

立法會
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LC Paper No. CB(2) 1229/04-05
(These minutes have been seen by
the Administration)

Panel on Food Safety and Environmental Hygiene

Minutes of Meeting
held on Tuesday, 8 March 2005 at 2:30 pm
in Conference Room A of the Legislative Council Building

Members Present : Hon Fred LI Wah-ming, JP (Chairman)
Hon WONG Yung-kan, JP (Deputy Chairman)
Hon Bernard CHAN, JP
Hon Andrew CHENG Kar-foo
Hon Tommy CHEUNG Yu-yan, JP
Hon Vincent FANG Kang, JP
Hon WONG Kwok-hing, MH
Dr Hon Joseph LEE Kok-long
Dr Hon KWOK Ka-ki

Member Attending : Hon CHAN Yuen-han, JP

Member Absent : Hon TAM Yiu-chung, GBS, JP

Public Officers Attending : Item IV

Mr Eddy CHAN
Deputy Secretary (Food & Environmental Hygiene)
Health, Welfare and Food Bureau

Mr Vincent LIU
Principal Assistant Secretary (Food & Environmental Hygiene) 2
Health, Welfare and Food Bureau

Mr Gregory LEUNG
Director of Food and Environmental Hygiene

Ms Annette LEE
Deputy Director (Environmental Hygiene)
Food and Environmental Hygiene Department

Item V

Mr Eddy CHAN
Deputy Secretary (Food & Environmental Hygiene)
Health, Welfare and Food Bureau

Mr Vincent LIU
Principal Assistant Secretary (Food & Environmental Hygiene) 2
Health, Welfare and Food Bureau

Dr S F LEUNG
Assistant Director (Fisheries)
Agriculture, Fisheries and Conservation Department

Clerk in Attendance : Mrs Constance LI
Chief Council Secretary (2)5

Staff in Attendance : Miss Betty MA
Senior Council Secretary (2)1

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I. Confirmation of minutes of meeting
[LC Paper Nos. CB(2) 973/04-05 and CB(2)974/04-05]

The minutes of the special meeting on 20 January 2005 and the minutes of the regular meeting on 1 February 2005 were confirmed.

II. Date of next meeting and items for discussion
[LC Paper Nos. CB(2) 988/04-05(01) and (02)]

Members agreed to discuss the following items proposed by the Administration at the next regular meeting on 15 April 2005 at 10:45 am -

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- (a) Prohibition of abstraction of seawater from specified areas adjacent to the coast;
- (b) Labelling scheme on nutrition information; and
- (c) Study on dietary exposure to lead of secondary school students.

(*Post-meeting note* : Discussion of item (c) was subsequently deferred to the regular meeting in May 2005.)

III. Information paper(s) issued since last meeting

[LC Paper Nos. CB(2) 986/04-05(01) and CB(2)1036/04-05(01)]

3. Members noted that the Administration had provided the following information papers since the last meeting –

- (a) Progress on the importation of chilled pork from the Mainland; and
- (b) Notification system between Hong Kong and the Mainland on plant inspection and quarantine matters.

Importation of chilled pork from the Mainland

[LC Paper No. CB(2) 986/04-05(01)]

4. The Chairman said that at the meeting on 11 January 2005, the Panel had urged the Administration to implement the legislative amendment requiring “one licence for one shop” on those shops selling chilled pork, before the first batch of chilled pork was imported from Mainland China. In its response, the Administration advised that there were no food safety grounds to require the sale of fresh and chilled pork in separate premises, and the Panel’s request fell outside the scope of the Public Health and Municipal Services Ordinance (Cap. 132). However, the Chairman pointed out that if chilled pork was defrosted and sold as fresh pork, it was uncertain whether the pork remained in good conditions, and this was an issue of food safety.

5. Director of Food and Environmental Hygiene (DFEH) said that the proposal of “one licence for one shop” could not prevent operators from selling chilled meat as fresh meat. According to the Administration’s legal advice, the object of Cap. 132 was to protect public health. If the consideration was for consumer protection, then such consideration fell outside the scope of Cap. 132. DFEH further said that the Food and Environmental Hygiene Department (FEHD)’s licensing and tenancy conditions prohibited the display and sale of chilled meat as fresh meat. Non-compliance would lead to immediate cancellation of licence or termination of market tenancy agreement.

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6. Mr WONG Kwok-hing said that Panel members were concerned that if chilled meat and fresh meat were sold at the same premises, it would be difficult for consumers to detect whether defrosted meat was sold as fresh meat. Mr WONG asked whether the operators were allowed to sell chilled meat and fresh meat at the same premises; and if so, whether the Administration had any plans to plug the loophole to better safeguard consumers' interest.

7. DFEH responded that under the existing licensing framework, chilled meat and fresh meat could be sold at the same shop, subject to compliance with the relevant licensing conditions. There were presently over 300 outlets which had obtained the licences for selling both fresh and chilled meat. DFEH said that Panel members had urged the Government to amend the legislation to implement the "one licence for one shop" proposal, and the legal advice obtained by the Government was that legislative amendments to Cap. 132 could not be made for the consideration of consumer protection. Since the licensing framework could only be established under Cap. 132, it was impossible to implement the proposal under the existing legislation. DFEH further said that the Administration would explore other measures to safeguard the interests of consumers.

8. Responding to Mr WONG Kwok-hing's enquiry on penalties imposed on unscrupulous operators who sold chilled pork as fresh pork, DFEH said that operators were required to display a legible notice at a conspicuous location that chilled meat was available for sale at their shops. To enhance deterrence against malpractices, FEHD had introduced an additional licensing/tenancy condition since 2003 under which operators selling chilled meat as fresh meat would have their licences cancelled or market tenancy agreements terminated immediately.

9. DFEH pointed out that since 2003, FEHD had taken enforcement actions against 22 market stallholders or licensees for breaching licensing/tenancy conditions. Six of them had their licences cancelled or market tenancy agreement terminated. The others had made appeals, and some eventually had their licences suspended for a period instead.

10. Mr Tommy CHEUNG said that he had no strong views against the importation of chilled pork from the Mainland, as chilled pork was already being imported from other countries. Mr CHEUNG further said that the food business industry did not object to the proposed separation of the sale of fresh and chilled meat, but consideration of this proposal should not delay the importation of chilled pork from the Mainland. Mr CHEUNG added that to facilitate consumers to differentiate chilled pork from fresh pork, the Administration could make reference to the arrangement for the sale of chilled chickens. The Administration should discuss with the trade the logistical arrangements for the sale of fresh and chilled meat as soon as possible.

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11. The Chairman reminded the Administration that it had agreed to make arrangements for members to observe the unloading of and quarantine procedures for the first batch of chilled pork imported from the Mainland.

12. Mr WONG Yung-kan said that while live pigs from the Mainland must come from authorised farms, chilled pork from the Mainland was to be supplied by registered chilled pork processing plants and their associated farms. The trade was worried about the hygiene conditions of pork supplied by the associated farms of these processing plants, as they were subject to less stringent hygiene control. Mr WONG further said that while the trade did not oppose to the importation of chilled meat from the Mainland, to safeguard food safety and consumers' interest, the Administration should put in place sufficient monitoring measures before approving import of chilled meat from these plants and associated farms in the Mainland. He strongly urged that the Administration should fully discuss with the trade the arrangements for importing chilled pork from the Mainland.

13. DFEH said that according to the State General Administration of Quality Supervision, Inspection and Quarantine, all the pig farms in the Mainland were subject to more or less the same hygienic requirements, irrespective of whether the meat was for export or local consumption. DFEH further said that FEHD officers would shortly conduct visits to the processing plants to obtain more information about their facilities, operation, production process and hygiene monitoring system. If satisfied with the hygiene measures of these processing plants, FEHD would then process the applications for import of chilled pork from the Mainland. DFEH added that the Administration would discuss with the industry the logistical arrangements for the import, and welcomed suggestions on ways to address the industry's concerns.

14. Mr Tommy CHEUNG said that the Administration should ascertain from the relevant Mainland authorities that guidelines (e.g. feed for pigs) had been issued to the pig farms for supplying chilled pork to Hong Kong. Mr CHEUNG further said that the Administration should also meet with the retailers on arrangements concerning the sale of chilled meat from the Mainland.

15. Mr Vincent FANG said that the "one shop one licence" proposal would afford better protection of consumers. Mr FANG asked whether there would be one single supplier or several suppliers for chilled pork from the Mainland.

16. DFEH explained that Hong Kong practised free trade and there was no restriction on the number of pork suppliers. The sole importer arrangement for live pigs from the Mainland was decided by the Mainland.

17. Mr WONG Kwok-hing said that roasted pork was mostly made from fresh pork. He asked whether the Administration would require the restaurant or siu mei

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operators to make known to their customers if their roasted meat was made of chilled meat in future. DFEH responded that there was no such licensing conditions at present.

ALA 18. The Chairman said that the legal adviser to the Panel should be invited to advise on whether the “one shop one licence” proposal fell outside the scope of Cap. 132.

(Post-meeting note : The paper provided by the Legal Service Division on “One shop one licence” was issued to members vide LC Paper LS 49/04-05 on 12 April 2005 for the regular meeting on 15 April 2005.)

19. Mr Tommy CHEUNG suggested that “one shop one licence” proposal and the legal advice on the matter be followed up by the Subcommittee to Study the Streamlining of Food Business Licensing formed under the Panel. Members agreed.

20. In response to Mr WONG Yung-kan, DFEH said that as it took time to resolve the legal issues relating to the “one shop one licence” proposal, the Administration would in the meantime continue the discussion with the Mainland on the arrangements for the importation of chilled pork from the Mainland.

IV Suspension of issue of licence to food premises operating without licence
[LC Paper No. CB(2) 988/04-05(03)]

21. Deputy Secretary for Health, Welfare and Food (Food and Environmental Hygiene) (DS(FEH)) said that the Administration had reviewed the existing legislation and proposed measures to step up control against food businesses operating without licences, as detailed in paragraph 4 of the Administration’s paper.

22. DFEH said that the processing time for food licence applications had been shortened with the introduction of the provisional licence system. He was most surprised to find that some food business operators of Langham Place did not even submit applications for provisional/full licences when they started operation. To safeguard public health and achieve greater deterrence against unlicensed operation, the Administration proposed to step up measures against such illegal practice.

23. Mr WONG Kwok-hing noted that under the proposal, if an unlicensed food establishment was found to continue to operate, FEHD would still have to apply to the court for a closure order against the premises under section 128B of Cap. 132. Mr WONG considered that the proposal failed to solve the problem at root if DEFH could not order the premises to cease operation immediately. He asked about the time taken for the court to issue a closure order.

24. DFEH said that sections 128B and 128C in Cap. 132 concerning the powers to issue closure orders came into effect in 2003. Under section 128B of Cap. 132, DFEH

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could now apply directly to the court for a closure order to close an unlicensed food establishment without having to apply for a Prohibition Order in the first place. As the process under section 128B would normally take more than one month, some operators might wind up their business before the cases were heard by the court. As regards section 128C of Cap. 132, DFEH was empowered to close the licensed or unlicensed food premises immediately, if the food premises posed immediate health hazard.

25. Mr WONG Kwok-hing suggested that, to achieve deterrence against unlicensed operation of food business, DFEH should be empowered under section 128B of Cap. 132 to close unlicensed food establishments without having to make an application to the court. Mr WONG said that the matter had been discussed at length by the former municipal councils.

26. Mr Tommy CHEUNG expressed reservations about empowering DFEH to make a closure order against unlicensed food establishments, without having to apply to the court. Mr CHEUNG said that the addition of sections 128B and 128C to Cap. 132 had already strengthened the powers of DFEH, and removed the need for a Prohibition Order before the issuance of a closure order by the court against an unlicensed food premises. The relevant Bills Committee had discussed the issue in detail, and there was no need to revisit the issue for the time being.

27. Mr Tommy CHEUNG further said that some food businesses operated without licences because they were unable to get a licence in time before operation. The Administration's proposal was unfair to the food business industry. To solve the problem, the Administration should study ways to streamline the licensing process. Mr CHEUNG also expressed concern about the enforcement of the measure in paragraph 4(c) of the paper that FEHD might refuse the application and impose a ban on the person/corporation convicted to obtain a licence for six months. Mr CHEUNG pointed out that the measure could easily be circumvented by appointing another person to apply for a licence. Mr CHEUNG added that as most of the food establishments at Langham Place were operated by large, experienced corporations, the Administration should find out the reasons why they could not get a licence before operation.

28. DFEH said that he was disappointed that some of the food establishments operating at Langham Place had not submitted applications for provisional/full licences when they started operation in December 2004, as this showed total disregard for the licensing system. DFEH further said that the Administration was willing to work with the Subcommittee formed under the Panel to study how the existing licensing procedures for food business could be further streamlined. He stressed that to streamline the licensing procedures did not mean lowering the licensing standards and requirements. It was Government's responsibility to safeguard public health, and the Administration would have no tolerance of food poisoning incidents. The

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proposal was a step to deter operators from conducting business prior to obtaining a licence.

29. Dr KWOK Ka-ki supported the Government taking effective measures to safeguard public health. He further said that imposing a fine on operators of food business without licences did not have much deterrence effect, as some operators regarded the fine as part of their operating cost. Dr KWOK suggested that more effective penalties should be imposed. In his view, any food business found to be in operation without licence should be ordered to cease operation immediately. Dr KWOK asked whether administrative arrangements would be put in place to expedite the issuance of closure orders under section 128B of Cap. 132.

30. DFEH said that he was aware that some food business operators had taken the advantage of the time required for issuance of a closure order and continued operation without licence. By the time the case was heard by the court, some operators had either ceased business or obtained the requisite licences. To address the problem, the Administration proposed that if FEHD took enforcement action, FEHD would stop processing the application for licence.

31. Dr KWOK Ka-ki asked whether the Administration would review the effectiveness of section 128B of Cap. 132, since it had come into effect for more than two years. DFEH responded that he welcomed members' views on whether section 128B of Cap. 132 should be amended.

32. Mr WONG Yung-kan said that instead of stepping up control measures against unlicensed operation of food businesses, the Administration should streamline the licensing process. Mr WONG further said that at the meeting of the Subcommittee to Study the Streamlining of Food Business Licensing on 5 March 2005, some deputations considered that the licensing authority should make available to the applicants a list of premises which were not suitable for food business, so that the applicants would not waste time and money in pursuing the projects.

33. DFEH said that the Administration would consider how the licence processing time could be further shortened having regard to resources constraints, and the need to maintain public health and safety. DFEH further said that given the large number of buildings in Hong Kong, it would be difficult, if not impossible, for the Administration to compile a list of all buildings or premises which were not suitable for operating food premises. Moreover, there were grey areas regarding the use of certain premises, for example, some premises might be considered suitable after alteration. Nevertheless, FEHD would request Buildings Department to advise as early as practicable if the premises under application were unsuitable or already designated for use other than food premises.

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34. Mr Andrew CHENG recalled that when the proposal to add a new section 128B to Cap. 132 was scrutinised by the relevant Bills Committee, the Administration had advised the Bills Committee that the proposal could provide sufficient power for DFEH to enforce against unlicensed operation of food premises. However, it seemed that the Administration now considered the legislation did not have sufficient deterrence against unlicensed food businesses. He asked whether DFEH had encountered any difficulties in this regard, and what was the average time taken for a closure order to be issued by the court under section 128B of Cap. 132.

35. DFEH said that before the introduction of section 128B of Cap. 132, the process for applying for a closure order from the court took eight to nine months. At that time, the licensing authority had first to prosecute the operator of an unlicensed food establishment by summons and secure a conviction before applying to the court for a Prohibition Order. When the Prohibition Order had been breached and the operator convicted, FEHD could then apply to the court for a closure order. DFEH further said that after the enactment of section 128B of Cap. 132, DFEH was empowered to make a direct application to the court for a closure order, and the process took about six to eight weeks. He would provide information on the time taken in those cases which FEHD had successfully applied for closure orders from the court on unlicensed food premises.

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36. Mr Andrew CHENG said that taking six to eight weeks to apply for a closure order was still too long if the unlicensed food establishments were unsafe and posed health hazard to the public. He hoped the enforcement departments could take a more determined approach in processing cases warranting the issuance of a closure order.

37. DS(FEH) said that DFEH was empowered under section 128C of Cap. 132 to close the food premises if he had reasonable cause to believe that the use of such premises posed an immediate health hazard, irrespective of whether the food premises concerned were licensed or not. DS(FEH) further said that DFEH would apply for a closure order under section 128B for unlicensed food premises if the premises concerned did not pose an immediate health hazard. The Administration would have to strike a balance between the need for further strengthening the powers of DFEH in making closure orders under Cap. 132, and enhancing administrative measures to ensure food safety and hygiene standards of food premises.

38. Mr WONG Kwok-hing said that the proposal of suspension of issue of licence would not provide sufficient deterrence to those unscrupulous operators. He suggested that DFEH should be empowered to make a closure order to unlicensed food premises.

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39. Dr KWOK Ka-ki said that DFEH could make a closure order under section 128C to unlicensed food premises only if the premises posed immediate health hazard such as an outbreak of food poisoning cases. If this had proven to be inadequate in safeguarding public health, legislative amendments should be made to enhance DFEH's powers in this respect.

40. Mr Tommy CHEUNG objected to the proposal of empowering DFEH to make a closure order under section 128C to unlicensed food premises. Mr CHEUNG said that the present proposal to stop processing the licence application of an applicant who was found operating unlicensed food business would already "kill" the industry. Mr CHEUNG also expressed concern about the proposal of refusing the application and imposing a ban on an applicant, who was convicted for operating unlicensed food premises, for six months.

41. Mr Andrew CHENG said that from the experience of the recent food poisoning incidents at Langham Place, the existing mechanism had proven to be inadequate as the Administration could only make closure orders against unlicensed food premises on grounds that it posed public health hazard. Mr CHENG asked the Administration to explain the circumstances for invoking the powers under section 128C of Cap. 132.

42. DFEH said that the former Bills Committee had discussed in great detail the procedures for invoking section 128C of Cap. 132 by DFEH. FEHD had followed such procedures so far. For example, he had made closure orders to food premises under section 128C in relation to food poisoning cases and presence of Vibro Cholerae in fish tank water. The Administration would further consider members' views regarding empowering DFEH to make a closure order to unlicensed food premises.

43. The Chairman concluded that three members considered the Administration's proposal inadequate to deter the operation of food business without licences, and they had suggested empowering DFEH to make a closure order to unlicensed food premises under section 128B. Two members, however, opposed the proposed control measures. The Chairman requested that the Administration should consider members' views and revert to the Panel later.

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V Fisheries Protection (Amendment) Bill

[LC Paper Nos. CB(2) 988/04-05(04) to (06) and CB(2)1027/04-05(06)]

44. The Chairman said that two submissions, one from World Wide Fund Hong Kong and the other from "香港漁業聯盟", had been received and issued to members.

45. DS(FEH) briefed members on the legislative proposal which sought to establish a framework to regulate fishing activities in Hong Kong waters. He said that the Administration proposed to establish a fishing licence system, designate fisheries

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protection areas (FPAs) and implement a territory-wide “closed season”. An extensive consultation exercise involving fishermen groups, advisory committees, District Councils and the public was conducted. Most of the consulted groups were generally supportive to the proposed fishing licence system, while the proposal to designate FPAs were welcomed by the inshore small craft fishermen. As to the “closed season” proposal, the majority of the fishing community had expressed reservation, but some 1 000 responses received through e-mail indicated support to the proposal. The Administration would study ways to assist the affected fishermen, e.g. by developing the leisure fishing industry.

46. Assistant Director (Fisheries) of the Agriculture, Fisheries and Conservation Department (AD/AFCD) said that the views solicited during the public consultation exercise were summarised in the paper. He added that the green groups and academics had expressed support for the proposals. However, most fishermen associations opposed to the “closed season” proposal as this would have impact on their livelihood during such periods. The Administration would study all the views received during the consultation period, and examine the impact of the proposals on the fisheries industry.

Regulatory framework

47. The Chairman asked about the number of local fishing vessels and fishermen to be brought under the proposed regulatory framework, and the annual fish catch of these fishermen.

48. AD/AFCD said that there were presently over 3 000 vessels engaging in inshore fishing. While most of these fishing vessels were small-sized vessels and sampans, there were several hundreds medium-sized trawlers engaged in trawling activities in Hong Kong waters. Apart from these 3 000 vessels, there were also about 1 000 large-sized trawlers operating outside Hong Kong waters. Principal Assistant Secretary for Health, Welfare and Food (Food and Environmental Hygiene)2 (PAS(FEH)2) supplemented that the total number of fishing vessels operated by fishermen in Hong Kong was about 4 000. Of these vessels, there were 1 400 to 1 500 vessels engaged in trawling activities, and that only about 500 to 600 trawlers and purse-seiners relying wholly or partially on Hong Kong waters for fishing. If the “closed season” proposal was to be introduced, it was estimated that about 600 fishing vessels would be affected.

49. AD/AFCD said that based on the information collected from local fishermen, the annual fish catch in Hong Kong waters ranged from 10 000 tons to 30 000 tons. According to the consultancy study completed in 1998, the fish catch had decreased by 50% as compared with that in 1989. After 1998, the fish catch of vessels less than 15 metres long had increased slightly, probably because of the fisheries protection and conservation measures introduced over the past few years. PAS(FEH)2 added that an

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increase in the number of fishing vessels operating in Hong Kong waters also accounted for an increase in fish catch from 1998 onwards.

50. Dr KWOK Kai-ki noted that the Administration had identified Tolo Harbour and Port Shelter as potential FPAs. Dr KWOK asked about the fish catch from these two areas during the proposed two-month closed season and its value. Dr KWOK further asked about the enforcement of the regulatory framework and the licence fee.

51. PAS(FEH)2 and AD/AFCD said that the fishing licence system would be enforced by AFCD. Under the system, fishing activities conducted within Hong Kong waters without fishing licences or permits would be an offence. AFCD would strengthen enforcement efforts and conduct joint operations with the Marine Police after the implementation of the fishing licence system. PAS(FEH)2 said that the licence fee would be calculated based on the full cost recovery principle. He estimated that a two-year licence fee would be in the region of \$200 to \$300. On the fish catch from the two proposed FPAs, AD/AFCD said that the proposed two FPAs would account for 8.3% of the total area of Hong Kong waters and on a pro-rata basis, the fish catch there represented about 8.3% of the total fish catch of Hong Kong. The two areas were selected because they were important spawning and nursery grounds for many species of fish.

Impact on the fishing industry

52. Mr Vincent FANG said that the fishing industry expressed strong opposition to the proposal. Mr FANG pointed out that the decline of overall fish catch from Hong Kong waters, coupled with the reclamation activities being carried out in Hong Kong waters, had made it most difficult for the fishing industry to survive. Mr FANG further said that the industry was also concerned that the number of fishing vessels would increase significantly if fishing licences were also issued to P4 vessels and transportation vessels. The livelihood of fishermen would be further affected if they were not allowed to fish in the designated FPAs and during the “closed season”. Mr FANG considered that the proposed measures would “kill” the industry. The Administration should consider offering compensation to the affected fishermen if these measures were to be implemented.

53. Mr Vincent FANG said that while the Administration had allocated \$20 million to set up a special loan fund to provide financial assistance for offshore fishing, the Fund was inadequate as it could only support three to four offshore fishing vessels. Nevertheless, there were very few applications for the Fund, showing that local fishermen were not keen about offshore fishing.

54. PAS(FEH)2 said that P4 vessels were also counted in the total number of existing fishing vessels operating in Hong Kong. Their inclusion in the proposed licensing system would not increase the number of fishing vessels in Hong Kong. DS(FEH) said that there was presently no fisheries-related legislation restricting

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vessels from fishing in Hong Kong waters. With the introduction of a licensing system, the number of fishing vessels and vessel engine power would be put under control. This would prevent further adverse impact on the ecosystem and help enhance the sustainability of local fishery industry for the long term. DS(FEH) further said that the Administration was aware of the concern expressed by the fishing industry about their livelihood during the “closed season” for fishing. The fishing industry had in fact proposed the development of leisure fishing during the “closed season”, and HWFB and AFCD were discussing with the Marine Department to explore its feasibility.

55. Regarding the disappointing response to the special loan fund, DS(FEH) said that the Administration would review the loan application process with a view to encouraging more applications from the fishing industry. PAS(FEH)2 said that the Administration would consider increasing the capital injection to the special loan fund if more applications were received.

56. Mr WONG Kwok-hing referred to the submission from 香港漁業聯盟 and said that the fishing industry strongly opposed the proposed regulatory framework for fishing activities. Mr WONG then highlighted the views stated in the submission and made the following comments –

- (a) the views collected by the Administration during the consultation were misleading. For example, the views of those District Councils where there were no fishing activities should not be counted as the views of the concerned parties;
- (b) the Administration failed to give an account for the steady decline in fisheries resources and fish catch in Hong Kong waters, which were due to the dredging works connected with the Government reclamation projects;
- (c) the Administration had not provided complete information on the implementation of a “closed season” for fishing in the Mainland and whether such policy was being reviewed by the Mainland authorities; and
- (d) the Administration had not provided information on the assistance to be provided given that 2 600 fishing vessels would be affected, and there were on average six deckhands working on a fishing vessel. About 15 600 households would face financial hardship during the “closed season”.

Mr WONG suggested that the fishing industry should be invited to give views to the Panel.

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57. PAS(FEH)2 and AD/AFCD made the following response -

- (a) the Administration had conducted wide public consultation on the proposed regulatory framework for fishing activities. The Fisheries Management Working Group comprising representatives of fishermen had studied the proposed regulatory framework since 1999. AFCD launched a public consultation exercise in 2000 to solicit the views of the relevant fisheries organizations, District Councils and the public. The Capture Fisheries Sub-committee formed under the Advisory Committee on Agriculture and Fisheries also discussed the proposal twice in 2003. After studying the views received, the Administration proceeded with the drafting of the legislative proposal and then launched another public consultation exercise in 2004;
- (b) any reclamations proposed in relation to any foreshore and sea-bed was subject to the Environmental Impact Assessment Ordinance, and mitigation measures would be carried out if considered necessary;
- (c) the “closed season” policy in the South China Sea introduced since 1999 had proven to be useful in conserving and protecting fisheries resources in the area. The Mainland had recorded an increase of two to three folds in the overall fish catch and average size of catch for certain species in certain areas; and
- (d) only about 600 trawlers and purse-seiners relying wholly or partially on Hong Kong waters for fishing would be affected by the “closed season” arrangement. The Administration was discussing with the fishing industry the assistance to be provided to the affected fishermen, such as financial assistance and development of leisure fishing during the period.

58. Responding to the Chairman, AD/AFCD said that to his understanding, the Mainland authorities would conduct periodic review of its “closed season” policy, and that there was no intention to abolish the policy. At the request of the Chairman, AD/AFCD agreed to seek clarification from the Mainland in this regard.

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59. DS(FEH) reiterated that it was estimated that the proposed “closed season” for fishing would affect about 600 trawlers and purse-seiners which relied wholly or partially on Hong Kong waters for fishing. DS(FEH) pointed out that while the legislative proposal sought to provide a legal framework for the “closed season” arrangement, it did not necessarily mean that the Administration planned to implement the proposal shortly. The Administration would conduct full consultation with the

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fishing industry, the public and relevant parties on details of the “closed season” before its implementation.

60. Mr WONG Kwok-hing expressed dissatisfaction that the Administration had not addressed the financial problem of the 15 600 households affected by the “closed season” proposal. Mr WONG said that it was infeasible for the fishermen to use their fishing vessels for leisure fishing.

61. DS(FEH) pointed out that the suggestion of developing alternative mode of fisheries operation such as leisure fishing was put forward by the fishing industry. DS(FEH) said that as fishing vessels were not permitted to carry passengers, his colleagues were exploring the feasibility of the proposal with the Marine Department.

62. Dr KWOK Ka-ki said that while he agreed that the “closed season” proposal would help restore the fish stocks to a sustainable level, he considered that the Administration had not provided adequate measures to alleviate the financial hardship faced by fishermen during the “closed season”. Dr KWOK was concerned that the deckhands working on the vessels would not be paid during the “closed season”. Dr KWOK further said that to enable fishermen to carry out fishing activities during the “closed season”, Hong Kong should avoid synchronising the “closed season” for fishing with that of the Mainland. Dr KWOK added that the decline in fisheries resources was largely caused by the dredging works carried out by Government in seashore and sea-beds. Dr KWOK urged that the Administration should provide more information on the financial assistance and compensation offered to affected fishermen when the relevant legislative proposal was introduced into the Legislative Council (LegCo).

63. PAS(FEH)2 said that the Administration’s preliminary thinking was to make reference to the “closed season” implemented by the Mainland in the South China Sea, i.e. covering June and July in each year and prohibiting only certain fishing methods such as trawling and purse seining. He stressed that it was estimated about 600 fishing vessels would be affected. AD/AFCD added that there were different views on the timing for the “closed season”. Some fishermen had pointed out that it might be easier for them to adapt to the arrangement if the “closed season” in Hong Kong and Mainland was the same. The Administration would consider the suitable arrangement for the “closed season” in due course.

64. PAS(FEH)2 further said that as he had explained earlier, financial assistance would be provided to the affected fishermen. PAS(FEH)2 informed members that following the implementation of the “closed season” policy in the South China Sea, AFCD had provided loans up to a maximum of \$80,000 to fishermen during the closed season. If the depletion of fisheries resources was caused by the reclamation works, the affected fishermen would be offered ex-gratia payment. AD/AFCD added that the affected vessels were mainly operated on a family basis, and some vessel owners employed deckhands from the Mainland to assist in fishing operations.

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65. Mr Tommy CHEUNG asked whether the Administration had conducted the regulatory impact assessment for the proposal. DS(FEH) said that as the fishing industry would benefit from an increase in overall fish catch, there was no need for the Administration to conduct the regulatory impact assessment.

66. Mr Tommy CHEUNG said that the fishing industry had raised strong opposition to the proposal. He wondered whether the Administration would consider the industry's views and amend the proposal before introducing the Bill into LegCo. To better understand the industry's concerns, Mr CHEUNG suggested that the Panel should invite the industry to give views on the legislative proposals.

67. DS(FEH) reiterated that most of the consulted groups were generally supportive to the proposed fishing licence system and FPAs areas, although there were different views on the "closed season" proposal. DS(FEH) said that the Panel was being consulted on the general principle of the legislative proposal. Should the Panel consider that the implementation of an annual territory-wide "closed season" for fishing should be shelved, the Administration would consider taking it out from the legislative proposal. He hoped that the legislative proposal for the fishing licence system and FPAs could be introduced into LegCo, since they had been discussed for a long time.

68. The Chairman said that in view of the strong views expressed by the industry, the Panel would hold a special meeting to receive views from the fishing industry. Members agreed that a special meeting should be held on 26 April 2005 at 10:45 am to meet with deputations to discuss the legislative proposal.

VI Any other business

69. There being no other business, the meeting ended at 4:42 pm.