中華人民共和國香港特別行政區政府總部食物及衞生局
Food and Health Bureau, Government Secretariat
The Government of the Hong Kong Special Administrative Region
The People's Republic of China

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電話號碼 Tel nos. : 3509 8933
傳真號碼 Fax nos. : 2526 3753

14 May 2014

Dr. Hon Helena WONG Pik-wan
Chairman of LegCo Panel on Food Safety and Environmental Hygiene
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong
(Fax: 2509 9055)

Dear Chairman,

Legislative Council Panel on Food Safety and Environmental Hygiene
Follow-up Matters Pertaining to Pesticide Residues in Food Regulation

At the meeting of the Legislative Council (LegCo) Panel on Food Safety and Environmental Hygiene (the Panel) on 8 April 2014, Members were concerned about the removal of three pesticides, i.e. fosetyl aluminium, thidiazuron and triphenyltin hydroxide, from Schedule 1 to the Pesticide Residues in Food Regulation (the Regulation). Our response is set out below.

Policy considerations in formulating the Regulation

To further protect public health, enhance effective regulatory control on pesticide residues in food and promote harmonisation between local and international standards, the Government made the Regulation in June 2012, which will come into operation on 1 August 2014.

The standards for pesticide residues in food developed by the Codex Alimentarius Commission (Codex)[1] form the backbone of the regulatory framework. The Regulation specifies in Schedule 1 a list of maximum residue limits (MRLs) [2] and extraneous maximum residue limits (EMRLs) [3] for certain pesticide-food pairs, i.e. the maximum concentration of specified pesticide residues permitted in specific food commodities. The formulation of Schedule 1 to the Regulation was based primarily on the available standards recommended by Codex in 2011, supplemented by standards of the Mainland and other major food exporting countries to Hong Kong available at that time, while taking into consideration comments received from stakeholders during the public consultation held between July and September 2011. We also informed various member countries of the World Trade Organization (WTO) of the formulation of Schedule 1 through the WTO Secretariat.

The general principle of the Regulation is that except for exempted pesticides, import or sale of food containing pesticide residues with no specified MRLs/EMRLs in Schedule 1 is only allowed if the consumption of the food concerned is not dangerous or prejudicial to health. The maximum penalty for the offence is a fine of $50,000 and imprisonment for six months. Based on risk assessment, the Centre for Food Safety (CFS) will decide whether the consumption of the food concerned is dangerous or prejudicial to health. Risk assessment is a science-based practice which is well-recognised internationally. The assessment methodology involves comparison between the data determined by the detected level of pesticide residues in a food sample in combination with the relevant food consumption pattern of the general public and the safety reference values (e.g. acceptable daily intakes (ADI) for long-term exposure assessment, or acute reference dose (ARfD) for short-term

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[1] Codex was established by the Food and Agriculture Organization and the World Health Organization of the United Nations in the 1960s and has been the single most important international reference point for consumers, food producers, processors, national food control agencies and the international food trade in developing food associated standards.

[2] MRL is the maximum concentration of specified pesticide residues legally permitted in specified food commodities.

[3] EMRL refers to a pesticide residue arising from environmental sources (including former agricultural uses) other than the use of a pesticide directly or indirectly on food commodities. It is the maximum concentration of specified pesticide residues legally permitted in specified food commodities.

exposure assessment). The result of risk assessment can provide a useful scientific basis to assist us in formulating appropriate risk management measures.

As we had previously informed the LegCo and the trade, as new pesticides and new applications on crops keep emerging, we would update the Schedules to the Regulation regularly, having regard to the latest international developments on application of pesticides, particularly changes to the Codex standards, and proposals received from the trade and the major food exporting countries to Hong Kong. Through scientific risk assessments, the Director of Food and Environmental Hygiene would decide whether to accept the proposals to ensure that the finalised standards are not only adequate to protect public health in Hong Kong, but also in compliance with the requirements of WTO. Advocated by WTO, this practice serves to prevent member countries from creating trade barriers without scientific justifications, on the pretext of health protection.

Original proposed amendments

We consulted the Panel on the proposals to update the relevant Schedule to the Regulation on 14 January 2014. At the time, we had primarily taken into account proposals put forth by relevant stakeholders since the enactment of the Regulation in June 2012, including the General Administration of Quality Supervision, Inspection and Quarantine of the People's Republic of China (AQSIQ), Consulate-General (CG) of Canada, CG of Japan, CG of the USA, Bayer CropScience, DuPont Crop Protection and Northwest Horticulture Council of the USA. In summary, one pesticide will be added to Schedule 1 whilst three pesticides will be removed. As a result, the number of pesticides contained in Schedule 1 to the Regulation will be reduced from 360 to 358. For the MRLs/EMRLs listed in Schedule 1 to the Regulation, 431 will be added, 347 will be removed, and 417 will be revised. The number of MRLs/EMRLs will increase from 7 083 to 7 167. Subject to the approval of the aforesaid proposed amendments, for the MRLs/EMRLs laid down in Schedule 1 to the Amendment Regulation, about 40% of the residue limits are based on Codex, about 47% are from food exporting countries such as the USA, Thailand, Japan, Australia, etc. and about 13% remaining residue limits are from the Mainland.

At Members' request, we provided supplementary information on the proposed removal of three pesticides i.e. fosetyl aluminium, thidiazuron and triphenyltin hydroxide, on 8 April 2014. In particular, when the Administration formulated Schedule 1 to the Regulation in June 2012, Codex had not established any MRLs and residue definitions for these three pesticides, and the major supplying source of fruits and vegetables to Hong Kong (i.e. the Mainland) also had not established any relevant standard at that time. We therefore made reference to the standards of a major food exporting country (i.e. the USA) available at the time for the three pesticides concerned. Subsequently, the Ministry of Health and the Ministry of Agriculture of the People's Republic of China promulgated the new national standard for MRLs for pesticides in food (Maximum Residue Limits for Pesticides in Food (GB2763-2012)) in November 2012, including the temporary MRLs for the three pesticides concerned. In early 2013, AQSIQ reflected to us such latest developments and their concerns.

As far as the residue definitions for the three pesticides are concerned, the standards established in the Mainland and the USA are different (see Annex I for details). The differences in residue definitions will cause difficulties in laboratory analysis. A probable situation is that if we fully adopt the Mainland standards, the residue levels of food imported from the USA may exceed the limits concerned. Likewise, residue levels of food imported from the Mainland may also exceed the limits concerned if we keep the existing standards adopted from the USA.

There is as yet no international consensus on the regulation of these three pesticides in terms of residue limits and residue definitions. The residue definitions adopted in Schedule 1 to the Regulation, which make reference to the US standards, are in fact different from those adopted by the regulatory authorities in the European Union, Australia, Japan, the Mainland, etc. Neither has Codex established any relevant standards.

Taking into account the above factors and having conducted risk assessment based on local food consumption pattern, and after joint deliberation by Hong Kong and Mainland experts, CFS has agreed to remove the three pesticides.

Implementation of the Regulation

To address the concerns of Members and the public about the proposed removal of the three pesticides, CFS has activated the Working Group under the Expert Committee on Food Safety (the Expert Committee) to examine the proposed amendments to the Regulation afresh. We estimate that the work may not be completed before 1 August 2014. Therefore, we will implement the legislation in accordance with the relevant Schedule to the Regulation enacted in June 2012. Upon completion of re-examination of the proposed amendments by the Working Group under the Expert Committee, we will report to the Panel on the way forward.

Yours sincerely,

(KO Wing-man)
Secretary for Food and Health

c.c.: All Hon Members of the LegCo Panel on Food Safety and Environmental Hygiene
Clerk to LegCo Panel on Food Safety and Environmental Hygiene

Annex I

An overview of the residue definitions in international jurisdictions for the three pesticides proposed to be deleted

	Triphenyltin hydroxide (TPTH)	**Fosetyl Aluminium**	**Thidiazuron**
Hong Kong (Same as USA)	Sum of TPTH, its monophenyltin (MPTH) and diphenyltin (DPTH) hydroxide and oxide metabolites, expressed as TPTH	Fosetyl aluminium	Sum of thidiazuron and its aniline containing metabolites
The Mainland (Temporary MRL)	Triphenyltin	Sum of ethylphosphonic acid, phosphoric acid and its salts, expressed as ethylphosphonic acid	Thidiazuron
Australia	Fentin hydroxide, excluding inorganic tin and mono-and di-phenyltin	Fosetyl	Thidiazuron
European Union	Fentin, expressed as triphenyltin cation	Sum of fosetyl and phosphorous acid and their salts, expressed as fosetyl	Relevant standards have not been established
Japan	Residues of triphenyltin hydroxide, triphenyltin acetate, and triphenyltin chloride, which are individually calculated as fentin	Sum of residues of fosetyl and phosphorous acid, calculated as fosetyl	Thidiazuron