

立法會

Legislative Council

LC Paper No. CB(2)1772/16-17

(These minutes have been seen
by the Administration)

Ref : CB2/PL/FE

Panel on Food Safety and Environmental Hygiene

Minutes of meeting held on Tuesday, 9 May 2017, at 2:30 pm in Conference Room 3 of the Legislative Council Complex

Members present : Dr Hon Helena WONG Pik-wan (Chairman)
Hon LAU Kwok-fan, MH (Deputy Chairman)
Hon LEUNG Yiu-chung
Hon Tommy CHEUNG Yu-yan, GBS, JP
Prof Hon Joseph LEE Kok-long, SBS, JP
Hon WONG Ting-kwong, SBS, JP
Hon Starry LEE Wai-king, SBS, JP
Hon CHAN Hak-kan, BBS, JP
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP
Hon LEUNG Kwok-hung
Hon Claudia MO
Hon Michael TIEN Puk-sun, BBS, JP
Hon Steven HO Chun-yin, BBS
Hon CHAN Chi-chuen
Hon LEUNG Che-cheung, BBS, MH, JP
Hon Alice MAK Mei-kuen, BBS, JP
Dr Hon KWOK Ka-ki
Hon KWOK Wai-keung
Hon Christopher CHEUNG Wah-fung, SBS, JP
Dr Hon Fernando CHEUNG Chiu-hung
Hon Martin LIAO Cheung-kong, SBS, JP
Dr Hon CHIANG Lai-wan, JP
Ir Dr Hon LO Wai-kwok, SBS, MH, JP
Hon Andrew WAN Siu-kin
Hon CHU Hoi-dick
Hon SHIU Ka-fai
Dr Hon Pierre CHAN
Hon Tanya CHAN
Hon HUI Chi-fung

Hon LUK Chung-hung
Hon Kenneth LAU Ip-keung, MH, JP
Hon KWONG Chun-yu
Hon Jeremy TAM Man-ho
Hon Nathan LAW Kwun-chung
Dr Hon YIU Chung-yim
Dr Hon LAU Siu-lai

**Members
absent** : Hon WONG Kwok-kin, SBS, JP
Hon CHAN Han-pan, JP
Dr Hon Elizabeth QUAT, JP
Hon HO Kai-ming
Hon SHIU Ka-chun
Hon Wilson OR Chong-shing, MH
Hon CHEUNG Kwok-kwan, JP

**Public Officers
attending** : Item IV

Miss Vivian LAU, JP
Director of Food and Environmental Hygiene

Mrs Avia LAI, JP
Deputy Director of Food and Environmental Hygiene
(Special Duties)

Miss Diane WONG Shuk-han
Principal Assistant Secretary for Food and Health (Food) 2

Item V

Mr Ricky CHENG Wing-kei
Principal Assistant Secretary for Food and Health (Food) 1
(Acting)

Dr Gloria TAM Lai-fan, JP
Controller, Centre for Food Safety
Food and Environmental Hygiene Department

Dr Sarah CHOI Mei-yee, JP
Assistant Director (Food Surveillance and Control),
Centre for Food Safety
Food and Environmental Hygiene Department

Clerk in attendance : Miss Josephine SO
Chief Council Secretary (2) 2

Staff in attendance : Ms Wendy LO
Senior Council Secretary (2) 2

Ms Camy YOONG
Clerical Assistant (2) 2

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I. Confirmation of minutes
(LC Paper No. CB(2)1310/16-17)

The minutes of the meeting held on 24 January 2017 were confirmed.

II. Information paper issued since the last meeting
(LC Paper No. CB(2)1272/16-17(01))

2. Members noted that a joint letter dated 21 April 2017 from Hon WONG Kwok-kin, Hon Alice MAK, Hon KWOK Wai-keung, Hon HO Kai-ming and Hon LUK Chung-hung on public market stall rentals after 30 June 2017 had been issued since the last meeting.

III. Date of next meeting and items for discussion
(LC Paper Nos. CB(2)1312/16-17(01) and (02))

Special meeting on 16 May 2017

3. The Chairman reminded members that a special meeting of the Panel had been scheduled for Tuesday, 16 May 2017, from 2:30 pm to 5:00 pm to receive views from deputations on the outcome of the consultancy study on the way forward for the live poultry trade in Hong Kong.

Regular meeting in June 2017

4. Members agreed to discuss the following items at the next regular meeting scheduled for Tuesday, 13 June 2017 at 2:30 pm:

- (a) Public consultation on the proposed regulation of metallic contamination in food;

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- (b) Way forward for the live poultry trade in Hong Kong; and
- (c) Survey results on prices of fresh food items in public markets and other retail outlets.

5. Members agreed that the June meeting would be extended by half an hour to end at 5:00 pm to allow sufficient time for discussion of all items on the agenda.

IV. Supply of niches and related issues after the enactment of the Private Columbaria Bill

(LC Paper Nos. CB(2)1112/16-17(01) and CB(2)1312/16-17(03))

6. At the invitation of the Chairman, Director of Food and Environmental Hygiene ("DFEH") briefed members on the projected supply of niches after the passage of the Private Columbaria Bill ("the Bill") and other related issues, as detailed in the Administration's paper (LC Paper No. CB(2)1112/16-17(01)). Members noted the background brief prepared by the Legislative Council ("LegCo") Secretariat on the subject (LC Paper No. CB(2)1312/16-17(03)).

Supply of niches after the enactment of the Private Columbaria Ordinance

Timeline after the enactment date

7. Mr CHAN Hak-kan said that there had been media reports that as private columbaria were not allowed to sell interment rights during their applications for the issue of a licence, there would be a lack of supply of private niches in the 12 to 18 months after the enactment date of the Private Columbaria Ordinance ("the Ordinance"). While expressing support for the early passage of the Bill to put in place a regulatory regime for private columbaria, Mr CHAN was concerned that the lack of supply of private niches after the enactment of the Ordinance might lead to speculative activities and cause a surge in the prices of private niches as reported by the media. The restriction imposed on sale of niches or interment rights by private columbaria between the enactment date and the issue of a licence or an exemption might also affect the livelihood of employees working at private columbaria. In Mr CHAN's view, since private columbaria listed in Part A of the Development Bureau's "Information on Private Columbaria" had been confirmed to be compliant with the user restrictions in the land leases and town planning requirements and were not illegally occupying Government land, the Private Columbaria Licensing Board ("the Licensing Board") to be set up under the Ordinance should accord priority to processing

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licence applications submitted by private columbaria which were currently listed in Part A, such that the supply of private niches could be resumed as early as possible.

8. Mr Steven HO expressed similar concern and enquired about the measures to be taken by the Administration to curb speculative activities in the private niche market within the 12 to 18 months after the enactment of the Ordinance. Echoing Mr CHAN Hak-kan's view that the Licensing Board should give priority to processing licence applications submitted by private columbaria listed in Part A, he enquired about the estimated time for processing an application of a specified instrument by the Licensing Board.

9. DFEH responded that if the Bill was passed, all private columbaria would have to obtain a licence in order to sell interment rights after the enactment date of the Ordinance. During the first six months after the enactment of the Ordinance, preparatory work for the introduction of the licensing scheme would be undertaken, including setting up the Licensing Board and putting in place the necessary mechanism, procedures and guidelines, such as application guide and application forms for specified instruments, templates on agreement for the sale of interment rights, templates on various registers, etc. for use/reference by the trade. Thereafter, pre-cut-off columbaria would be required to submit applications for specified instruments (a licence, an exemption or a temporary suspension of liability) within the three months that followed (i.e. from the 7th month to the 9th month after the enactment of the Ordinance). As a matter of fact, operators could take the initiative now to seek rectification/regularization to fulfil the relevant requirements of the Ordinance, such as land-related and planning-related requirements, so as to be able to meet the eligibility criteria for specified instruments as early as possible. This would facilitate the Licensing Board to consider their licence applications promptly. During the six-month period, the Administration would also organize briefing sessions for operators to facilitate them in understanding the provisions of the Ordinance and its requirements.

10. DFEH further said that the Administration would invite the Licensing Board to establish a mechanism and consider, where practicable, expediting the processing of applications for various specified instruments. She believed that the Licensing Board would take into account relevant factors, including public interests, in considering whether to accord priority to certain applications. On the other hand, to protect consumers' interests and forestall speculative activities, the Food and Environmental Hygiene Department ("FEHD") would further step up its publicity and public education efforts on the licensing scheme. Consumers had all along been advised not to make hasty decision on the purchase of private niches, since whether or not an

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individual private columbarium would be able to obtain a licence or an exemption under the new licensing regime was uncertain. The Administration would seek to keep the public informed of the estimated numbers of new public niches available for allocation in the next few years.

11. Mr Steven HO urged the Administration to kick start the preparation work for the establishment and operation of the Licensing Board. He sought information on the staff provision for the Licensing Board. DFEH responded that a supernumerary directorate post at the Administrative Officer Staff Grade B rank would be created for five years to head a new and dedicated branch in FEHD, i.e. the Private Columbaria Affairs Office ("PCAO"), to implement the enacted Ordinance. The new PCAO would have a staff establishment of about 50 non-directorate staff, comprising a Licensing Board Secretariat, a licensing team and an enforcement team. The Administration had already kicked start the preparation for the establishment of the Licensing Board.

12. The Chairman and Mr LEUNG Che-cheung expressed concern about the "vacuum period" after the enactment of the Ordinance in respect of the supply of private niches. The Chairman enquired when the supply of private niches could be resumed according to the Administration's estimation.

13. DFEH responded that as pre-cut-off columbaria would be required to submit applications for specified instruments within the 7th month to the 9th month after the enactment of the Ordinance, the supply of private niches within the first nine months after the enactment of the Ordinance would inevitably be affected. As the time needed by the Licensing Board for processing the applications depended, to a large extent, on whether operators of private columbaria could timely submit the applications and whether the application requirements were complied with by the applicants, it was difficult for the Administration to estimate when the supply of private niches could be resumed. As mentioned earlier, the Administration would invite the Licensing Board to consider the feasibility of according priority to applicants who were found to be compliant with the statutory requirements, in processing applications for various specified instruments, thereby enabling a quick resumption of supply of private niches.

Supply of public niches and alternative means of interment of ashes

14. The Deputy Chairman expressed concern over the supply of public niches between 2018 and 2021. Referring to the estimated minimum number of public niches available for allocation in the next few years as tabulated in paragraph 5 of the Administration's paper, he opined that the supply could hardly meet the strong public demand. He enquired about the measures to be

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taken by the Administration to cope with the community's demand for public niches.

15. DFEH responded that the Government had been making sustained efforts to fortify the supply of public niches. It had so far obtained support from the relevant District Councils for 14 projects under the district-based columbarium development scheme, and these 14 projects would provide around 590 000 new niches in total, representing about two thirds of the total planned number of new niches to be made available by all the 24 projects under the said scheme. Meanwhile, to meet public demand for niches, FEHD and the Board of Management of the Chinese Permanent Cemeteries ("BMCPC") had adopted measures to optimize the use of existing niches by relaxing the restriction on placing additional sets of ashes into niches allocated by FEHD or BMCPC. Should members of the public be willing to consider this option, as many as 480 000 more urns could be placed in public columbaria and BMCPC's columbaria. In 2016, more than 3 000 sets of ashes were placed in existing niches managed by FEHD.

16. The Chairman asked about the promotional and publicity efforts made by the Administration to encourage the public to place additional urns in niches allocated by FEHD or BMCPC. DFEH replied that FEHD had been promoting the service through various means including broadcasting of Announcements of Public Interest, distribution of booklets and disseminating relevant information through licensed undertakers. In response to the Chairman's further enquiry, DFEH said that given that at present, the remains of the deceased had to be removed from the coffin buried in FEHD's cemeteries after six years of burial for relocation, FEHD would not encourage the public to place additional remains in grave spaces in FEHD's cemeteries.

17. Noting that FEHD would increase the capacity of its temporary storage facilities for holding at least 65 000 urns in the coming two years, Mr LEUNG Che-cheung sought details of FEHD's short-term facilities for temporary storage of ashes during the "vacuum period". DFEH advised that the public could make use of the storage spaces available in government cemeteries, columbaria and crematoria for temporary storage of ashes. At present, there were about 23 000 urn spaces provided in Kwai Chung Crematorium, Wo Hop Shek Columbarium (Phase III) and Wo Hop Shek Kiu Tau Road Columbarium for temporary storage of ashes. Such service was free of charge in the first two months following cremation. The duration might be extended upon application at a monthly fee of \$80. Since storage at these facilities was only a transitional arrangement, no paying of tribute would be allowed. Apart from FEHD's temporary storage facilities, there were 81 licensed undertakers presently regulated under the Undertakers of Burials Regulation (Cap. 132CB) who might store ashes temporarily on the

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premises specified in their licences. Members of the public might also consider other alternatives for handling ashes, such as adopting green burials that could be in the forms of scattering ashes in Gardens of Remembrance ("GoRs") or at sea.

Projects under the district-based columbarium development scheme

18. Mr KWOK Wai-keung said that due to filibustering by some Members on another bill at the Council meetings towards the end of the Fifth LegCo, the passage of the Bill had been delayed for quite some time. In his view, the Administration should expeditiously follow up on a number of issues of public concern after the passage of the Bill so as to make up the time lost. He was concerned about the additional traffic brought about by the proposed provision of 25 000 niches at a site on Cape Collinson Road opposite Chai Wan CPC. He hoped that the relevant government departments, such as FEHD, the Home Affairs Department and the Transport Department, could take on a more proactive role in liaising with the management of the Holy Cross Catholic Cemetery, with a view to arriving at a consensus on re-opening the private road linking Chai Wan CPC and the Holy Cross Catholic Cemetery so as to facilitate grave sweepers' access to Chai Wan CPC and the new columbarium facilities. DFEH responded that the Administration was mindful of the need to take improvement measures to address the anticipated traffic congestion. The relevant government departments would continue to liaise with the Holy Cross Catholic Cemetery on the matter.

19. Mr Kenneth LAU noted that the construction of new niches in Tsang Tsui, Tuen Mun was expected to be completed in 2019. He enquired about the traffic improvement measures to be taken by the Administration to alleviate the additional traffic arising from the columbarium operation. He also asked whether the Administration would consider allowing storage of synthetic materials (e.g. synthetic diamond transformed from human ashes) in public niches. The Administration would provide a written response to Mr LAU's enquiries after the meeting.

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20. Mr LEUNG Kwok-hung queried whether the existing 24 sites identified under the district-based columbarium development scheme were suitable locations for development of columbarium facilities. He expressed concern that the scale of development of those 24 projects (i.e. the number of niches to be provided) varied from one site to another, and a large number of niches were planned to be made available by the two projects respectively at Tsang Tsui and Wo Hop Shek, which in his view would bring tremendous pressure on the traffic and the road network in the two areas. DFEH responded that in the long run, mere reliance on the provision of new niches

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for handling cremated ashes was not sustainable. The Administration had great difficulty in identifying new and suitable sites for columbarium development. It was hence imperative to promote green burial which was a more sustainable way for disposal of cremated ashes.

Allocation arrangement of public niches

21. The Deputy Chairman and Mr Kenneth LAU both expressed concern that under the existing allocation mechanism whereby new niches in public columbaria were allocated by computer balloting, some applicants had to wait for a very long time for allocation of niches. They suggested that the Administration should accord priority to those applicants who had participated in several ballots but still had not been allocated niches and consider setting up a registration and queuing system for the allocation of public niches. Mr LAU and Mr LEUNG Yiu-chung sought information about the Administration's timetable for reviewing the existing method of allocation by ballot.

22. DFEH responded that the Administration was conducting a review of FEHD's established practice of allocating new niches by computer balloting, including analysing the information, data and comments on previous allocation exercises. During the review, the Administration would consider the views of relevant bureaux and departments, the Independent Commission Against Corruption and stakeholders as well as the recommendations made in the Ombudsman report, with a view to formulating an allocation mechanism which was fair, equitable, efficient and in the public interests. DFEH advised that the Tsang Tsui project was expected to be completed by the third quarter of 2019. The Administration planned to complete the review before commencing advance allocation of the first-phase niches for the Tsang Tsui project in 2018, thus allowing members of the public in need of ash interment facilities to make applications prior to the completion of the project. Pending the completion of the review, FEHD would continue to use the existing allocation method, i.e. by computer balloting.

23. Mr LEUNG Yiu-chung considered that although green burial was gaining popularity, the Administration should explore other measures to better utilize public niches. He suggested that to alleviate the shortage of niches, the Administration should consider introducing a time limit (e.g. five to 15 years) for use of newly allocated public niches or taking failure to submit renewal applications as niches given up and to be returned to FEHD for re-allocation.

24. DFEH responded that the Audit Commission had also made similar recommendations in its Report. Other than the measures mentioned by

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Mr LEUNG Yiu-chung, the Audit Commission had urged the Administration to consider collecting annual management fee. From the operational point of view, the Administration considered these suggestions feasible and could alleviate the shortage of niches. This also helped ensure that the facilities could continue to serve the purpose for the descendants to pay tribute to their ancestors, while fostering the sustainable development of the facilities and making the most optimal uses of the niches. The Administration would proactively explore public acceptance and room for implementation of those measures. Should any of the measures be adopted, the Administration would keep the applicants apprised of the new arrangements before future allocation of niches. The Administration's preliminary thinking was that a time limit of 10 to 20 years should be set for initial use of newly allocated public niches. If, after the 10- or 20-year period, descendants failed to submit renewal applications and could not be contacted, the Administration might dispose the unclaimed cremated ashes by suitable means.

Promotion of green burial

25. Dr Fernando CHEUNG expressed support for the Administration's work in promoting green burial as a sustainable way of disposal of ashes. He suggested that consideration be given to building more sizable GoRs with better design to enable the public to pay tribute to their lost loved ones in a scenic and tranquil environment.

26. DFEH responded that due to topographical constraints, some of the GoRs built at a later stage in existing public columbarium facilities were not large in size. To encourage wider use of GoRs and to provide more choices, more GoRs of bigger size had been and would be included in the planning stage of new columbarium facilities as part of the projects, e.g. GoR to be built in Tsang Tsui could provide sufficient space for the mounting of about 10 000 plaques in memory of the deceased. It was noteworthy that in 2016, about 4 000 sets of ashes were scattered in GoRs. The Administration would continue to encourage people to use these facilities through various publicity channels. Dr Fernando CHEUNG held the view that the Administration should identify sites for the development of bigger and standalone GoRs. DFEH said that the Administration was exploring the feasibility of providing GoRs on outlying islands in the long run. The Administration would consider Dr CHEUNG's suggestion.

27. Mr Kenneth LAU was concerned that while green burial was gaining popularity, the number of green burial cases was still on the low side. He asked whether the Administration would consider adopting the following measures to promote green burial: (i) establishing a registration scheme for members of the public to indicate their willingness to adopt green burial,

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similar to the existing registration scheme for organ donation; (ii) offering monetary incentives to encourage the adoption of green burial; and (iii) waiving the relevant charges and fees for cremation service if the family members/relatives of the deceased decided to adopt green burial. The Administration was requested to provide a written response to Mr LAU's enquiries.

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28. The Chairman reminded members that the Panel would conduct a visit to Diamond Hill GoR and GoR at Junk Bay CPC on 27 May 2017 to understand green burial facilities and services in Hong Kong. According to DFEH's advice given at the meeting, the Administration would consider whether the proposed place of visit should be changed to Wo Hop Shek GoR.

(Post-meeting note: Pursuant to the Administration's latest advice and with the concurrence of the Chairman, the proposed place of visit was subsequently changed to Wo Hop Shek GoR at Kiu Tau Road. Members were informed of the changes to the visit arrangement vide LC Paper No. CB(2)1381/16-17 issued on 11 May 2017.)

Proposed Committee stage amendments to the Bill

29. Mr CHAN Chi-chuen said that he and Dr Fernando CHEUNG had proposed to move Committee stage amendments ("CSAs") to the Bill which respectively sought to (i) extend the definition of "relative" under section 6(2) of Schedule 5 to the Bill so that a deceased person's same-sex partner in a marriage, civil partnership or civil union in any jurisdiction outside Hong Kong would be eligible to claim for the return of the deceased person's ashes and (ii) further amend the Administration's proposed definition of "related person" under the same section and the relevant priority of claims. Mr CHAN asked whether the Administration would, having regard to the High Court's ruling on 28 April 2017 on the judicial review case concerning civil service benefits to the spouse of a homosexual civil servant, re-consider the admissibility of the CSAs proposed by Dr Fernando CHEUNG and him. He and Mr LEUNG kwok-hung also asked whether the Administration had, after the High Court had delivered the judgement on the said case, sought legal advice from the Department of Justice ("DoJ") on the admissibility of the above CSAs.

30. DFEH responded that with a view to further facilitating the return of ashes to relevant persons related to the deceased, the Administration had proposed to move a CSA to add "related person" as an additional category of "prescribed claimant" under section 6(2) of Schedule 5 to the Bill. The Administration considered that the current provisions in the Bill, together with its proposed CSA mentioned above, were sufficient to facilitate

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the return of ashes to the relevant "related persons". It would hence be unnecessary to further amend the definition of "relative" under section 6(2) of Schedule 5 to the Bill. DFEH further said that since the relevant issues had been fully deliberated by the Bills Committee on Private Columbaria Bill, the Administration had no plan to change its position on the matter, regardless of whether or not the Government would appeal against the High Court's decision.

31. Mr CHAN Chi-chuen expressed concern that the priority of claims of the "related person" would be lower than that of a "relative" under the CSA proposed by the Administration. He remained of the view that the Administration should re-consider the admissibility of CSAs proposed by him and Dr Fernando CHEUNG to the Bill having regard to the High Court's recent ruling. Mr LEUNG kwok-hung shared Mr CHAN's views. The Chairman requested the Administration to provide a written response to Mr CHAN's question after the meeting.

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V. Implementation of the Food Safety Ordinance (LC Paper Nos. CB(2)1312/16-17(04) and (05))

32. At the invitation of the Chairman, Assistant Director (Food Surveillance and Control), Centre for Food Safety ("AD(FSC)/CFS") briefed members on the implementation of the Food Safety Ordinance (Cap. 612) ("FSO"), as detailed in the Administration's paper (LC Paper No. CB(2)1312/16-17(04)). Members noted the background brief prepared by the LegCo Secretariat on the subject (LC Paper No. CB(2)1312/16-17(05)).

Implementation of the Food Safety Ordinance

33. The Chairman asked how often the food tracing mechanism established under FSO was initiated to identify/trace the sources of supplies in case of food incidents since the implementation of FSO and whether any difficulties had been encountered by CFS in tracing the sources of problem food. AD(FSC)/CFS responded that under FSO, food traders were required to maintain proper transaction records to enhance food traceability. Since the implementation of FSO, CFS had frequently made use of the food tracing system to trace the respective distributor(s) or importer(s) from which the food was supplied through the food acquisition records of the retailer and deal with food incidents. Depending on the nature of the food incidents, CFS might need to seek additional information from food traders to facilitate tracing of the problem food. In general, the food tracing mechanism had been functioning effectively, and the requirement of keeping transaction records had been complied with by food traders. The Administration hoped that the upgrading of CFS' IT systems to support interface with the Trade

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Single Window project would capitalize on the benefits brought by the project and enhance the food surveillance and control work of CFS.

34. Mr LEUNG Kwok-hung enquired about the manpower involved in implementing FSO and the details of the law enforcement actions taken by CFS against food traders for contravening the requirements under FSO. AD(FSC)/CFS responded that for the three years between 2014 and 2016, CFS had instituted 10, 9 and 14 prosecutions respectively against food importers/distributors who had not registered under FSO. The fines imposed on convicted cases ranged from \$1,500 to \$9,000 in 2014, \$420 to \$5,000 in 2015 and \$500 to \$10,000 in 2016. Regarding the manpower, while a total of six posts had been specifically created to implement FSO, other inspectors from FEHD and CFS were also empowered to enforce the requirements under FSO in carrying out their daily duties.

35. At the request of Mr LEUNG Kwok-hung, the Administration undertook to provide the Panel with the following supplementary information:

- (a) the manpower involved in conducting inspections on food importers, distributors and retailers between 2014 to 2016 to ensure that the trade complied with the registration scheme and the requirement of keeping transaction records under FSO and the number of food premises inspected by the Administration during the same period; and
- (b) the major findings of the inspections and follow-up actions taken by the Administration, including the respective numbers of prosecution instituted against (i) food importers/ distributors who had not registered under FSO and (ii) food traders for failing to comply with the record keeping requirement.

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36. Dr Pierre CHAN enquired about the manpower provision in CFS for monitoring online food selling activities and undertaking surveillance and law enforcement work in this respect. AD(FSC)/CFS responded that online shops selling restricted food were required to obtain permits from FEHD. Besides, CFS had been monitoring food sold online under its regular Food Surveillance Programme and around 4 000 food samples sold online per year were collected for chemical and microbiological tests with a low unsatisfactory rate. This apart, the 500 inspections conducted by CFS each year on food traders to check compliance with FSO also covered online food selling activities. As the above work formed part of the Food Surveillance Programme, there was no breakdown on the manpower specifically deployed for regulating online sale of food.

Implementation of the Pesticide Residues in Food Regulation (Cap. 132CM) and smuggling of vegetables from the Mainland

37. Mr Steven HO expressed concern over a case in which a vegetable marketing co-operative society was charged for selling vegetables containing excessive pesticide residues but the vegetables were in fact produce of a local farm, not the co-operative society concerned. The co-operative society concerned had provided CFS with information on the source of the problematic vegetables for its investigation. In Mr HO's view, the Administration should review and amend the Pesticide Residues in Food Regulation (Cap. 132CM) ("the Regulation") to the effect that the food producer/manufacturer (i.e. the local farm in the case quoted by Mr HO) would be held responsible for supplying vegetables containing excessive pesticide residues. He asked about measures that could be taken in the interim to address similar issues/cases before the Administration's completion of the legislative review.

38. Controller, Centre for Food Safety ("Controller/CFS") said that having considered the legal advice from DoJ, it was decided not to institute prosecution against the co-operative society concerned. The Administration noted Mr Steven HO's views on the relevant provisions of the Regulation and would consider his views as appropriate. CFS had also reminded its frontline staff through improving the inspection guidelines that they should exercise caution in handling similar cases.

39. Mr Tommy CHEUNG opined that farmers should be held responsible for supplying problematic vegetables to the market. He asked whether any measures/follow-up actions would be taken by the Administration against the supply or import of vegetables with excessive pesticide residues by local or Mainland farmers.

40. Controller/CFS responded that if vegetables imported from registered vegetables farms/vegetable processing establishments in the Mainland were detected with excessive pesticide residues, the Administration would inform the relevant inspection and quarantine authorities in the Mainland for investigation and follow-up actions. The farms concerned would be allowed to supply vegetables to Hong Kong on a trial basis if rectification measures had been taken to safeguard the safety of the vegetables. CFS would step up the inspection of the vegetables supplied by the farms concerned at the Man Kam To Control Point. To safeguard the safety of vegetables supplied by local farms, CFS had been collecting samples of vegetables at import, wholesale and retail levels for pesticide residue tests. All samples collected for testing in 2016 and 2017 did not exceed the statutory limits. CFS and the Agriculture, Fisheries and Conservation Department would follow up with

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the local farms concerned if any unsatisfactory samples were found. As mentioned earlier, the Administration would take into due consideration Mr Steven HO's views regarding the Regulation. Mr Tommy CHEUNG considered that the Administration should amend the Regulation as soon as possible to plug the loophole identified. Mr Steven HO said that environmental pollution might affect the level of pesticide residues in the vegetables. In his view, the authorities concerned should find out the real cause of the pollution to facilitate the decision making on whether farmers should be held responsible.

41. The Chairman expressed concern that there had been media reports that problematic vegetables were smuggled into Hong Kong through control points by travellers for the purpose of sale. She enquired about the measures taken by CFS and the Customs and Excise Department ("C&ED") to combat smuggling of vegetables from the Mainland.

42. Controller/CFS responded that all fresh vegetables imported from the Mainland for sale in Hong Kong via land route should be imported through the Man Kam To Control Point. CFS had been mindful of cases where vegetables were brought, in the name of self-consumption, into Hong Kong by travellers via the Lo Wu Control Point for the purpose of sale. Although it was difficult to eliminate or guard against such behaviour, CFS had spared no efforts in taking enforcement actions. In fact, CFS maintained close liaison with C&ED and exchanged intelligence on activities of importing vegetables through control points other than the Man Kam To Control Point. To intercept such activities, CFS and C&ED had conducted a number of joint operations. While smuggling activities were mainly handled by C&ED, CFS would focus on food safety issues. Since the implementation of the Regulation on 1 August 2014, C&ED had referred more than 30 cases to CFS for follow up and about 100 samples of vegetables were collected at the Lo Wu Control Point for pesticide residue tests. It should be noted that the number of samples found to contain excessive pesticide residues had been declining. Among the 100 samples collected for testing, 12 and 17 samples were found unsatisfactory in 2014 and 2015 respectively, whereas only two unsatisfactory samples were detected between 2016 and 2017.

43. While expressing support for the Administration's efforts in combating smuggling of vegetables from the Mainland, Mr Steven HO considered that the authorities concerned should, in deciding whether enforcement actions should be taken, first ascertain whether the vegetables were brought into Hong Kong by travellers simply for self-consumption. He urged the Administration to enhance communication with local vegetable sellers and importers with a view to ensuring the safety of vegetables supplied to Hong Kong.

VI. Any other business

44. Referring to the joint letter dated 21 April 2017 from five Panel members to the Chairman mentioned in paragraph 2 above, Mr KWOK Wai-keung expressed concern that arrangement had not been made for members to further discuss market stall rentals after 30 June 2017 at this meeting. The Chairman advised that she had instructed the Clerk to post a general notice on the LegCo website to invite written submissions on the matter, after taking into account the following factors:

- (a) the Panel had already discussed "Public market stall rentals after 30 June 2017" at its meeting on 14 March 2017;
- (b) at the March meeting, Panel members had arrived at a consensual view and three motions were passed urging the Administration, inter alia, to shelve the plan of effecting rental increase after 1 July 2017 and to maintain the rental freeze for public markets so as to alleviate the difficulties faced by the industry; and
- (c) the Administration had already provided a consolidated response to the motions, which was circulated to members vide LC Paper No. CB(2)1085/16-17 on 28 March 2017.

The Chairman assured members that all submissions to be received would be circulated to members and forwarded to the Administration for its response.

(Post-meeting note: Members were informed vide LC Paper No. CB(2)1415/16-17 issued on 16 May 2017 that a total of seven submissions had been received and forwarded to the Administration for its response.)

45. There being no other business, the meeting ended at 4:32 pm.