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Panel on Food Safety and Environmental Hygiene

**Background brief prepared by the Legislative Council Secretariat
for the meeting on 11 December 2018**

Certification system for the production and sale of organic food

Purpose

This paper provides background information on the certification system 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 information provided by the Administration to the Panel in March 2017, different regions/countries have different definitions on organic food. The certification standards and methods adopted by different countries also vary. The major differences between organic food and ordinary food are their ways of production, processing and handling. Such differences cannot be detected by testing the food products. There is no significant difference between organic food and ordinary food in terms of food safety.

Relevant regulation

3. From the perspective of food safety, all food for sale in Hong Kong for human consumption (whether organic or ordinary food) must comply with the same set of statutory standards for food safety and quality,¹ as well as

¹ 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).

labelling requirements to ensure their fitness for human consumption. The Centre for Food Safety ("CFS") of the Food and Environmental Hygiene Department, through its risk-based Food Surveillance Programme, takes food samples (including organic food) at the import, wholesale and retail levels for testing.

4. 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 HK\$50,000 and imprisonment for up to six months. Moreover, any person who, in the course of any trade or business, makes false or misleading statements in respect of the goods (including organic food) he supplies commits an offence under the Trade Descriptions Ordinance (Cap. 362) ("TDO"). The Customs and Excise Department ("C&ED") may take enforcement actions according to TDO.

Certification system

5. 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 to local farmers since December 2002.² According to the Administration, HKORC has obtained the international accreditation status of ISO17065 and has been actively promoting organic food labelling through its certification service. Apart from setting up a credible third-party organic certification system, HKORC has established a set of stringent guidelines with reference to international standards, i.e. guidelines of the International Federation of Organic Agriculture Movements, with a view to ensuring that the production processes adopted by organic farms comply with the certification standards of organic farming and production. Certified farms can attach a label recognized by the certification body to their products for easy identification. As at March 2017, more than 140 units (including crops production farms, processing and handling operations and aquaculture plants) had been certified under HKORC's certification system, covering food products such as vegetables, cultured fish and other processed food.

² Like other organic certification bodies, HKORC certifies the organic production processes rather than the products of a 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 same 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 three meetings between January 2012 and March 2017. 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 sustainable development of the organic food sector, some members considered that there was a need for the Administration to introduce in Hong Kong a regulatory regime for the production and sale of organic food. Query was raised as to whether the current monitoring/certification system for organic food products had lagged behind the development of the relevant industry. 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 a consultancy study in 2011 to assess the need for regulating the production and sale of organic food products. In view of the small scale of the local organic food sector (i.e. organic vegetables only accounted for less than 0.3% of the total fresh vegetables supply in Hong Kong) and the fact that the Government's main policy objectives in respect of food were to safeguard food safety and supply stability, the consultancy report advised that there was no pressing need to legislate for the production and sale of local organic food products. The Administration accepted the consultant's recommendations and had enhanced consumer education about organic food and promotion on organic food labelling. That said, the Administration assured members that 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.

9. The Administration further advised that the Agriculture, Fisheries and Conservation Department ("AFCD"), CFS and HKORC would continue to enhance public education on organic food. AFCD, through the Organic Farming Support Service, also helped local farmers convert from conventional farming to organic farming in accordance with the established standards and HKORC's guidelines on organic farming and production. HKORC's guidelines were available on the websites of AFCD and HKORC.

The work of HKORC

10. Concern was raised on whether HKORC had sufficient resources to monitor the proliferation of non-authentic organic products in the market and to combat the abuse of HKORC's organic certification labels and certificates. Members enquired whether the Administration would consider setting up one or more organizations like HKORC to provide certification service and monitor the sale of organic food in Hong Kong.

11. According to the Administration, with funding from the Agricultural Development Fund under VMO, HKORC had started to provide voluntary certification service to local farmers since December 2002. At present, more than 140 units were certified under HKORC's certification system. Apart from providing voluntary certification service, HKORC had been conducting regular surveys to monitor the market situation and promoting consumer education.

Enforcement against the sale of fake organic food

12. Noting HKORC's survey results and the market situation of displaying HKORC's organic labels/certificates, some members expressed concern that C&ED's failure to take vigorous enforcement action in accordance with TDO against the sale of counterfeit organic food products would undermine consumers' confidence in organic produce and hinder the development of the organic food sector. Enquiries were raised on whether the authorities would establish a mechanism to investigate and follow up on complaints related to false claim of organic produce; and whether HKORC would conduct surprise checks on those units certified under its certification system as well as retail outlets claiming to sell organic food products.

13. The Administration advised that as some farmers and traders might choose not to participate in any voluntary organic certification scheme, the sale of food products claimed to be organic without displaying certification label/certificates did not necessarily mean that the products involved were fake organic products. That said, CFS, AFCD and HKORC had all along been working together, and would continue to exchange intelligence and follow up on complaints relating to sale of fake organic products. It was noteworthy that that under the certification system, HKORC conducted unannounced sudden inspections on the certified units to monitor whether their operations and sale arrangements met the certification requirements and standards. It also conducted regular surveys on retail outlets selling organic produce and took food samples from the outlets for testing.

14. The Administration further advised that HKORC would publicize its monitoring efforts for public information. If any irregularity was found, including sale of fake organic products, use of organic certification label without permission by the certification agent or display of invalid certificates,

HKORC would provide information of these cases to C&ED, for conducting in-depth investigation and gathering evidence under TDO, as well as taking appropriate enforcement actions having regard to the particular facts and evidence of the cases.

15. In response to members' enquiry as to whether the Administration had any difficulties in initiating prosecutions against contraventions of TDO, the Administration advised that some cases could not be pursued further due to insufficient evidence. While the disguise of non-organic food as organic one by applying organic certification labels/certificates would contravene the relevant provisions of TDO, the sale of products claimed to be organic itself might not necessarily constitute an offence under the laws of Hong Kong.

Consumer education

16. Members noted that CFS and HKORC had been stepping up consumer education on organic food, through organizing various types of promotional and public relations activities to introduce recognized certification labels to the public and encourage them to read the organic certificates of vegetable outlets carefully and buy vegetables with organic certification at reputation shops. Members urged the Administration and HKORC to continue to promote organic food labelling, as it was difficult for consumers to distinguish between organic and non-organic products.

17. The Administration reiterated that consumers could make use of organic certification labels/certificates to identify organic products. It would follow up with HKORC on how to promote a better understanding of the latter's labelling and certification services. A list of recognized organic certification labels and logos was published on HKORC's website for public information.

Recent development

18. The Panel will discuss the certification system for organic food at the meeting on 11 December 2018.

Relevant papers

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

**Relevant papers on
certification system 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)	<u>Agenda</u> <u>Minutes</u>
	5.2.2013 (Item V)	<u>Agenda</u> <u>Minutes</u>
	11.4.2016*	<u>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))</u>
Legislative Council	11.5.2016	<u>Official Record of Proceedings Pages 8692 to 8696 (written question raised by Dr Hon CHIANG Lai-wan on "Regulation of organic produce")</u>
	1.3.2017	<u>Official Record of Proceedings Pages 4806 to 4809 (written question raised by Hon HO Kai-ming on "Regulation of organic food products")</u>

Committee	Date of meeting	Paper
Panel on Food Safety and Environmental Hygiene	14.3.2017	<u>Agenda</u> <u>Minutes</u> Administration's follow-up paper on issues relating to the regulation of organic food production (LC Paper No. <u>CB(2)1115/16-17(01)</u>)

* Issue date

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