tommy CHEUNG Yu-yan, SBS, JP
Hon Vincent FANG Kang, SBS, JP
Hon WONG Kwok-hing, BBS, MH
Dr Hon Joseph LEE Kok-long, SBS, JP
Dr Hon LEUNG Ka-lau
Hon CHEUNG Kwok-che
Hon WONG Yuk-man
Hon Claudia MO
Hon CHAN Chi-chuen
Dr Hon Kenneth CHAN Ka-lok
Dr Hon Helena WONG Pik-wan
Hon Christopher CHUNG Shu-kun, BBS, MH, JP

(Total : 15 members)

Clerk Ms Elyssa WONG

Legal adviser Miss Carrie WONG

Date 2 July 2013