

# 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**

1. This report gives an account of the work of the Panel on Food Safety and Environmental Hygiene ("the Panel") during the 2013-2014 Legislative Council ("LegCo") session. It will be tabled at the Council meeting of 9 July 2014 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 22 members, with Dr Hon Helena WONG Pik-wan 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

##### *Supply chain of powdered formula*

4. The Panel continued to follow up the subject of the supply chain

of powdered formula and discussed with the Administration issues relating this subject at two meetings. When discussing the outcome of the Administration's review on the measures to improve the supply chain of powdered formula proposed by the powdered formula trade, members expressed diverse views on whether the Import and Export (General) (Amendment) Regulation 2013 ("the IE Amendment Regulation") should be adopted as a short-term measure to modulate the demand for powdered formula in Hong Kong, or as a medium- or long-term measure to combat parallel trading activities of powdered formula. Some members held a strong view that the IE Amendment Regulation was not necessary at all, as the supply chain failure in relation to powdered formula was limited to the shortage of two or three brands of powdered formula at certain retail outlets. The Administration advised that strengthening the supply chain of powdered formula in Hong Kong was the most important means to prevent a recurrence of the problem of serious shortage of powdered formula. Under the premise of ensuring a stable and sufficient supply to meet local demand, the Government should not rush into appealing the provisions introduced by the IE Amendment Regulation.

5. As regards the stress test on the supply chain of powdered formula conducted by the consultant commissioned by the Administration during the period of the National Day Golden Week, some members questioned the validity of the results of the stress test as the genuine demand for powdered formula could only be revealed when the IE Amendment Regulation was repealed. When the Panel was briefed on the latest work of the Administration in monitoring the supply and price levels of powdered formula, members were advised that the Administration would not conduct any more stress tests. The Administration had commissioned a consultancy firm to conduct regular surveys on the supply and price of major brands of powdered formula across the territory and the survey results would be announced regularly.

6. Some members pointed out that despite the implementation of the enhanced measures to improve the supply chain of powdered formula by the trade, there were still considerably high shortage rates for certain brands of powdered formula in some districts. They cast doubt on whether powdered formula suppliers had put in their best efforts in improving the supply chain. According to the Administration, the seven major powdered formula suppliers had already set up various pre-order services of powdered formula. Apart from the "pre-order system" set up at designated pharmacies (i.e. the Coupon Scheme), local parents could also place orders through suppliers' hotlines for home delivery or collection from chain stores. Through separating local demand from non-local demand, these pre-order services could act as a "dedicated supply chain" for local infants and young children.

### *Supply of live cattle in Hong Kong*

7. The Panel was briefed on the recent developments related to the supply of live cattle in Hong Kong. Members were advised that with rapid economic growth in the Mainland and the rising standard of living on the part of Mainland consumers, there had been a corresponding upsurge in the demand for fresh beef. However, the breeding stock of cattle had dwindled and the growth in production had been slow, leading to a tight market situation and an imbalance between demand and supply in the Mainland. Since the suggestion of opening up the live cattle market in Hong Kong by bringing in more import agents was interrelated with the overall situation of beef supply in the Mainland, the Ministry of Commerce ("MoC") and the Administration considered that the two issues should be dealt with together.

8. Members were disappointed to note that both MoC and the Administration considered it more appropriate to observe and examine the overall situation at this stage and further discuss the matter when the overall supply of live cattle in the Mainland was stabilized. Sharing the concern of most deputations that the price of fresh beef had surged drastically in recent years, some members suggested the Administration to set up a mechanism to monitor the wholesale price of live cattle supplied by the import agent (i.e. Ng Fung Hong) and to assist the trade in broadening the sources of live cattle supply. The Administration assured members that it would continue to closely monitor the situation of the supply of live cattle in Hong Kong and maintain close liaison and communication with MoC. When the overall supply in the Mainland was stabilized, it would resume discussing with MoC on the suggestion of opening up the live cattle market in Hong Kong by bringing in more import agents.

### Matters relating to food safety

#### *Implementation of the Food Safety Ordinance*

9. The Panel was briefed on the implementation of the Food Safety Ordinance (Cap. 612) ("FSO"). According to the Administration, the Centre for Food Safety ("CFS") inspected 472 premises and instituted three prosecutions against food importers/distributors who had not registered under FSO. All three cases were convicted, with a fine of \$5,000 imposed in two of the cases and a fine of \$1,000 in the remaining case. Members noted that under FSO, any person who did not register but carried on a food importation or distribution business committed an offence and was liable to a maximum fine of \$50,000 and to

imprisonment for six months; and any person who failed to comply with the record keeping requirement committed an offence and was liable to a maximum fine of \$10,000 and to imprisonment for three months. Members were concerned that CFS had adopted a lenient approach in carrying out its inspection and prosecution work. Concerns were also raised about CFS's work in monitoring food safety of food sold online by food traders, and the food safety of food products imported from Japan.

10. According to the Administration, CFS had adopted a risk-based enforcement approach in conducting inspections at different food premises (including premises engaged in the sale of food on the internet). The priority and frequency of inspections would be determined according to factors like risk classification and mode of operation of the food premises. The Administration also advised that to safeguard food safety and public health, the Director of Food and Environmental Hygiene made an order on 23 March 2011 to prohibit the import of fresh food (including milk, dried milk and dairy products) from five prefectures in Japan, namely Fukushima, Ibaraki, Tochigi, Chiba and Gunma. Since the nuclear plant incident in Japan in March 2011, CFS had stepped up regulatory control of food products imported from Japan, which included testing of radiation levels of every consignment of food products (including milk powder) imported by sea or air from Japan.

#### *Implementation of the Nutrition Labelling Scheme*

11. The Panel received an update by the Administration on the implementation of the Nutrition Labelling Scheme under the Food and Drugs (Composition and Labelling) Regulations (Cap. 132W) ("the Food Labelling Regulations") which required all prepackaged food to provide legible nutrition labels unless otherwise exempted. Members noted that as at 4 April 2014, CFS had inspected the nutrition labels of 30 552 prepackaged food products and among them, 399 cases were found not complying with the Nutrition Labelling Scheme. Members were astonished that no prosecution had been taken so far since the Food Labelling Regulations came into operation in July 2010. Members considered that the Administration was too lax in enforcing the Food Labelling Regulations and urged the Administration to step up its enforcement actions. There was a view that the risk-based enforcement approach adopted by CFS might work to the disadvantage of small- and medium-sized businesses.

12. The Administration explained that where irregularities such as incomplete nutrition label were identified, CFS would issue a warning letter to the food trader concerned requiring actions to be taken to comply with the requirements of the Scheme within 60 days. For traders who failed

to do so, CFS would initiate prosecution. If discrepancy between the actual nutrient content based on test result and the stated value on the nutrition label was detected, CFS would issue a letter to the retailer/ manufacturer/ importer concerned requiring an explanation within 21 days. If the explanation was not accepted by CFS, a warning letter requiring the trade concerned to take actions to comply with the requirements of the Scheme within 39 days would then be issued. In case the food item with detected discrepancy remained on sale after 39 days, CFS would initiate prosecution.

13. Criticizing that nutrition labels on many food items were hardly legible, members were concerned whether the Food Labelling Regulations provided specific legibility requirement for nutrition labels. Members urged the Administration to review the Food Labelling Regulations and if necessary, introduce legislative amendments to ensure the legibility of food labels.

14. The Administration had subsequently advised the Panel that under the Food Labelling Regulations, all prepackaged food should be legibly labelled unless otherwise exempted. Failure to provide legible labels in accordance with the statutory requirements was an offence for which the maximum penalty was a fine of \$50,000 and imprisonment for six months. In the Administration's view, the existing provisions were sufficient for the department concerned to take effective enforcement actions. In response to members' concerns, CFS had decided to tighten up its enforcement. If CFS identified any non-compliance with the nutrition labelling requirements, including failure to provide labels meeting the legibility requirement, CFS would initiate prosecutions immediately without allowing any time for compliance. The new practice would come into effect as soon as possible after CFS had notified the trade.

*Proposed updating of Schedule 1 to the Pesticide Residues in Food Regulation*

15. When discussing with the Administration its proposed update of Schedule 1 to the Pesticide Residues in Food Regulation (Cap. 132CM) ("the Regulation"), members expressed deep concern about the Administration's proposal to remove three pesticides (namely, fosetyl aluminium, thidiazuron and triphenyltin hydroxide ("the three pesticides")) from Schedule 1 to the Regulation. Members were dissatisfied that the Administration only disclosed the name of the stakeholder which put forward the proposal for removing the three pesticides when enquired by members. Noting 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 ("AQSIQ"), some members were concerned about the justifications behind the Administration's decision to accept the proposal and expressed worries that the proposal might compromise food safety in Hong Kong.

16. 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. 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. Notwithstanding the Administration's explanation, members remained concerned about the proposal and requested the Administration to further discuss with members.

17. At the subsequent meeting, the Administration further explained the Administration's consideration of the proposal made by AQSIQ. Members were advised that when the Administration formulated Schedule 1 to the Regulation in June 2012, the Codex Alimentarius Commission ("Codex") had not established any maximum residue limits ("MRLs") and residue definitions for the 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. The Administration therefore made reference to the standards of a major food exporting country (i.e. 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 in November 2012, including the temporary MRLs for the three pesticides concerned. In early 2013, AQSIQ reflected to the Administration the above latest developments and their concerns.

18. Members remained concern whether the risk assessments conducted by CFS were adequate to ensure food safety in Hong Kong. Some members held the view that if there was no international consensus on the regulation of the three pesticides, the Administration should follow the most stringent standards on the residue limits of the three pesticides concerned with a view to protecting public health. The Administration explained that as far as the residue definitions for the three pesticides were concerned, the standards established in the Mainland and the USA were different. The differences in residue definitions would cause difficulties in laboratory analysis. A probable situation was that if the Administration fully adopted the Mainland standards, the residue levels of food imported from the USA might exceed the limits concerned.

Likewise, residue levels of food imported from the Mainland might also exceed the limits concerned if the Administration kept the existing standards adopted from the USA.

19. In the light of members' grave concerns about the proposed removal of the three pesticides, the Administration had subsequently advised the Panel that CFS had activated the Working Group under the Expert Committee on Food Safety to examine the proposed amendments to the Regulation afresh. Upon completion of re-examination of the proposed amendments by the Working Group, the Administration would report to the Panel on the way forward.

#### Prevention and control of avian influenza

20. The subject of the prevention and control of avian influenza ("AI") was high on the agenda of the Panel. The Panel had held four meetings to discuss with the Administration issues relating to the subject. Noting with concern that on 27 January 2014, a number of samples from a batch of live chickens imported from the Mainland were confirmed H7 AI positive in the rapid test for H7 AI, the Panel requested the Administration to brief members on its immediate measures to respond to the incident and the preventive and control measures of AI adopted by the Administration.

21. Members were concerned about the impact of the Administration's decision to cull all live poultry at the Cheung Sha Wan ("CSW") Temporary Wholesale Poultry Market and imposition of a 21-day ban of the live poultry trade on the affected trade. To prevent the recurrence of similar incidents, members urged the Administration to consider separating the supply chain of local live chickens from those imported from the Mainland. In members' view, live chickens imported from the Mainland should not be transported to the CSW Temporary Wholesale Poultry Market until they were confirmed negative for AI viruses. Members passed a motion at the Panel's special meeting on 29 January 2014, requesting the Administration to propose plans to improve the live chicken supply chain system and offer compensation to relevant parties of the affected trade.

22. The Administration advised the Panel on 19 February 2014 that as a special case, an one-off ex-gratia payments ("EGPs") would be granted to operators in the live poultry trade to alleviate their financial hardship. While welcoming and supporting the Administration's proposal to provide compensation and EGPs to poultry operators, members expressed concern about the impact of the Administration's decision to suspend the import of live poultry for slaughter and

consumption for another four months on the trade. Members urged the Administration to consider providing EGPs or other assistance to the live poultry operators affected by this suspension arrangement. Subsequently in May 2014, the Panel was advised by the Administration that the Administration agreed to provide EGPs to the import wholesalers, cross-boundary transport operators and the retailer who sold pigeons only.

23. Members expressed dissatisfaction with the Administration's proposal that in the event of an AI incident which led to the closure of the wholesale poultry market, local poultry could be delivered to the retail outlets via a check-point at the Government farm in Ta Kwu Ling during the closure period. Members maintained their view that the Administration should pursue the proposal of separate holding of imported and local live poultry before the AI testing results were available as this would avoid the risk of cross infection.

24. Members noted that the Administration was considering the engagement of a consultant to study whether Hong Kong should continue the selling of live poultry and make recommendation in this regard. Members were concerned about the impact on the public and the live poultry industry. Some members pointed out that many members of the public still preferred freshly slaughtered chickens to chilled and frozen chickens. In these members' view, the Administration should consider only allowing the import of chilled and frozen chickens from the Mainland and maintaining the supply of live chickens from local chicken farms.

#### Study on wholesale markets

25. After the passage of the motion in respect of the relocation of the CSW Temporary Wholesale Poultry Market at its special meeting on 29 January 2014, the Panel requested the Administration to update members on the progress of the consultancy study on the functions and purpose of the wholesale markets in Hong Kong. Members were advised that the Government had commissioned a consultancy to study the present-day functions and purpose of the wholesale business in the sale of fresh food produce, and analyze the geographical spread of the wholesale markets from the perspective of land use and food safety. Members also noted that the existing location of some wholesale markets was in the urban area, namely the CSW Wholesale Food Market, the CSW Temporary Wholesale Poultry Market, the CSW Wholesale Vegetable Market, the Yau Ma Tei Fruit Market and the Western Wholesale Food Market.



26. Pointing out that many residential developments had been developed in the neighbouring areas of the CSW Temporary Wholesale Poultry Market over the years, some members expressed concern about the potential health risk posed to nearby residents. The Administration was urged to expeditiously identify sites for relocating the wholesale markets. There was a suggestion that the Administration could consider moving some of the wholesale markets to a single-location modernized facility in the New Territories, so as to facilitate better management and release land in urban areas. The Administration advised that it would continue to look for suitable sites for relocating wholesale markets including the CSW Temporary Wholesale Poultry Market. Members were assured that the Administration would report to the Panel when the outcome of the consultancy study was available.

### Columbarium facilities

#### *Supply of public niches*

27. Members remained concerned about the supply of public niches in Hong Kong and urged the Administration to substantially increase the supply in the light of demographic changes in the coming years. Members expressed doubt about whether the Administration could solicit support from all District Councils ("DCs") to provide new public columbarium facilities in the 24 potential sites that the Administration had identified across the 18 districts for columbarium development. Some members suggested the Administration to consider setting up an incentive mechanism for reward and punishment so as to obtain support from DCs for developing columbarium facilities. The Administration advised that the rationale behind the district-based columbarium development scheme was that all districts should collectively share the responsibility for columbarium development. Therefore, a reward and punishment system was considered not necessary.

28. Members noted that the Administration was exploring some new measures to address the problem of the supply of niches, including designating different worship periods for different blocks of niches, limiting access during one or both of the grave sweeping seasons and time-limited occupation of new niches. According to the Administration, the proposed measure of limiting access to niches during one or both of the grave sweeping seasons would help reduce both vehicular and pedestrian flows during the grave-sweeping seasons, and bring the traffic impacts to within an acceptable level, thereby allowing more niches to be built in new columbarium developments. While expressing objection to the proposed time-limited occupation of new niches, some members supported the proposed measures about the designation of different

worship periods for niches. The Administration was urged to conduct a pilot trial of these measures in new public columbaria.

*Regulation of private columbaria*

29. Regulation of unauthorized private columbaria had all along a subject of concern to the Panel. Members expressed dissatisfaction with the Administration's delay in introducing the Private Columbaria Bill ("the proposed Bill") which aimed to introduce a licensing scheme to regulate private columbaria. Members urged the Administration to speed up the legislative process of the proposed Bill to avoid further worsening of the problem of unauthorized private columbaria. Some members were concerned that the Administration would continue to procrastinate in taking enforcement actions by providing a long transitional period for unauthorized private columbaria to meet the licensing requirements. The Administration stressed that the passage of the proposed Bill would allow the Administration to take enforcement actions with justifiable grounds against those unauthorized private columbaria.

30. Some members expressed worries that the operators of the unauthorized columbaria would rush to sell off their niches before the enactment of the proposed Bill, thus causing financial loss to consumers. The Administration was urged to strengthen public education to enhance public's understanding of the proposed regulatory scheme for private columbaria and advise them to refrain from buying niches from non-compliant columbaria. According to the Administration, the Administration and the Consumer Council had stepped up the public education to remind members of the public to exercise care when purchasing niches from private columbaria in order to protect their own interests.

31. Members noted that the Administration had engaged a consultant to conduct a business impact assessment ("BIA") study on the regulation of private columbaria. Noting that some deputations had expressed strong objection to the "outcome-based approach" counter-proposed by the BIA consultant to replace the maintenance fund of 15% of the sales proceeds from niches as proposed in the second-round consultation, members were concerned whether this proposed approach could protect the interest of consumers. The Administration advised that under this approach, the operators of private columbaria were required to devise their management plans, including the submission of certified maintenance reports and fire safety certificates, to ensure a sustainable mode of operation in the long-run. The Administration stressed that it had not yet made any decision on whether the "outcome-based approach"

would be adopted to replace the maintenance fund.

Matters relating to animal welfare

*Trap-Neuter-Return trial programme for stray dogs*

32. The Panel received an update by the Administration on the progress of the "Trap-Neuter-Return" ("TNR") trial programme for stray dogs. Members noted that the three proposed selected sites for the trial programme were located in Yuen Long and Cheung Chau. Expressing support for TNR as a measure to reduce stray dog population, members urged the Administration to implement the trial programme expeditiously and to extend the trial programme to other districts. The Administration was also called on to step up public education and promotion with a view to raising public awareness of the trial programme. Some members considered that the Administration should invite more animal welfare organizations ("AWOs") to participate in the trial programme. Some members criticized that the situation and severity of the stray dog problem in the selected sites were not comparable to that in the urban areas.

33. Some members pointed out that the crux of the problem of stray animals was the abandonment of pet animals by irresponsible pet owners. These members urged the Administration to review and put forward amendments to the relevant legislation to combat such irresponsible behaviour. In their view, it was important for the Administration to step up its efforts in public education to promote public awareness of the responsibilities of pet owners in the welfare of their pets. According to the Administration, the Agriculture, Fisheries and Conservation Department ("AFCD") organized various kinds of promotional activities every year to promote care for animals, adoption of animals and responsible pet ownership through public education programmes. Under the Rabies Ordinance (Cap. 421), a keeper of animal who, without reasonable excuse, abandoned that animal committed an offence and was liable to a fine and to imprisonment.

34. Some members raised concern about the operation of animal re-homing arrangement operated by Animal Management Centres ("AMCs"). These members considered it inhumane to euthanize those detained animals which were assessed to be suitable for re-homing if they could not be re-homed through AWOs within the detention period. They urged the Administration to consider extending the detention period. According to the Administration, AMCs would endeavour to contact the owners of stray dogs and cats caught by AFCD if they had been implanted with micro-chips. These animals would usually be detained

for a long period until they were reclaimed by their owners. For stray dogs and cats which had not been implanted with micro-chips and were assessed to be suitable for re-homing, they would be retained in AMCs for an average of about eight days until re-homing could be arranged.

#### *Handling of animal cruelty cases*

35. When discussing with the Administration issues relating to the handling of animal cruelty cases, members expressed the view that the Prevention of Cruelty to Animals Ordinance (Cap. 169) ("PCAO") which sought to protect the welfare of animals in Hong Kong was outdated. The Administration was urged to review and amend PCAO with a view to further enhancing the protection of animal welfare. Pointing out that PCAO placed heavy emphasis on penalizing offenders that caused animal suffering, some members urged the Administration to incorporate the concept of "duty of care" for animals which emphasized educating pet owners about standards of care so as to prevent animal suffering.

36. Members noted that the Police had introduced the Animal Watch Scheme ("AWS") with a view to stepping up work on intelligence gathering, investigation, education and publicity in respect of cases of cruelty to animals. Many members cast doubt about the effectiveness of this Scheme and urged the Administration to set up Animal Police teams to combat crimes of cruelty to animals. The Administration advised that under the current arrangement of AWS, the Police could respond more expeditiously when suspected cases of cruelty to animals were reported. Patrolling officers would be deployed to the scene immediately, and if there was prima facie evidence of cruelty to animals, the cases would be referred to crime investigation teams for investigation.

#### *Amendments to the Veterinary Surgeons Registration Ordinance*

37. The Panel was consulted on the proposed amendments to the Veterinary Surgeons Registration Ordinance (Cap. 529) ("VSRO"). The legislative proposals included expanding the membership of the Veterinary Surgeons Board of Hong Kong ("VSB") to include three more lay persons and an additional six registered veterinary surgeons, establishing a panel of assessors and direct referral of complaints from a Preliminary Investigation Committee to an Inquiry Committee. Members were, in general, supportive of the proposed amendments to VSRO. However, members were concerned that while six registered veterinary surgeons were proposed to be added to the membership of VSB, only three additional lay persons who represented the interests of users of veterinary services would be included in the Board membership. In members' view, more lay persons should be appointed to represent the

interests of users of veterinary services. Noting that the six newly added registered veterinary surgeons were to be elected by the registered veterinary surgeons, members also expressed concern about how the election would be conducted. The Administration was urged to ensure that the election would be conducted in a fair and open manner.

38. According to the Administration, it had made reference to the experience of local and overseas regulatory bodies in formulating the proposed amendments and most of the respondents in public consultation were in support of the proposed membership composition to maintain the ratio of registered veterinary surgeons to non-veterinary surgeons at 2:1. As regards the election of the six newly added registered veterinary surgeons, the Administration advised that relevant details and procedures of the election would be specified in a set of election regulation to be prescribed by the Secretary for Food and Health, which would be in the form of subsidiary legislation subject to scrutiny by LegCo.

### Agriculture and fisheries

#### *Sustainable Fisheries Development Fund*

39. The Panel was consulted on the Administration's proposal of setting up a \$500 million Sustainable Fisheries Development Fund ("SFDF"). Members were advised that the SFDF was introduced 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 fisheries industry. While supporting the Administration's proposal, some members expressed concern that if the application procedures were too complicated, fishermen and fishermen associations would find it difficult to apply. Some members were worried that most of the successful applicants would be academic institutions and environmental organizations which were more experienced than the fishermen in funding application and project bidding, and the projects supported by SFDF would be biased towards conservation of marine resources instead of the development of fisheries industry. The Administration was called on to streamline the application procedures in order to attract more fishermen to apply for SFDF. Some members cast doubt whether SFDF could achieve its intended purposes and urged the Administration to work out a detailed plan for the use of SFDF. These members urged the Administration to introduce concrete measures to encourage fishermen to pursue sustainable practices for fishing operations.

40. According to the Administration, the Advisory Committee of the Sustainable Fisheries Development Fund would set up a vetting

committee/subcommittee for vetting applications and the applications would be assessed on the basis of a set of assessment criteria. AFCD officers would provide assistance to the applicants where necessary in preparing the information required for seeking resources from the SFDF. The Administration stressed that a wide range of projects could benefit from the SFDF, including the exploration of new opportunities in the South China Sea, development of sustainable practices for fishing operations in Hong Kong waters, aquaculture development, accreditation and marketing of local fisheries products, and monitoring and enhancement of fisheries resources.

#### *Fisheries Development Loan Fund*

41. The Panel examined the Administration's proposal for increasing the approved commitment of the loan capital of the Fisheries Development Loan Fund ("FDLF") from \$290 million to \$1,100 million. According to the Administration, the terms and conditions of FDLF were revised in April 2012 with a view to helping the trade to overcome the challenges brought about by the trawl ban and, since then, the number of applications for FDLF had increased significantly. While most members expressed support for the proposal, some members questioned about the need for increasing the commitment of the loan capital of FDLF as the application deadline for the one-off loans provided to owners of trawlers and fish collectors affected by the trawl ban would be 31 December 2015. Concern was also expressed whether the Administration had taken into consideration the problem of bad debt.

42. The Administration advised that the proposed funding injection of \$810 million into FDLF was to meet an upsurge in demand for credit facilities from the fisheries trade, in particular fishermen who were affected by the trawl ban. As at May 2014, there had been 69 applications seeking loans amounting to over \$600 million, which far exceeded the existing commitment of \$290 million. Most of these applications were made by owners of trawler vessels affected by the trawl ban who relied on the one-off loans for building new fishing vessels to continue their fishing operations in distant waters outside Hong Kong. Without additional fund, FDLF would be unable to provide any further loans until it was replenished with repayments from the outstanding loans.

#### Liquor licensing

43. The Panel was briefed on the Administration's proposed amendments to the Dutiable Commodities (Liquor) Regulations (Cap. 109B) ("DCLR"). The key legislative proposals included extending the

liquor licence duration to a maximum of two years, and allowing liquor licence applications to be advertised on the Internet. While some members were supportive of the proposed amendments, some other members expressed concern about the proposal to lengthen the maximum duration of liquor licences. These members urged the Administration to put in place a clear and stringent mechanism to monitor the liquor-licensed premises' continuous compliance with the licensing conditions. The Administration stressed that only cases with a good track record for at least two consecutive years immediately before the liquor licence renewal application might be considered for licence renewal by two years. The Administration had formulated a mid-term review mechanism for licences of a two-year period.

44. Expressing concern about the consultation process for liquor licence applications, some members urged the Administration to improve the consultation process to ensure that residents in the neighbourhood of the premises applying for liquor licences were aware of the public notices of their applications. According to the Administration, the Food and Environmental Hygiene Department ("FEHD") would refer the liquor licence applications to the relevant departments including the Home Affairs Department for advice. The relevant District Offices would gauge views of nearby residents, DC members and areas committees for the consideration of the Liquor Licensing Board.

45. Many members expressed concern about the problems such as fire safety, noise and other environmental nuisance caused by upstairs bars, in particular, those located in residential or composite/residential buildings. In these members' view, the Administration should adopt more stringent control measures to tighten the regulation of upstairs bars. Some other members, however, expressed concern that the proposed additional licensing condition in the liquor licence for upstairs bars to impose a stringent capacity limit for upstairs bars would have a great impact on the trade. The Administration explained that people who were under the influence of alcohol might not be able to make their way to safety with ease through the staircase during emergencies. The Administration therefore considered it necessary to impose a more stringent capacity limit for the premises of upstairs bars.

#### Regulatory control on outside seating accommodation of and unauthorized extension of business area by restaurants

46. The Panel was briefed on the enhanced measures adopted by FEHD in response to the Ombudsman's Report on the regulatory measures and enforcement actions against unauthorized extension of business area by restaurants. Members noted that these enhanced

measures included conducting more frequent inspections and stepping up prosecution, setting up a special task force to pursue enhanced enforcement actions in selected districts, expediting the execution of licence suspension and cancellation, and imposing additional licensing requirements on applications for a provisional licence for food premises with records of repeated prosecutions, etc.

47. While expressing support for the enhanced measures, members were disappointed that FEHD had only set up a special task force team for Tsuen Wan and Kwai Chung districts to closely monitor the food premises in locations with a history of illegal extension of business area throughout the peak business hours during weekdays and holidays and take stringent enforcement actions. Members urged the Administration to provide adequate manpower in all districts for conducting inspection during non-office hours including weekends and public holidays. According to the Administration, FEHD would set up additional task force teams later in 2014 to tackle similar problems in other districts. Expressing concern about the business difficulties faced by the food premises, some members urged the Administration to strike a proper balance between effective control on illegal extension of business area by restaurants and facilitation of applications by restaurant licensees for outside seating accommodation.

48. Members were also advised that the Administration was considering the simplification of the appeal mechanism against FEHD's decision to suspend or cancel food business licences from the current two statutory tiers to one tier by removing the Municipal Service Appeals Board and retaining the Licensing Appeals Board. Members urged the Administration to consult with the trade and the general public before introducing the relevant legislative amendments. The Administration advised that consultation with the trade would commence shortly, and would consult the Panel again when the legislative proposal was available.

#### Proposed measures for compliance with fire safety requirements by food premises

49. The Panel discussed with the Administration and met with deputations on the proposed measures for compliance with fire safety requirements ("FSRs") by food premises. The proposed new measures included setting up a monitoring mechanism by FEHD with the Fire Services Department ("FSD") for handling breaches of FSRs, putting in place a new requirement for ensuring compliance with FSRs before licence renewal, and revising the terms and conditions of the existing Certificate of Compliance C (i.e. FSRs) ("Form C") for the applicants of



the provisional restaurant licences ("P-licences") to require them to submit the relevant Invoice(s) and Test Certificate(s) of polyurethane ("PU") foam filled mattresses and upholstered furniture ("the Invoices and Test Certificates") to FSD for issue of P-licences.

50. Members noted that deputations representing operators of food premises objected to the proposed measures. Pointing out that the Administration had commissioned a consultant to conduct a BIA study to examine the possible impact of the proposed measures on the trade, some members questioned the representativeness of the trade participants who had been interviewed by the consultant for the study. Noting from deputations that it was common for food premises operators to have a 60- or 90-day payment terms after delivery of the furniture, members shared the deputations' grave concern that applicants of P-licences might not be able to provide the Invoices and Test Certificates within six weeks as proposed by the Administration. The Administration was urged to enhance its communication with the trade on the proposed measures and consider providing a longer grace period for the P-licence applicants to submit the relevant Invoices and Test Certificates to FSD.

51. The Administration had subsequently advised the Panel that after further communication with the trade on the implementation of the proposed measures, FSD decided to adopt the trade's suggestion of extending the grace period for submission of the relevant Invoices and Test Certificates to FSD from six weeks to eight weeks provided that the applicant was able to provide a copy of the delivery note(s) for the concerned furniture when FSD inspected the premises.

#### Regulatory control on sale of chilled meat in fresh provision shops

52. The Panel was briefed on the enhanced regulatory control measures on the sale of chilled meat and poultry in fresh provision shops ("FPSs") introduced by FEHD in response to the recommendations of The Ombudsman made in his Direct Investigation Report on the Regulation of Sale of Chilled Meat released in October 2013. According to the Administration, from 2013 to mid January 2014, FEHD issued a total of 48 verbal warnings and 10 warning letters to FPSs for the improper storage or display for sale of chilled meat or poultry. However, members noted with concern that FEHD only detected a case of sale of chilled poultry as fresh poultry in a FPS. They questioned whether this reflected that the enforcement actions taken by FEHD were not stringent enough.

53. The Administration stressed that suspected cases of selling chilled meat and poultry as fresh meat and poultry in FPSs would be promptly

investigated with enforcement actions taken where appropriate. Breaching the relevant licensing condition was liable to immediate cancellation of the licence concerned. FEHD adopted a Risk-based Inspection System ("RBIS") through which resources were allocated on a priority basis to the inspection of licensed food premises with higher risks and with lower hygiene standards. Licensed food premises selling chilled meat/poultry were inspected once every four, 10 or 20 weeks depending on their respective risk type under RBIS, whereas stalls in public markets with permission to sell chilled meat/poultry were inspected once every eight weeks.

54. Some members held the view that the practice of issuing three written warnings in a period of six months before cancellation of licence was too lenient. According to the Administration, the timeframe allowed for rectification upon issue of the verbal warnings and warning letters had been shortened. Starting from June 2013, all FPS licensees were required to take immediate rectification actions upon receipt of the relevant warnings. Some members asked about the follow-up actions taken by FEHD in respect of The Ombudsman's recommendation about releasing information through the media about FPSs which were persistently involved in irregularities. The Administration advised that FEHD would release information through the media about shops whose licences had been cancelled due to persistent breaches and was prepared to upload such information to FEHD's website for public reference.

#### Other issues discussed

55. The Panel also discussed the legislative proposals relating to the review of the fees for Small Volume Exemption Scheme applications and the proposed amendments to the Food Labelling Regulations, revision of AFCD's fees and charges and application of the Convention on the Conservation of Antarctic Marine Living Resources to Hong Kong. Other issues discussed by the Panel included Report on the Food Surveillance Programme for 2013, the total diet study, tackling the problem of proliferation of flies in the Tuen Mun district and Ha Pak Nai, anti-mosquito campaign 2014 and bedbug control, and the staffing proposal to create one permanent post of Administrative Officer Staff Grade B (D3) in the Food Branch of the Food and Health Bureau.

#### Subcommittees set up under the Panel

56. The Panel had set up two subcommittees to study issues relating public markets and hawker policy, namely the Subcommittee on Issues Relating to Public Markets and the Subcommittee on Hawker Policy. The Subcommittee on Issues Relating to Public Markets had commenced

its work in March 2014 and held three meetings with the Administration to discuss issues relating to the consultancy study on improving the operating environment of public markets, and the positioning, functions and usages of public markets. Since the commencement of its work in April 2014, the Subcommittee on Hawker Policy had held two meetings to discuss with the Administration on issues relating to hawker policy and setting the policy framework for the revitalization and long term development of the hawking trade. These two Subcommittees would continue their work in the 2014-2015 session.

#### Meetings held

57. During the 2013-2014 legislative session (up to 9 July 2014), the Panel held a total of 14 meetings. The Panel also conducted four visits to the New Territories North Animal Management Centre, the Man Kam To Food Control Office, the Airport Food Inspection Office, and the Cheung Sha Wan Wholesale Vegetable Market as well as Cheung Sha Wan Temporary Wholesale Poultry Market.

Council Business Division 2  
Legislative Council Secretariat  
3 July 2014

**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 2013-2014 session**

<b>Chairman</b>	Dr Hon Helena WONG Pik-wan
<b>Deputy Chairman</b>	Hon Steven HO Chun-yin
<b>Members</b>	Hon Tommy CHEUNG Yu-yan, SBS, JP Hon Vincent FANG Kang, SBS, JP Hon WONG Kwok-hing, BBS, MH Prof Hon Joseph LEE Kok-long, SBS, JP, PhD, RN Hon Cyd HO Sau-lan, JP Dr Hon Priscilla LEUNG Mei-fun, SBS, JP Dr Hon LEUNG Ka-lau Hon CHEUNG Kwok-che Hon WONG Kwok-kin, SBS (since 10 October 2013) Hon Alan LEONG Kah-kit, SC Hon WONG Yuk-man Hon Claudia MO Hon Michael TIEN Puk-sun, BBS, JP Hon WU Chi-wai, MH Hon CHAN Chi-chuen Hon CHAN Han-pan, JP Dr Hon Kenneth CHAN Ka-lok Hon Alice MAK Mei-kuen, JP Dr Hon KWOK Ka-ki Hon Christopher CHUNG Shu-kun, BBS, MH, JP

(Total : 22 members)

**Clerk** Ms Alice LEUNG

**Legal adviser** Miss Carrie WONG

**Date** 2 July 2014