

## A. Introduction

The Audit Commission (Audit) carried out a review to examine the economy, efficiency and effectiveness of the Agriculture, Fisheries and Conservation Department (AFCD) in the management of the Government's fresh food wholesale markets (wholesale markets). The review focused on the following areas:

- letting of market facilities;
- managing the daily operation of wholesale markets;
- outsourcing the operation of the North District Market;
- reprovisioning of outdated wholesale markets; and
- other areas for improvement.

2. **Dr Hon York CHOW Yat-ngok, Secretary for Health, Welfare and Food<sup>1</sup>**, and **Mrs Stella HUNG, Director of Agriculture, Fisheries and Conservation**, respectively made an opening statement at the Committee's public hearing. Their statements are in *Appendices 29 and 30* respectively.

## B. Letting of market facilities

### Utilisation of market facilities

3. According to paragraphs 2.5 to 2.13 of the Director of Audit's Report (Audit Report), many of the market facilities in the three government wholesale markets, namely, the Cheung Sha Wan Wholesale Food Market Phase 1 (CSW Market), the Western Wholesale Food Market (Western Market) and the Cheung Sha Wan Temporary Wholesale Poultry Market (CSW Poultry Market), had been vacant for some years. The Committee asked how the AFCD would address the situation.

4. The **Director of Agriculture, Fisheries and Conservation** stated that:

- the rental position of market facilities was affected by many factors. For example, the AFCD had stopped renting out live poultry stalls at the Western Market and the CSW Poultry Market in order to reduce the risk of the spreading of avian flu. There was also a rising trend in recent years for retailers of eggs and fruit to import products directly from importers without the help of wholesalers, hence the demand for wholesale market stalls had declined;

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<sup>1</sup> After the re-organisation of the Government Secretariat with effect from 1 July 2007, the Secretary for Health, Welfare and Food has been retitled the Secretary for Food and Health.

- the AFCD had been working on improving the utilisation of the wholesale markets. In 2002, a quarter of the poultry market of the Western Market was modified to accommodate the tenants of the Central Market who were affected by redevelopment. Vacant trade offices were also allocated to other departments for use as offices or stores, which would help save their rental expenditure incurred in leasing accommodation in commercial buildings; and
- the AFCD would actively follow up with the Government Property Agency (GPA), the Lands Department (LandsD), the Architectural Services Department (ArchSD) and other departments concerned to rent out the vacant facilities for alternative use.

5. The Committee noted that four of the five piers at the Western Market had been unused for more than five years, with one having never been used since the commissioning of the market in October 1991. In his letter of 27 April 2007 in *Appendix 31*, the **Acting Director of Agriculture, Fisheries and Conservation** provided a chronology of the actions taken in respect of the vacant piers since the matter was raised in Audit Report No. 27 of October 1996. As the AFCD had failed to identify an alternative use of the vacant piers despite its efforts in the last 10 years, the Committee asked how the Administration would resolve the problem.

6. The **Director of Agriculture, Fisheries and Conservation** responded that:

- the piers at the Western Market suffered from rough sea conditions generated from heavy high-speed boat traffic at nearby terminals, rendering them unsuitable for wholesale use. As a result, importers turned to road traffic, thus further reducing the need for the piers. The AFCD had made great effort to explore different options for using the piers, but it was all to no avail; and
- in order to identify a final proposal for using the piers, the AFCD had recently set up an ad hoc group with other relevant government departments to conduct a comprehensive review of the matter. The departments included the GPA, the Civil Engineering and Development Department (CEDD), the Marine Department and the ArchSD. Other departments might be invited to join when necessary.

7. Given that the four piers had been idle for more than 5 years, the Committee enquired how long it would take for the ad hoc group to identify a final proposal for disposing of the piers.

8. The **Director of Agriculture, Fisheries and Conservation** said that the AFCD would pursue the matter expeditiously and the ad hoc group had already held meetings. However, it would inevitably take a longer time to arrive at a thorough and final decision. The departments would have to consider different issues, such as whether there was really an alternative use of the piers and the cost-effectiveness of any proposal. She expected that the ad hoc group might be able to come up with a preliminary report in six months, i.e. by the end of October 2007.

9. The Committee queried the need for taking such a long time to make a decision on the matter. It noted that the AFCD's actions in the past 10 years to revitalise the use of the vacant piers had not been successful. No government departments had indicated that they had any use of the piers and advertisements inviting interested parties to rent the piers had failed to attract any interest. Given that retaining the piers would incur maintenance costs, the Committee asked:

- whether it would be more economical to demolish the piers than to spend more time and effort in finding a possible use of them; and
- about the maintenance costs of the vacant piers in each of the past five years, and the costs of demolishing them.

10. The **Director of Agriculture, Fisheries and Conservation** and **Dr LIU Kwei-kin, Assistant Director (Agriculture), AFCD**, stated that:

- the piers were only vertical seawalls extending from the waterfront. As they were not grand structure, the expenditure incurred in maintaining them was not much;
- the AFCD accepted the recommendation in paragraph 2.17(b) of the Audit Report that it should explore other options of using the four unused piers at the Western Market. Options being considered included keeping the piers for use by wholesale markets, modifying them for use by other trades, and using them as seawalls but not piers. Demolition would also be considered at the same time; and
- as all options would involve some modification costs, the AFCD needed to work in conjunction with the GPA to consult other professional departments and examine the cost-effectiveness of each proposal before coming up with a final one. The process would inevitably take some time.

11. In her letter of 14 May 2007 in *Appendix 32*, the **Director of Agriculture, Fisheries and Conservation** informed the Committee that as advised by the CEDD, the maintenance costs of the vacant piers at the Western Market in each of the past five

years were: \$234,600 (2002-2003); \$168,000 (2003-2004); \$0 (2004-2005); \$535,000 (2005-2006) and \$120,700 (2006-2007). The estimated cost of demolishing the vacant piers would be \$1.82 million, subject to future tender price changes.

12. It appeared to the Committee that the piers were clearly not suitable for use by the wholesale markets. It questioned why the AFCD had to waste another six months on consulting other government departments, instead of informing the GPA at once of this fact and inviting the latter to help identify other uses of the piers, thus giving rise to concern that public resources would continue to be left idle.

13. The **Director of Agriculture, Fisheries and Conservation** agreed that it was very unlikely that the piers would be kept for wholesale market use. She said that the AFCD had already informed the GPA that it was necessary to find another use of the piers. However, as the piers had all along been the AFCD's premises, the department had the responsibility to coordinate with other government departments to see if they had other ideas of using the piers to identify a final option. Given the Committee's concern, the AFCD would discuss with the relevant departments with a view to expediting the process.

14. The **Secretary for Health, Welfare and Food** supplemented that the Administration also wanted to resolve the matter as soon as possible. In making a decision, the AFCD would have to consult the traders concerned to ascertain their need of the piers. If it was confirmed that they no longer needed the piers, the AFCD would decide on the future of the piers in consultation with other departments. The Administration would submit a report in this regard in six months' time.

#### Collection of rentals

15. According to paragraph 2.30 of the Audit Report, the rentals in arrears for the three wholesale markets on 31 March 2006 but still outstanding as at 30 June 2006 amounted to \$6.4 million, which had increased by \$2.6 million as compared with the arrears position as at 30 June 2005. The Committee asked whether the AFCD had a procedure for collecting rentals in arrears.

16. The **Director of Agriculture, Fisheries and Conservation** and the **Assistant Director (Agriculture)** stated that:

- there was an established procedure in the AFCD to recover overdue rents from tenants of wholesale markets. When a tenant was found in default, the AFCD would issue a demand letter for settlement. If the tenant still failed to pay up, the case would be referred to the Department of Justice (D of J) in the fourth month of default for legal actions. The D of J would then issue a

demand letter to the tenant. If the tenant still did not respond positively, the D of J would obtain a writ from the court for payment of outstanding rents and re-possession of the market premises, failing which the D of J might initiate bankruptcy proceedings to recover the arrears;

- regarding the outstanding arrears of \$6.429 million as at 30 June 2006 listed in Table 6 of paragraph 2.30 of the Audit Report, a total of 84 tenants were involved. All of these cases, except four in which the default periods were under four months at the time, had been referred to the D of J for debt recovery. Among them, 13 tenants had been declared bankrupt. As soon as the liquidation process of these cases came to an end, the AFCD would proceed to write off the outstanding sum. In addition, 17 tenants had already settled the defaulting amounts, while another 11 tenants had made partial payments or started to repay in instalments. The D of J had also issued letters or legal documents to 19 tenants to recover the arrears, and had applied to the court for bankruptcy orders for another five tenants with a view to recovering the arrears from their remaining assets; and
- the AFCD will take follow up action on the remaining cases in accordance with Audit's recommendations and recover the arrears in cooperation with the D of J. The AFCD would also implement other recommendations for improvement to prevent such cases in future.

17. In the light of the AFCD's response, the Committee asked:

- why, despite the AFCD's procedure for recovering overdue rents, some cases were still not settled after a long period of time. As revealed in Table 6 of the Audit Report, some \$3.5 million had been in arrears for more than two years;
- whether the AFCD had followed up the cases diligently or had relied on the D of J to take legal actions; and
- about Audit's view on whether the AFCD had complied with its rent recovery procedure and whether the procedure was effective.

18. The **Assistant Director (Agriculture)** explained that:

- the AFCD's total rental income each year was about \$70 million, whereas the rental arrears were about \$6 million, which was less than 10% of the total rental income;

- before a case was referred to the D of J in the fourth month of default, the AFCD would issue a reminder to the tenant every month. The reminder informed the tenant of his obligations, pointed out that the rent was in arrears and demanded payment of the rent. As soon as the tenant paid back the rent, the case would be closed. It was only when the tenant had failed to pay the rent for four months would the AFCD turn to the D of J for recovery through legal means. In such circumstances, the AFCD would work with the D of J to recover the rent in arrears; and
- some cases needed more time to settle because the defaulter might have closed down his business, making it difficult for the AFCD to locate him. As the legal documents issued had to be delivered to the defaulters, the AFCD would have to locate them with the assistance of the Immigration Department. This would take some time. Also, legal proceedings were time-consuming.

19. **Mrs Josephine NG, Assistant Director of Audit**, said that AFCD staff had followed the department's procedure to recover overdue rents. However, the AFCD did not require its staff to follow up a case after it had been referred to the D of J for action, despite that very often such cases would take a long time to settle. Audit considered that AFCD should make improvement in this regard.

20. In response to the Committee's request, the **Director of Agriculture, Fisheries and Conservation** provided, in her letter of 14 May 2007, details of the rent recovery actions taken by the AFCD in respect of the 84 cases referred to in Table 6 of the Audit Report. She also said that following the discussion at the Committee's public hearing on 30 April 2006, the AFCD had liaised with the D of J to establish a "b.u." (i.e. "bring up") system for checking progress on cases that had been referred to the latter for debt recovery.

21. The Committee noted Audit's observation in paragraph 2.33 of the Audit Report that the AFCD did not have procedural guidelines for writing off its long outstanding arrears. The Committee enquired at which point the AFCD would decide to write off an overdue rent.

22. The **Assistant Director (Agriculture)** replied that in the past the AFCD would only initiate write-off action after the bankruptcy order had expired, which meant after a lapse of four years, and the action might take five or six years to complete. In view of Audit's concern, the AFCD's latest thinking was that it would start the action to write off an overdue rent after the D of J had exhausted its means to recover the debt or to locate the defaulter, but in vain.

23. The Committee referred to paragraph 2.27 of the Audit Report which stated that the tenancy agreements between the AFCD and traders for renting market facilities of the government wholesale markets provided that if rental was in arrears for over 14 days, the Government was entitled to re-possess the stall and deduct from the rental deposit the amount in default. The Committee asked:

- why the AFCD did not rigorously enforce its tenancy agreements but waited until a tenant had been in default for four months and then referred the case to the D of J for legal action;
- who decided that a default case would not be referred to the D of J until the fourth month of default; and
- whether the AFCD's practice would encourage the tenants to delay paying rents.

24. The **Assistant Director (Agriculture)** stated at the public hearing and the **Director of Agriculture, Fisheries and Conservation** in her letter of 14 May 2007 that:

- the practice of referring a default case to the D of J for legal action after the tenant had not paid rents for four months had been adopted ever since the commissioning of the wholesale markets. The timing was also stipulated in the "Guidelines on Recovery of Overdue Rents for Government Wholesale Food Markets" which had been agreed to by the Independent Commission Against Corruption. The Guidelines had also been reviewed by the AFCD's Accounts and Supplies Division which was headed by a Senior Treasury Accountant seconded to the AFCD from the Treasury;
- the AFCD enforced its tenancy agreements having regard to the actual circumstances of the market tenants. The AFCD had allowed greater flexibility for the tenants to pay rents in order that those with genuine financial difficulties temporarily would have a greater chance to settle their outstanding rents and continue to operate. The AFCD would certainly refer a default case to the D of J after four months and terminate the tenancy if the tenant failed to pay up;
- during the period from 1 March 2006 to 30 June 2006, the number of cases in which a tenant, whose rent had been in arrears for 14 days, subsequently paid back the rent within a four-month period of default was 303; and
- in the light of Audit's comments, the AFCD would review its rental collection procedures to identify any room for improvement.

25. In response to the Committee's enquiries, the **Director of Agriculture, Fisheries and Conservation** said at the hearing and in her letter of 14 May 2007 that:

- the AFCD would use the Treasury's General Demand Note System to enhance its rental collection procedures, as recommended by Audit; and
- regarding Audit's proposal of imposing a surcharge on overdue rentals, the AFCD had sought the D of J's advice and was working out the logistic arrangements. Subject to the D of J's advice, the AFCD would proceed to consult the market tenants on the surcharge proposal and amend the existing tenancy agreement with the tenants which was due to expire on 31 March 2008. Depending on the D of J's advice, the surcharge proposal would be implemented in the new tenancy agreement.

### **C. Managing the daily operation of wholesale markets**

#### Inspection of the wholesale markets

26. According to paragraphs 3.5 to 3.7 of the Audit Report, inspections and supervisory checks for the wholesale markets were not carried out as frequently as required by the "Inspection Manual for Cheung Sha Wan Wholesale Food Market" (Inspection Manual) issued in 2004, particularly at the Western Market. Although the AFCD said that the Inspection Manual was applicable to all the three wholesale markets, Audit pointed out that, in the absence of written instructions, it was possible that staff at the Western Market might not know that the Inspection Manual was also applicable to them. The Committee asked whether the AFCD agreed that Western Market staff might have such misunderstanding.

27. The **Director of Agriculture, Fisheries and Conservation** and the **Assistant Director (Agriculture)** responded that:

- Western Market staff had not carried out inspections as frequently as required by the Inspection Manual mainly because of manpower shortage as they had to take up additional duties arising from the malachite green food incident and the introduction of the market entry registration system at that time, and not because they did not know that the Inspection Manual also applied to them;
- the AFCD did not accept the less-than-required number of inspections in the Western Market. The AFCD had already deployed staff to ensure that the inspections in each shift were carried out. The service contractors had also been required to deploy one supervisor and two foremen for each shift at each market so as to step up supervision of their frontline staff in completing the assigned jobs; and

- after Audit raised concern about possible confusion caused by the title of the Inspection Manual, the AFCD had immediately amended the title of the Inspection Manual, making it clear to all market staff that the Inspection Manual was applicable to all wholesale markets under the AFCD's direct management.

28. The Committee noted Audit's observations in paragraphs 3.13 and 3.14 of the Audit Report that there was little guidance in the Inspection Manual on the need to ensure that the tenants had complied with the tenancy requirements. In the course of an inspection, it would be at the discretion of the AFCD staff to look for non-compliance and to decide on what action should be taken. Audit considered that in the absence of clear guidelines, questions could arise about the reasonableness of an inspection staff's judgement on a particular case, and about the consistency of judgement of different staff handling similar cases. The Committee asked how the AFCD would address these problems.

29. The **Assistant Director (Agriculture)** stated at the public hearing and the **Director of Agriculture, Fisheries and Conservation** in her letter of 14 May 2007 that:

- the AFCD accepted Audit's recommendation in this regard. To improve market management, the AFCD was updating and improving the inspection guidelines, which would give clear instructions to market staff on inspection and reporting of non-compliance with the tenancy requirements; and
- three levels of staff were involved in the market inspection system which would ensure the reasonableness of an inspection staff's judgement on a particular case. Under the system, a Field Assistant carried out daily inspection of the market and recorded his findings in an inspection form. A supervisory staff at the Senior Field Assistant or Field Officer I level spot-checked 20% of the inspected items on a daily basis. A Senior Field Officer spot-checked the records of the supervisory staff at random to ensure that the work was carried out properly.

30. The Committee asked about the seriousness of the problem of non-compliance with tenancy requirements in the markets. The **Assistant Director (Agriculture)** responded that:

- there had been cases in which a stall was not used solely for the purposes specified in the tenancy agreement. For example, an egg stall sold lemons in addition to eggs. However, it was uncommon that a stall which should sell a particular type of fresh food according to the tenancy agreement completely changed to selling another type of fresh food; and

- as there were many vacant stalls in the wholesale markets, the AFCD was discussing with the existing tenants to see if they were interested in renting the vacant stalls for selling those fresh food items which had been sold in breach of the tenancy agreement, such as cold drinks and bean curd.

#### Market entry registration system

31. Paragraph 3.18 of the Audit Report stated that since May 2006, the AFCD had strengthened the security control of the CSW Market and the Western Market by introducing an entry registration system. However, in paragraph 3.21, Audit commented that the existing entry registration procedures could not provide adequate security control. In its response in paragraph 3.25(f), the Director of Agriculture, Fisheries and Conservation said that there were practical difficulties for security personnel to collect all the information (i.e. market users' names, identity card numbers and purposes of visit) without causing serious delay and provoking some of the more uncooperative elements in the wholesale market on a daily basis.

32. Against the above background, the Committee enquired:

- about the objectives and justifications for introducing the entry registration system;
- whether the AFCD considered that the system could achieve its intended objectives; and
- whether the AFCD had not been able to strengthen the control of the wholesale markets despite the introduction of the system because it did not want to provoke the uncooperative people in the markets.

33. The **Director of Agriculture, Fisheries and Conservation** stated at the public hearing and in her letter of 27 April 2007 that:

- the objective of the entry registration system was to register all visitors and users entering the wholesale markets to deter unscrupulous people from using these markets for unlawful activities. In April 2006, it was alleged that imported live freshwater fish without proper health certificates were landed at, and then distributed from, the wholesale markets. It reflected that there was a general need to improve access control at these markets;
- when the system was first introduced, the market users were not familiar with the arrangements and did not cooperate. For example, some people were not willing to provide their full name for registration by the security staff. There were also practical considerations. Owing to the large number of people and

vehicles visiting the wholesale markets each day, particularly within a few hours in the early morning, conflicts between the market users and the security staff would adversely affect the operation of the wholesale markets and the distribution of fresh food from the markets. Under such circumstances, the AFCD considered verbal provision of information a practical alternative. Some people were allowed to provide their surnames instead of their full names. Nevertheless, as the operation of the system became more smooth, the market users were more cooperative. Meanwhile, the AFCD was working on automating the entry registration procedures for Market Entry Permit holders, which would further improve the situation;

- so far the AFCD considered the system effective. It helped to prevent people unrelated to the wholesale trades from using the markets for various other activities. It also helped law enforcement agencies to monitor illegal activities in the markets. Both the Police and the Immigration Department had made use of the data to plan and stage law enforcement operations. The number of illegal workers and uncooperative people found in the wholesale markets gradually dropped. When the system was newly introduced, about 120 suspects were arrested in July 2006. One suspect was arrested in another operation. Nine suspects were arrested in October 2006 and seven in January 2007. No one was arrested in an operation in March; and
- the AFCD and the Police would jointly review the effectiveness of the system in 2008 and identify areas for improvement.

#### Outsourcing the operation of the North District Market

34. According to paragraphs 4.5 to 4.8 of the Audit Report, the AFCD had extended the contract for operating and managing the North District Market, which had been in force since December 2000 (the 2000 contract), five times for a total period of three years and four months. As a result, the Government missed an opportunity to obtain another one-off premium through open market bids. The AFCD considered that the various extensions for the 2000 contract were unavoidable. Paragraph 4.11 and 4.12 of the Audit Report also revealed that on several occasions, the AFCD submitted its applications for contract extensions in less than one month's time before the contract expired. As such, the Financial Services and the Treasury Bureau's approval could only be given close to the contract expiry dates.

35. The Committee queried why the AFCD had not allowed sufficient time for conducting the tendering exercise, and resorted to extending the contract repeatedly. It also asked why the AFCD submitted the application for contract extension only shortly before the expiry of the contract.

36. The **Director of Agriculture, Fisheries and Conservation** and the **Assistant Director (Agriculture)** stated that:

- the first extension of 24 months was an option provided in the contract and should be exercised when the contractor provided good performance. This first extension was scheduled to expire in November 2005, and the AFCD had started preparing for tendering in January 2005, 11 months before the expiry date. A tendering exercise was then conducted. However, as the information provided by the tenderers was not complete, the AFCD had to seek the advice of the D of J. The D of J subsequently advised the AFCD in February/March 2006 that the submissions did not conform to the tender requirements. In the circumstances, the AFCD had to re-tender the contract;
- the AFCD originally hoped to re-tender in April/May 2006. However, due to the occurrence of food safety incidents concerning malachite green and toxic vegetables at that time, there was a need to strengthen the management of wholesale markets. The AFCD therefore decided that the contractor should be required to provide additional manpower for collecting health certificates and the tender/contract documents had to be amended accordingly. In addition, there was a need to consider including a liquidated damages clause in the new tender/contract documents, in order to compensate the Government if the contractor did not fulfil the contractual requirements. Much time was spent in consulting the D of J. All these caused delay to the tendering exercise;
- once the new tender/contract documents were finalised in October/November 2006, the AFCD proceeded with the tendering exercise in December 2006. This exercise was successful and the North District Market was now operated by a new contractor;
- the AFCD repeatedly extended the contract because the staff concerned had under-estimated the time required for handling the various issues that arose in the course of the tendering exercise. At first it was thought that the work could be completed after the contract was extended for one month. However, after one month they realised that more time was needed and further extension had to be sought; and
- the AFCD fully accepted Audit's recommendation and would allow more lead time in future tender exercises.

37. The Committee noted from paragraphs 4.13 and 4.14 of the Audit Report that the market contractor was required under the 2000 contract to furnish monthly to the AFCD information relating to his operation of the market. However, except for market throughput, the market contractor had not furnished monthly to the AFCD other operating information required (e.g. gross revenue and staff deployment position). The Committee

enquired why the AFCD had not enforced the contractual terms by requiring the market contractor to furnish such information regularly.

38. The **Director of Agriculture, Fisheries and Conservation** and the **Assistant Director (Agriculture)** explained that:

- in the past the AFCD considered that information on gross revenue and staff deployment position was only related to the contractor's business position, and the AFCD was not concerned about this. Moreover, as the AFCD suffered from staff reduction, it did not require the contractor to submit such information regularly; and
- the new contractor had been required to submit such information to the AFCD for checking. Recently, more resources had been allocated to the AFCD and the manpower for managing the wholesale markets had been increased. The AFCD would ensure that the contractor complied with the contractual terms.

#### **D. Reprovisioning of outdated wholesale markets**

39. The Committee noted that the Yau Ma Tei (YMT) Fruit Market had been operating for more than 80 years at its existing location and was in a very dilapidated condition. It also caused serious traffic and environmental nuisances in the vicinity.

40. As requested by the Committee, the **Secretary for Health, Welfare and Food** informed the Committee, in his letter of 27 April 2007 in *Appendix 33*, of the actions taken by the Administration since the Executive Council's decision in 1969 that the YMT Fruit Market be repositioned. He also provided a summary of the complaints received from members of the public and other known problems about the YMT Fruit Market (e.g. noise, traffic congestion, environmental hygiene problems, accidents, illegal activities, etc.) in recent years.

41. In his opening statement, the **Secretary for Health, Welfare and Food** said that:

- the Health, Welfare and Food Bureau<sup>2</sup> (HWFB) agreed with the Director of Audit that the modes of fresh food consumption and delivery were changing in Hong Kong. The AFCD's records showed that the market throughput of wholesale markets in Hong Kong had been on steady decline in the past decade. Moreover, since the public had taken to consuming chilled food, the per capita consumption of fresh food had dropped by about 18% over the past

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<sup>2</sup> After the re-organisation of the Government Secretariat with effect from 1 July 2007, the social welfare portfolio of the Health, Welfare and Food Bureau has been transferred to the new Labour and Welfare Bureau. The Health, Welfare and Food Bureau has been retitled the Food and Health Bureau.

15 years. Developments in private distribution centres for fresh food in recent years had also undermined the traditional role of wholesale food markets. In view of this, the Government was reviewing its responsibility for the construction of wholesale markets. But the HWFB did not expect the review to affect the projects already committed by the Government;

- the YMT Fruit Market had a very long history. Its bustling operations had given rise to many environmental hygiene and traffic problems and caused nuisances to residents in the neighbourhood. Indeed, the local residents had strongly demanded for the relocation of the YMT Fruit Market many times. Though many fresh fruit traders were accustomed to operating at the existing site and were reluctant to move, the Government considered that the right of local residents to a comfortable living environment should not be neglected. To resolve this long-standing problem, the Government considered that a new wholesale market for fresh fruits could be constructed in part of the CSW Market Phase 2 site for relocating the YMT Fruit Market; and
- the Government would discuss the proposal with the relevant District Councils, fruit traders and related trades through District Officers.

42. Noting that the Administration was considering the construction of a new wholesale market for fresh fruits in part of the CSW Market Phase 2 site for relocating the YMT Fruit Market, the Committee asked the Secretary for Health, Welfare and Food whether he was confident that he could resolve the problem which had remained unresolved for the past 38 years.

43. The **Secretary for Health, Welfare and Food** responded that:

- the wholesalers of different trades concerned had in the past objected strongly to the concept of accommodating all of them in a multi-storey complex. Objections were based on the ground that the multi-storey complex would cause serious traffic problems and operational conflicts, and the concept would not work in practice;
- he understood that the fruit traders in YMT Fruit Market were operating in an area of about 1.5 hectares. The present proposal was to build a new wholesale market solely for fresh food in the Phase 2 site. As the site was very large, 1.5 hectares could be set aside for this purpose. Nevertheless, the Administration still had to sort out the traffic and transport arrangements. The Administration had already presented the proposal to a designated working group of the Yau Tsim Mong District Council. It would continue to consult the relevant District Councils and the relevant trades;

- according to the information provided by the District Councils, the traders had conducted a survey in 2006. The results were that 75% of them were willing to move while 25% were not. All of them indicated that if they were forced to move or were offered a proposal, they would consider conditions such as transport and removal arrangements, rental and so on. At present, the Administration did not know on what conditions they would accept the proposal. However, he believed that the present proposal was practicable as the Phase 2 site was near a road network, relatively far away from the residential area and close to the sea, which were favourable conditions for the operation of a wholesale market; and
- he could not promise a timetable for reaching a decision on the matter as the problem was complicated, involving different government departments and different stakeholders.

44. As the relocation of the YMT Fruit Market might not materialise within a short time, the Committee asked how the Administration would address the existing problems caused by the operations of the YMT Fruit Market.

45. The **Secretary for Health, Welfare and Food** replied that:

- the Administration paid close attention to the problems created by the YMT Fruit Market, and a large amount of resources had been devoted to alleviating the nuisances caused by the Market's operations; and
- the Food and Environmental Hygiene Department conducted special tidy-up operations regularly. The Police had increased patrols of the area. The Transport Department had implemented traffic improvement schemes to facilitate the operation of the Market. Kerbsides/loading areas had been designed for loading/unloading activities of goods vehicles. The LandsD had also arranged to tender two short-term tenancies in the vicinity for parking, loading and unloading in the area to alleviate the noise and traffic problems in April 2006.

46. The Committee noted that the total market throughput for the four government wholesale markets had been decreasing and direct imports by retailers were becoming more common. Also, the facilities of the CSW Market Phase 1 and the Western Market had not been fully utilised. The Committee enquired whether the Administration would take these factors into account in planning for the construction of wholesale markets and deciding the way forward for the CSW Market Phase 2 project.

47. The **Secretary for Health, Welfare and Food** responded that:

- the Administration had taken note of the above factors. It was true that in recent years there had been more direct sales from suppliers to bulk users, such as supermarkets and restaurant chains, without going through the wholesale markets. However, there was still a substantial amount of fresh food distributed through the wholesale markets, particularly so for medium and small size businessmen. Hence, he considered that the wholesale markets should be suitably maintained, though not expanded; and
- given that the operation of the YMT Fruit Market caused environmental nuisances in the vicinity, the Administration considered that options for reprovisioning the Market should be drawn up, in accordance with the Executive Council's decision in 1969. In deciding on a final proposal, the Administration would bear in mind the cost-effectiveness and take into account such factors as construction cost, land premium, maintenance cost and rentals. The Administration would also consult the relevant trades and districts on these factors.

48. Paragraph 5.15 of the Audit Report revealed that in the Government Minute tabled in the Council in May 2004, the Administration advised the Committee, inter alia, that it would keep the Legislative Council (LegCo)'s Panel on Food Safety and Environmental Hygiene (the FSEH Panel) informed of the development of the CSW Market Phase 2 project. The Committee noted that the HWFB issued an information paper on "Issues Relating to the Relocation of Yau Ma Tei Fruit Market" to the FSEH Panel on 30 April 2007, which was the date of the Committee's public hearing on the Audit Report.

49. The Committee asked whether the Administration had informed the FSEH Panel of the development of the Phase 2 project, including the reprovisioning of the YMT Fruit Market, before 30 April 2007 and, if it had not, what the reasons were.

50. In his letter of 4 June 2007 in *Appendix 34*, the **Secretary for Health, Welfare and Food** stated that:

- in the Government Minute tabled in the LegCo in May 2004, the Administration undertook to keep the FSEH Panel informed of the development of the CSW Market Phase 2. As the matter straddled across different policy areas, such as land administration, apart from the policy on the construction of fresh food wholesale markets, and there was a need to take into account the sentiments of the different stakeholders, the Administration had taken some time to explore the various options for the development of the CSW Market Phase 2 site, including the need to reprovision the YMT Fruit Market;

- during this period, the Administration had diligently followed up the environmental nuisance and traffic problems caused by the operation of the YMT Fruit Market. The Administration had also maintained a dialogue with the Working Group on the Reprovisioning of the YMT Fruit Market under the Yau Tsim Mong District Council at the local level, and had met the Working Group for a number of times; and
- given the complexity of the matter, it was not until earlier this year that the Administration had arrived at the current proposal of relocating the YMT Fruit Market to part of the CSW Market Phase 2 site. As soon as the Administration had come up with a more acceptable and feasible way forward, it issued a paper to inform the FSEH Panel on the development on 30 April 2007.

#### **E. Other areas for improvement**

51. According to paragraphs 6.10 to 6.12 of the Audit Report, in 1997 and 2002, the AFCD had initiated action to examine the viability of a proposal to let out spaces on the roof or external walls of the market premises of the CSW Market and the Western Market for placing commercial advertisements. However, the AFCD did not follow through such initiatives. Audit recommended that the AFCD should re-examine, in collaboration with the GPA and the LandsD, the feasibility of the advertising proposal and resolve technical problems that might arise. The Committee asked:

- why the AFCD had not followed through the advertising proposal; and
- about the current progress made by the AFCD in re-examining the advertising proposal.

52. The **Assistant Director (Agriculture)** stated at the public hearing and the **Director of Agriculture, Fisheries and Conservation** in her letter of 4 June 2007 (in *Appendix 35*) that:

- the AFCD had not followed through the proposal after learning from the GPA and the LandsD that the proposal involved amendments to the terms of the existing tenancy agreement, as using the markets for commercial advertising activities did not accord with the lease terms;
- the AFCD held an inter-departmental meeting on 11 May 2007 to pursue the proposal. The Director of Architectural Services considered that light-weight banner type advertising (LWBTA) was possible subject to further advice from their specialist unit. The Director of Lands indicated that the land lease had to be amended appropriately. The Government Property Administrator advised that views of the Harbour-Front Enhancement

Committee (HEC) had to be sought and permission from the Town Planning Board was required. Once these were ready, GPA would proceed to tender out the advertising space; and

- the ArchSD was now identifying the parts of the market buildings that were suitable for putting up the LWBTA. The AFCD had also scheduled a separate meeting with Planning Department and the GPA on 5 June 2007 to work out the roadmap and timeline for the whole process of securing all the necessary endorsement and approvals, and the subsequent tendering.

53. The Committee noted from paragraphs 6.14 and 6.15 of the Audit Report that the LandsD and the GPA had indicated that they would assist the AFCD in ascertaining the feasibility of the advertising proposal. The Committee wrote to these two departments to enquire how they would assist the AFCD in taking the proposal forward.

54. In his letter of 11 May 2007 in *Appendix 36*, the **Director of Lands** said that:

- following consultation by the AFCD with the relevant parties, including the GPA, the Planning Department and the ArchSD, and finalisation of their intentions, they should provide the LandsD with details of the proposed commercial advertising activities on the roof or external walls of the market premises and the proposed modifications to the land documents. Thereafter, the LandsD would circulate the proposed modifications to any other relevant government departments not mentioned above for consideration. Should there be no adverse comments, the proposal would be submitted to the District Lands Conference for approval; and
- the LandsD stood ready to meet with the AFCD and other departments concerned to clarify any questions related to the above subject.

55. In his letter of 11 May 2007 in *Appendix 37*, the **Government Property Administrator** stated that:

- the GPA had already advised the AFCD that it should seek advice from the HEC, the LandsD and other relevant government bureaux/departments on the advertising proposal; and
- if the AFCD found the proposal feasible after seeking advice from relevant bureaux/departments and the HEC, the GPA would follow the established procedures to let out the external walls of the two food wholesale markets by open tender as soon as possible.

## **F. Conclusions and recommendations**

56. The Committee:

### Letting of market facilities

- expresses concern about the vacancy position of the three government fresh food wholesale markets (wholesale markets), namely the Cheung Sha Wan Wholesale Food Market Phase 1 (CSW Market), the Western Wholesale Food Market (Western Market) and the Cheung Sha Wan Temporary Wholesale Poultry Market (CSW Poultry Market);
- notes that the Agriculture, Fisheries and Conservation Department (AFCD) faces various constraints in fully utilising the market facilities of the wholesale markets, which include overriding concerns to combat avian flu and lack of basic facilities in some of the vacant stalls;
- expresses serious concern that:
  - (a) four of the five piers at the Western Market had been unused for more than five years, with one having never been used since the commissioning of the Western Market in October 1991; and
  - (b) although the four piers have been idle for a long time, the AFCD has only recently set up an ad hoc group with other relevant government departments to identify a final proposal for using the piers, and the Director of Agriculture, Fisheries and Conservation only expected the ad hoc group to come up with a preliminary report by the end of October 2007;
- urges the Director of Agriculture, Fisheries and Conservation to expedite the work of the ad hoc group to identify a final proposal for using the four piers without delay;
- expresses concern that:
  - (a) the CSW Market and the Western Market could only recover 81% of the full operating costs; and
  - (b) the rentals in arrears on 31 March 2006 but still outstanding as at 30 June 2006 amounted to \$6.4 million, which had increased by \$2.6 million as compared with the arrears position as at 30 June 2005;
- notes that the AFCD has agreed to implement the audit recommendations referred to in paragraphs 2.17, 2.25 and 2.37 of the Director of Audit's Report (Audit Report);

Managing the daily operation of wholesale markets

- expresses serious concern that:
  - (a) inspections and supervisory checks for the wholesale markets were not carried out as frequently as required by the “Inspection Manual for Cheung Sha Wan Wholesale Food Market” issued in 2004, particularly at the Western Market; and
  - (b) as the AFCD had not made clear to its staff that the “Inspection Manual for Cheung Sha Wan Wholesale Food Market” was applicable to all the three wholesale markets, staff at the Western Market might not know that it was also applicable to them;
- expresses concern that:
  - (a) the AFCD inspections mainly focused on the market and environmental conditions, and that little guidance was provided on the need to ensure that the tenants complied with the tenancy requirements; and
  - (b) the market entry registration procedures at the CSW Market and the Western Market did not provide adequate security control;
- finds it unacceptable that the statistics kept by the AFCD on market crimes were not complete, and that the AFCD did not keep any record of the results of tests conducted by the Food and Environmental Hygiene Department on the food samples collected from the CSW Market and the Western Market;
- notes that the AFCD has agreed to implement the audit recommendations referred to in paragraph 3.24 of the Audit Report;

Outsourcing the operation of the North District Market

- expresses concern that:
  - (a) the AFCD had extended the 2000 contract five times for a total period of three years and four months. As a result, the Government missed an opportunity to obtain another one-off premium through open market bids;
  - (b) except for market throughput, the market contractor had not furnished monthly to the AFCD other operating information as required by the 2000 contract; and
  - (c) the AFCD did not set any minimum premium in the tender conditions to better protect the Government’s interest;

- notes that the AFCD has agreed to implement the audit recommendations referred to in paragraph 4.19 of the Audit Report;

Reprovisioning of outdated wholesale markets

- expresses serious concern that the Yau Ma Tei (YMT) Fruit Market has been operating for more than 80 years at its existing location and is in a very dilapidated condition, causing serious traffic and environmental nuisances in the vicinity;
- expresses serious concern and finds it unacceptable that:
  - (a) despite that in 1997, the Committee had urged the Administration to expedite the development of the CSW Market Phase 2 project and, in particular, the reprovisioning of the YMT Fruit Market, there was little progress in the implementation of the Phase 2 project; and
  - (b) although in 2004, the Administration had undertaken to keep the Panel on Food Safety and Environmental Hygiene (FSEH Panel) informed of the development of the CSW Market Phase 2 project, the Administration had not made any report to the FSEH Panel on the matter until 30 April 2007, which was the date of the Committee's public hearing on the Audit Report;
- notes:
  - (a) that the Administration is considering the construction of a new wholesale market for fresh fruits in part of the CSW Market Phase 2 site for relocating the YMT Fruit Market, and will discuss the proposal with the relevant District Councils, fruit traders and related trades through District Officers; and
  - (b) the Secretary for Health, Welfare and Food's<sup>3</sup> undertaking that he will keep the FSEH Panel informed of the outcome of the review of the Government's responsibility for the construction of wholesale markets;
- strongly urges the Secretary for Food and Health to provide a definite timetable for relocating the YMT Fruit Market to the Committee by mid-January 2008, so as to ensure that the traffic and environmental hygiene problems caused by the operation of the YMT Fruit Market to residents in the neighbourhood can be resolved early;

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<sup>3</sup> See Note 1 on Page 71.

Other areas for improvement

- expresses concern that performance indicators in the Controlling Officer's Report for 2006-07 did not directly reflect how effectively and efficiently the AFCD had discharged its role in managing the wholesale markets;
- expresses serious concern and finds it unacceptable that the AFCD did not follow through its 1997 and 2002 initiatives in letting out spaces on the roof or external walls of the market premises for placing commercial advertisements;
- notes that the AFCD:
  - (a) has agreed to implement the audit recommendations referred to in paragraphs 6.8 and 6.12 of the Director of Audit's Report; and
  - (b) has initiated action to re-examine the feasibility of letting out spaces on the roof or external walls of the market premises for placing commercial advertisements; and

Follow-up actions

- wishes to be kept informed of:
  - (a) the progress made by the AFCD in identifying a final proposal for using the four unused piers at the Western Market;
  - (b) the definite timetable for and the progress made in relocating the YMT Fruit Market;
  - (c) the progress made by the AFCD in re-examining the feasibility of letting out spaces on the roof or external walls of the market premises for placing commercial advertisements; and
  - (d) any further developments and progress made in implementing the various audit recommendations.