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**Panel on Food Safety and Environmental Hygiene**

**Updated background brief prepared by the Legislative Council Secretariat  
for the meeting on 8 April 2014**

**The Pesticide Residues in Food Regulation (Cap. 132CM)**

**Purpose**

This paper gives an account of the past discussions by the Panel on Food Safety and Environmental Hygiene ("the Panel") and the Subcommittee on Pesticide Residues in Food Regulation ("the Subcommittee") on issues relating to regulation of pesticide residues in food in Hong Kong.

**Background**

2. There are general provisions under the Public Health and Municipal Services Ordinance (Cap. 132) ("PHMSO") that all food on sale for human consumption must be wholesome, unadulterated and fit for human consumption. Section 55(1) of PHMSO provides that the Director of Food and Environmental Hygiene ("DFEH") may make regulations to prohibit or regulate the addition of any specified substance to food intended for sale for human consumption. With a view to better protecting public health, facilitating effective regulation of pesticide residues in food and promoting harmonization between local and international standards, the Administration proposed a new regulatory framework for pesticide residues in food and conducted a public consultation in 2011.

3. On 26 April 2012, DFEH, in exercise of the power under section 55(1) of PHMSO, made the Pesticide Residues in Food Regulation (Cap. 132CM) ("the Regulation"), which will come into operation in 1 August 2014 after a two-year grace period. There are two Schedules to the Regulation - (a) Schedule 1

specifies a list of maximum residue limits ("MRLs") / extraneous maximum residue limits ("EMRLs") for certain pesticide-food pairs (i.e. the maximum concentration of specified pesticide residues permitted in specified food commodities); and (b) Schedule 2 specifies a list of exempted pesticides. Unless the pesticide used on a type of food is exempted as listed in Schedule 2, only food containing pesticide residues which do not exceed any of the permitted levels specified in Schedule 1 for that food is allowed to be imported and sold. For food containing any pesticide residue that is neither exempted nor specified in the Regulation, the import and sale of the food concerned is only allowed if consumption of the food is not dangerous or prejudicial to health. A maximum fine of HK\$50,000 and imprisonment of six months may be imposed on any contravention.

4. In January 2014, the Administration consulted with the Panel on its proposed update of Schedule 1 to the Regulation, including the addition of one pesticide, removal of three pesticides and updating of the residue definitions of six pesticides.

### **Deliberations of the relevant committees**

5. Issues relating to regulating pesticide residues in food had been discussed by the Panel and the Subcommittee in 2011 and 2012. At its meeting on 14 January 2014, the Panel discussed the Administration's proposal of updating Schedule 1 to the Regulation. The major deliberations and concerns of members are summarized below.

#### Formulation of Schedules 1 and 2 to the Regulation

6. In response to a concern raised by the Subcommittee about how the two Schedules were drawn up, the Administration advised that MRL and EMRL were terminologies widely used and well understood by international communities, including the Codex Alimentarius Commission ("Codex"), the international food standard setting authority, regulatory authorities and the food trade. MRL was defined by Codex as the maximum concentration of a pesticide residue recommended by Codex to be legally permitted in or on food and agricultural commodities. EMRL was defined by Codex as the maximum concentration of a pesticide residue or contaminant that was recommended by Codex to be legally permitted or recognized as acceptable in or on food and agricultural commodities. EMRL is distinguished from MRL as EMRL refers to a pesticide residue or a contaminant arising from environmental sources (including former agricultural uses) other than the use of a pesticide or contaminant substance directly or indirectly on the commodity.

7. According to the Administration, the formulation of Schedule 1 to the Regulation was based primarily on the available standards recommended by Codex (around 2 800 MRLs / EMRLs), supplemented by standards of the Mainland (around 800 MRLs) and other major food supplying countries to Hong Kong, including the United States and Thailand (around 3 200 MRLs / EMRLs). Taking into account comments received during the public consultation in 2011, the Administration further included around 300 MRLs / EMRLs in Schedule 1. All standards set out in Schedule 1 had been scrutinized by the Centre for Food Safety ("CFS") by conducting risk assessment to ensure that they were adequate to protect public health in Hong Kong. Given the heavy reliance of Hong Kong on imported food, the Administration considered that such an approach would strike a balance between protecting public health and maintaining a stable supply of food in Hong Kong.

8. As regards of Schedule 2, the Administration advised that the purpose of having the list of exempted pesticides in Schedule 2 was to facilitate the use of pesticides by the trade that were natural and the residues of which were identical to or indistinguishable from natural food components. As such a list of exempted pesticides was not available from Codex, the Administration had made reference to the lists adopted by major food supplying countries and places to Hong Kong, including the Mainland, the United States and Thailand. In determining whether a pesticide should be included in Schedule 2, DFEH would consider relevant factors including (a) whether the use of the pesticide would result in residues occurring in food; (b) whether the residues of the pesticide were identical to or indistinguishable from natural food consumption; and (c) whether the residues of the pesticide had any toxicological significance or would be dangerous or prejudicial to human health.

#### Proposed update of Schedule 1 to the Regulation

9. Members noted that Schedules 1 and 2 to the Regulation would be updated by DFEH regularly, as new pesticides and new applications on crops kept emerging. According to the Administration, traders were welcomed to make proposals accompanied by sufficient supporting information to DFEH for consideration. DFEH might incorporate the proposals received in the next updating exercise of Schedules 1 and 2, taking into account the latest international developments, consistency with the existing list, availability of relevant supporting information and reference materials for testing, and whether the limits concerned could pass risk assessment.

10. When discussing with the Administration the proposed update of Schedule 1 to the Regulation at the meeting on 14 January 2014, members raised no objection to the Administration's proposal to add one pesticide (i.e. thiodicard) to Schedule 1 to the Regulation. However, regarding the proposal to remove three pesticides (namely, fosetyl aluminium, thidiazuron and triphenyltin hydroxide ("the three pesticides")) from Schedule 1 to the Regulation, members expressed concern that the proposal might compromise food safety in Hong Kong as the three pesticides would no longer be regulated in Hong Kong if the proposal was implemented.

11. The Administration advised that the proposal to remove the three pesticides from Schedule 1 was made on the grounds that Codex had not established any MRLs or residue definitions for these three pesticides and there was no international consensus on the regulation of these pesticides in terms of both residue limits and residue definition. The Administration stressed that food safety in Hong Kong would not be compromised even if the three pesticides were removed from Schedule 1, as the Regulation stipulated that the import and sale of food containing pesticide residues not specified in Schedule 1 was only allowed if the consumption of the food concerned was considered not dangerous or prejudicial to health. If the three pesticides were detected in food in the future, CFS would conduct risk assessment to determine whether the consumption of the food concerned was dangerous or prejudicial to health with reference to international standards developed for the purposes of protecting public health.

12. Members noted that the Administration's proposal to remove the three pesticides was made following the receipt of a proposal made by the General Administration of Quality Supervision, Inspection and Quarantine of China. Some members expressed concern as to whether there were adequate justifications for putting forward the proposal and whether the Administration would make concessions to the food supplying countries at the expense of food safety in Hong Kong.

13. According to the Administration, it was a common practice for the Administration to take into consideration comments put forth by relevant authorities of major food exporting countries to Hong Kong. The Administration assured members that the Administration was committed to ensure food safety in Hong Kong. Before deciding whether the Schedules to the Regulation should be amended, the Administration would take into consideration whether the pesticide residues limits concerned could pass the risk assessment scrutiny based on local food consumption pattern.

### **Latest development**

14. The Panel will further discuss with the Administration the proposed update of Schedule 1 to the Regulation at the meeting on 8 April 2014.

### **Relevant papers**

15. A list of the relevant papers on the Legislative Council website is in **Appendix**.

Council Business Division 2  
Legislative Council Secretariat  
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**Relevant papers on  
The Pesticide Residues in Food Regulation (Cap. 132CM)**

<b>Committee</b>	<b>Date of meeting</b>	<b>Paper</b>
Panel on Food Safety and Environmental Hygiene	12.7.2011 (Item V)	<a href="#">Agenda</a> <a href="#">Minutes</a>
Panel on Food Safety and Environmental Hygiene	12.6.2012 (Item VI)	<a href="#">Agenda</a> <a href="#">Minutes</a>
Subcommittee on Pesticide Residues in Food Regulation	--	<a href="#">Report of the Subcommittee on Pesticide Residues in Food Regulation to the House Committee meeting on 22 June 2012</a>
Panel on Food Safety and Environmental Hygiene	14.1.2014 (Item VI)	<a href="#">Agenda</a>

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