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Panel on Food Safety and Environmental Hygiene

**Background brief prepared by the Legislative Council Secretariat
for the meeting on 14 March 2017**

Certification scheme for the production and sale of organic food

Purpose

This paper provides background information on the certification scheme currently in place for the production and sale of organic food and summarizes major views and concerns of members of the Panel on Food Safety and Environmental Hygiene ("the Panel") on the subject.

Background

2. According to the information provided by the Administration to the Panel in April 2016, there is no universal definition of organic food, nor is there a legal definition in Hong Kong. From the perspective of food safety, all food for sale in Hong Kong, whether organic or not, are governed by the same set of food safety standards. The Public Health and Municipal Services Ordinance (Cap. 132) ("PHMSO") stipulates that all food for sale in Hong Kong must be fit for human consumption and are regulated by relevant food safety standards such as those provided in the Pesticide Residues in Food Regulation (Cap. 132CM) and the Food Adulteration (Metallic Contamination) Regulations (Cap. 132V).

3. In relation to trade description/food labelling requirements, section 61 of PHMSO provides that if any person falsely describes a food or misleads as to the nature, substance or quality of the food on the label of the food sold by him, he shall be guilty of an offence and be liable to a maximum fine of \$50,000 and imprisonment for up to six months. In addition, according to the Trade Descriptions Ordinance (Cap. 362) ("TDO"), "trade description", in relation to

goods, means an indication, direct or indirect, and in whatever forms and by whatever means, with respect to the goods or any part of the goods, including claims as to place of manufacture or country of origin. If any person is suspected of selling agricultural products with false claims as organic products, the Customs and Excise Department ("C&ED") may take enforcement actions according to TDO.

4. With funding from the Agricultural Development Fund under the Vegetable Marketing Organization ("VMO"), the Hong Kong Organic Resource Centre ("HKORC") has started to provide voluntary certification service for farmers since December 2002. HKORC has established a set of stringent guidelines with reference to international standards with a view to ensuring that the process adopted by organic farms complies with the certification standards of organic farming and production. Certified farms can attach the label issued by the certification body to their products for easy identification. According to the Administration, as at April 2016, more than 140 units (such as crops production farms, processing and handling operations and aquaculture plants) have been certified, covering products such as vegetables, cultured fish and other processed food.

5. Like other organic certification bodies, HKORC certifies the organic production process of a farm rather than the products of the farm. The farmland and the farming practices, materials used, management and the organic integrity of products are subjects that should comply with the organic production and processing certification standards. Once HKORC certifies a farm as "organic", all products from the organic production area of the farm are certified organic. The farm may claim the produce as "certified organic". It may use HKORC's certification seal as stickers on product packages, and the certificate issued by HKORC as evidence of certification.

Members' concerns

6. The Panel discussed issues relating to the regulation and certification of organic food at its meetings on 10 January 2012 and 5 February 2013. Members' major views and concerns are summarized below.

Need to regulate the production and sale of organic food

7. In view of the growing consumption of organic food in Hong Kong, the existence of problem of fraudulent and counterfeit organic food and the need to facilitate the further development of the organic food sector, some members considered that there was a need for the Administration to put in place a regulatory regime for the production and sale of organic food in Hong Kong. Some other members, however, were of the view that regulating organic food

by legislation should be the last resort when administrative measures (e.g. further promoting the certification scheme, streamlining the certification procedures and promulgating a reporting mechanism of food fraud including false claims of organic food) were proved to be ineffective.

8. The Administration advised that it had commissioned in March 2011 a consultancy study to assess whether and how the production and sale of organic food in Hong Kong should be regulated, if at all, as well as how to enhance consumer education and information about organic food. The Consultant's findings included views of key stakeholders who considered regulatory actions undesirable because of concerns about prospective compliance cost and difficulties in conforming to a single set of regulations. There was doubt about the need for regulation given the small size of the market. Some people also cautioned that regulation of the organic food sector might have negative impacts on both traders and consumers, e.g. products might have to be removed from the market if they did not comply with the requirements and retailers might be less willing to introduce new products, hence reducing the product choice to consumers. The increased compliance cost might be shifted to consumers, driving up the price of organic food products further.

9. Taking into account the study findings, the Administration took the view that there was no pressing need to regulate the production and sale of organic food as the market size of the local organic food sector was small and the main policy objective of the Administration was to ensure food safety and stable food supply. The Administration advised that it would continue to adopt administrative measures to enrich consumers' knowledge of organic food and encourage the industry to produce, source and trade authentic organic products, so as to facilitate consumers in making informed purchasing decisions and avoid the proliferation of non-authentic organic products. Also, it would keep in view the latest development on regulation of organic food in the international arena as well as local circumstances, in reviewing the need for legislation.

Standards for defining "organic food"

10. Members noted with concern that finding a common definition of "organic food" and drawing up a set of common standards on organic practice would be a challenge. As some overseas jurisdictions adopted multiple standards to define the term "organic", some members queried why the Administration proposed the development of a set of "minimum standards" for organic food to facilitate reference by the trade and their compliance. In these members' view, the general public in Hong Kong would hardly accept a set of low-level standards for organic food.

11. The Administration advised that the set of "minimum standards" should be considered as the "basic requirements" or "core requirements" for meeting the organic production and certification standards. The Administration would further examine the consultancy report and take into account the views expressed by members in mapping out the strategies for governing the production and sale of organic food in Hong Kong, including enhancing consumer education and information about organic food.

12. Members cast doubt on the viability of the certification scheme for organic food as Hong Kong had no legal definition of the term "organic". According to the Administration, organic farming was a holistic production management system under which the use of chemical herbicides, pesticides and fertilizers had to be avoided in growing crops. HKORC had established a set of stringent standards to ensure that the process adopted by an organic farm complied with the standards of organic farming and production. The HKORC standards were devised with reference to and made on par with the international standards.

Measures to safeguard consumer interests

13. Members noted that HKORC found through a survey that some vegetable stalls displayed HKORC's organic certification seals without its permission and some traders displayed invalid certificates to sell non-organic vegetables under the guise of higher-priced organic vegetables. Members enquired whether the Administration would step up its efforts to combat the abuse of HKORC's organic certification seals and certificates.

14. The Administration advised that any person who made false or misleading statements in respect of the food (including organic food) he supplied to mislead consumers committed an offence of false trade descriptions. C&ED and the Centre for Food Safety ("CFS") might take follow-up actions pursuant to TDO and PHMSO respectively. Besides, through its regular Food Surveillance Programme, CFS took food samples (including vegetables) at the import, wholesale and retail levels for testing to ensure their compliance with the legal requirements and fitness for human consumption. Apart from promoting organic food labelling through its certification service, HKORC conducted regular surveys to monitor the market situation. Where necessary, it assisted the Administration in taking enforcement actions against counterfeit organic products. The Administration had also strengthened its efforts in educating consumers on how to verify the authenticity of organic certification labels.

15. Some members considered it important for the Administration to provide consumers with non-technical information about organic farming in order to enhance public knowledge of organic food, including the relevant

certification standards and labelling requirements. The Administration advised that CFS provided information on organic food to the public through its publicity leaflets, publications and website. HKORC also organized various kinds of activities every year to introduce recognized certification labels to the public and to encourage them to read carefully the certificates displayed at organic food outlets, make purchase at reputable shops and buy organic food with certification. Besides, VMO and HKORC also provided on their websites information on local organic food, such as details of outlets for local organic vegetables.

16. There was a view that while it was difficult and costly to prove that a product was organic, it might be easier to prove the contrary (e.g. the presence of chemical pesticides). Members enquired whether the Administration would conduct testing on organic food. The Administration advised that since there was currently no legal definition of the term "organic", it would be difficult to prove whether or not a product was organic through laboratory testing. It was considered more effective to raise consumer awareness of organic products through enhanced promotion and education, and provide consumers with clear information on how to identify organically grown produce. In addition, stepping up the policing efforts through conducting regular and surprise inspections to the organic farms would help strengthen the protection of consumer interests.

Recent development

17. At the request of members, the Administration will brief the Panel on issues relating to the regulation of organic food in Hong Kong at the meeting on 14 March 2017.

Relevant papers

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

**Relevant papers on
certification scheme for the production and sale of organic food**

Committee	Date of meeting	Paper
Panel on Food Safety and Environmental Hygiene	10.1.2012 (Item IV)	Agenda Minutes
	5.2.2013 (Item V)	Agenda Minutes
	11.4.2016*	Administration's response to issues raised in Dr Hon Helena WONG's letter concerning the detection of excessive pesticide residues in some samples of organic vegetables (LC Paper No. CB(2)1261/15-16(01))
Legislative Council	11.5.2016	Official Record of Proceedings Pages 8692 to 8696 (written question raised by Dr Hon CHIANG Lai-wan on "Regulation of organic produce")

* Issue date