

立法會
Legislative Council

LC Paper No. CB(2)682/07-08
(These minutes have been seen
by the Administration)

Ref : CB2/PL/FE

Panel on Food Safety and Environmental Hygiene

Minutes of meeting
held on Tuesday, 13 November 2007, at 2:30 pm
in the Chamber of the Legislative Council Building

Members present : Hon Tommy CHEUNG Yu-yan, SBS, JP (Chairman)
Hon Fred LI Wah-ming, JP (Deputy Chairman)
Hon WONG Yung-kan, SBS, JP
Hon Andrew CHENG Kar-foo
Hon TAM Yiu-chung, GBS, JP
Hon Vincent FANG Kang, JP
Hon WONG Kwok-hing, MH
Dr Hon Joseph LEE Kok-long, JP
Hon Alan LEONG Kah-kit, SC
Dr Hon KWOK Ka-ki

Public officers attending : Item IV
Dr York CHOW Yat-ngok
Secretary for Food and Health

Item IV, V and VI

Mr CHEUK Wing-hing
Deputy Secretary for Food and Health (Food)

Mr Eddy CHAN
Director of Food and Environmental Hygiene
Food and Environmental Hygiene Department

Dr Constance CHAN

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Controller, Centre for Food Safety
Food and Environmental Hygiene Department

Item IV and V

Dr LEUNG Siu-fai
Principal Assistant Secretary for Food and Health (Food)3

Item V and VI

Dr Philip HO Yuk-yin
Consultant (Community Medicine) (Risk Assessment and
Communication), Centre for Food Safety
Food and Environmental Hygiene Department

Item VI

Mrs Angelina CHEUNG
Principal Assistant Secretary for Food and Health (Food)1

Clerk in attendance : Miss Flora TAI
Chief Council Secretary (2)2

Staff in attendance : Ms Alice LEUNG
Senior Council Secretary (2)1

Ms Anna CHEUNG
Legislative Assistant (2)2

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I. Confirmation of minutes
[LC Paper No. CB(2)210/07-08]

The minutes of the meeting held on 11 October 2007 were confirmed.

II. Information paper(s) issued since the last meeting

2. Members noted that the following papers had been issued to members since the last meeting -

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- (a) a referral from the Complaints Division of the Legislative Council (LegCo) Secretariat regarding the construction of a market in the new reclamation land in Sham Shui Po [LC Paper No. CB(2)138/07-08(01)] (Chinese version only); and
- (b) a referral from the Complaints Division of the LegCo Secretariat regarding the policy issues relating to itinerant hawker licences [LC Paper No. CB(2)248/07-08(01)] (Chinese version only).

III. Items for discussion at the next meeting

[Appendices I and II to LC Paper No. CB(2)289/07-08]

3. Members agreed to discuss the following items proposed by the Administration at the next regular meeting scheduled for 11 December 2007 -

- (a) Food Safety Bill;
- (b) labelling scheme on nutrition information; and
- (c) creation of an Administrative Officer Staff Grade "C" post in the Food Branch of the Food and Health Bureau.

IV. Poultry slaughtering and processing plant

[LC Paper Nos. CB(2)289/07-08(01) and (02)]

Briefing by the Administration

4. The Secretary for Food and Health (SFH) briefly highlighted the salient points of the paper on the "Proposed legislative amendments related to the development of the poultry slaughtering and processing plant (PSPP)" provided by the Administration [LC Paper No. CB(2)289/07-08(01)]. SFH informed members that the Administration proposed to amend the Public Health and Municipal Services Ordinance (PHMSO) (Cap. 132) to empower SFH to make regulations for the control of slaughtering activities of live poultry and the operation of PSPP. The Administration's plan was to introduce a Bill to amend PHMSO into LegCo in early 2008 followed by the introduction of the new PSPP Regulation and the other related legislative amendments, as detailed in the Administration's paper, into LegCo for negative vetting. The Administration planned to invite open tenders in 2008 from the private sector to develop PSPP under a "Build, Own, Operate and Transfer" (BOOT) arrangement after the enactment of the legislation for regulating the operation of PSPP and the completion of the Environmental Impact Assessment study.

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5. SFH said that, as mentioned in the last meeting, the Food and Environmental Hygiene Department (FEHD) had recently conducted a study which revealed that slaughtered chickens without going through a chilling process ("freshly slaughtered chicken") would be suitable for consumption for up to 24 hours if stored at or below 7°C. Having regard to the result of the study, the Administration intended to allow PSPP to produce "freshly slaughtered chicken", in addition to chilled chicken, for the market.

6. SFH further said that, to address the concerns of members and the live poultry trade about the slaughtering fee to be charged by PSPP and the monopoly of PSPP in the market, the Administration would require the future PSPP licensee to enter into an agreement through which the licensee would be required to comply with the terms and conditions enshrined in the agreement. It was planned to include in the agreement the following terms requiring the licensee –

- (a) to provide poultry slaughtering and dressing service as its main business to all parties in need of such service on a fair and equal basis;
- (b) to seek prior approval from the Administration for engaging in other businesses such as importing, distributing and processing of poultry that would involve the PSPP facilities;
- (c) not to refuse admission of live poultry or provision of slaughtering service to any parties without lawful excuse; and
- (d) to adopt a standard slaughtering fee to all parties and seek prior approval from the Administration for raising the fee.

7. As regards the impact of the development of PSPP on the live poultry trade, SFH advised that the development of PSPP and the banning of sales of live poultry in wholesale markets and retail outlets would inevitably cause certain impact on the trade concerned. Nevertheless, the new operating environment would provide new business opportunities for the existing traders. Subject to the slaughtering capacity of PSPP and the state of public health risk, the Administration would consider allowing the live poultry trade to bring in more live poultry to meet market demand. The production of "freshly slaughtered chicken" other than chilled chickens by PSPP would also help diversify the products for supply to local consumers, thereby enhancing the business potential of, and reducing the impact of central slaughtering on, live poultry wholesalers and retailers.

8. SFH further advised that, the Administration had started consultations with various stakeholders in the live poultry trade, including live poultry farmers, importers, wholesalers, retailers and transporters to brief them on the latest

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development of the proposal and to gauge their views and concerns on the proposal. The Administration was also studying possible measures to help those people directly affected by the proposal, including provision of suitable financial assistance for installing necessary equipment to help them prepare to shift to the wholesaling, retailing and transportation of "freshly slaughtered poultry" and chilled poultry.

9. Members noted that the LegCo Secretariat had prepared a background brief entitled "Development of the poultry slaughtering and processing plant" for members' reference [LC Paper Nos. CB(2)289/07-08(02)].

Tendering of PSPP

10. Referring to paragraph 3 of the Administration's paper, Mr Andrew CHENG said that, while it was quite common for the Administration to attract the participation of the private sector in the development of infrastructure and transport projects by means of a BOOT arrangement, the Administration should have considered and assessed the viability of other options for the development of PSPP project, for example, building the plant by the Government. He enquired about the pros and cons of different options.

11. SFH responded that, taking into consideration that the future PSPP licensee might have more innovative ideas in regard to the operation of the plant, the Administration considered it more appropriate to develop the plant by the private sector through open tender under a BOOT arrangement. The BOOT arrangement would enhance flexibility for the future licensee to introduce innovative ideas and to procure appropriate or advanced technology and equipment for the provision of slaughtering service.

12. Mr WONG Yung-kan asked whether local live poultry traders would be allowed to resume their slaughtering business if, for whatever reasons, PSPP failed to operate the plant as required by the agreement. In response, SFH said that the Administration had received six submissions from the private sector in response to its invitation for Expressions of Interest (EoI) in early 2007. The positive response from the private sector reflected the interest of the private sector in the project. He further said that the prospective PSPP operators should have considered the financial feasibility of PSPP when they made their submissions in response to the invitations of EoI.

13. Mr Vincent FANG enquired whether the Administration would disclose details of the tender document to the Panel for information. SFH responded that the Administration's plan was to invite tender for the development of PSPP after the enactment of the Bill. In the absence of the relevant legislation for the control of slaughtering activities of live poultry and the operation of PSPP, prospective operators would be discouraged from making bids for the development of PSPP

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project. He assured members that members' concerns would be addressed in the tender document.

14. Regarding the Administration's proposal for offering a 15-year contract to the future PSPP licensee, Dr KWOK Ka-ki said that he was worried that the Administration might have difficulties in terminating the licence before the expiry of the contract if the agreement signed between the Administration and the PSPP licensee was a fixed term contract.

15. Noting members' various concerns on the tender document, the Chairman enquired whether the Administration would be willing to consult the Panel on the terms and conditions in the tender document at a closed-door meeting. SFH responded that, if members considered that there was a need to discuss the details of the tender document, the Administration would be willing to do so when the document was available.

Monopoly of the proposed PSPP

16. Noting that the future PSPP licensee might be allowed to engage in other ancillary businesses to ensure the financial viability of PSPP, Mr Andrew CHENG commented that it was very likely that the PSPP licensee would engage in retailing business. He expressed worries that the PSPP licensee would monopolize the live poultry market.

17. In response, SFH said that the future PSPP licensee would obtain the licence of operating the plant through an open tender, which was a fair, open and transparent process. SFH pointed out that the plant operator would be required to provide slaughtering and dressing service to all parties in need of such service on a fair and equal basis. As there were other distributors and retailers in the market, a monopoly situation should not arise in the live poultry supply and distribution chain. Moreover, the future PSPP licensee would be required to obtain prior approval from the Administration for raising the fee. SFH further said that the main business of PSPP was to provide poultry slaughtering and dressing service and PSPP would also provide cutting slaughtered chickens into pieces if requested by the poultry traders. He explained that the purpose of allowing the PSPP licensee to have flexibility and room for engaging in other ancillary businesses was to ensure that the supply of live poultry would not be affected in case many current live poultry traders decided to cease their business.

18. The Deputy Chairman enquired whether the future PSPP licensee would be allowed to engage in the wholesale and retail businesses. He pointed out that, though the Administration could regulate the slaughtering fee through the imposition of licensing conditions and terms and conditions in the agreement, it was quite impossible for the Administration to have control over the administrative

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policies implemented by the licensee that could provide flexibility to allow the licensee to provide better and quicker service to its ancillary businesses.

19. The Chairman also expressed doubt as to the effectiveness of the Administration's proposed controlling measures in ensuring that slaughtering and dressing service would be provided on a fair and equal basis. He pointed out that slaughtering time and delivery time were critical to the trade and any delay would cause great impact on the operation of the whole trade.

20. SFH reiterated that, given that the main business of PSPP was to provide slaughtering and processing service, the development of the plant would not give rise to a monopolistic situation in the live poultry market. He stressed again that the PSPP licensee would be required to obtain prior approval from the Administration should they wish to engage in other ancillary businesses. The Administration would take into consideration the market situation and the interests of various parties concerned in deciding on whether to approve PSPP to engage in other businesses.

21. Dr KWOK Ka-ki said that, while he was supportive of the vision of separating humans from live poultry, he was concerned that central slaughtering might give rise to the monopoly of supply of "freshly slaughtered chicken" which would result in higher retail price. He asked whether consideration would be given to providing more slaughtering plants in different locations, as in the case of Singapore, where there were more than 10 slaughtering houses operating in different parts of the country. If regional slaughtering plants were considered not feasible in Hong Kong, he wondered whether the Administration would consider developing the proposed PSPP as a communal facility that would allow several operators to provide slaughtering and dressing service for the trade.

22. SFH responded that, to develop regional slaughtering plants, the Administration would need to search for a few suitable sites that could meet the environmental and transportation requirements and this would be a very difficult task. Having considered the circumstances in Hong Kong, the Administration considered that the current proposal for the development of a PSPP in Sheung Shui was appropriate. Nevertheless, having regard that there was a maximum limit for the daily slaughtering throughput of live poultry by the proposed plant, the Administration would not exclude the possibility that another PSPP would be developed in future should the demand for slaughtering service exceeded the maximum limit for the slaughtering throughput.

23. On Dr Kwok's suggestion of developing PSPP into a communal facility, SFH pointed out that, given that the size of the present piece of land identified for developing the proposed PSPP was not very large, it would not be feasible to allow several slaughtering and processing lines to be operated concurrently by several operators.

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24. On the Administration's response, Dr KWOK Ka-ki enquired about the price levels of live chickens in the retail market after PSPP came into operation. SFH responded that, while the Administration would have control over the level of slaughtering fee, the retail prices of live chickens would be determined by the market.

25. The Chairman said that, with the concerted efforts of FEHD, the Agriculture, Fisheries and Conservation Department (AFCD) and the live poultry trade, Hong Kong had put in place all available effective measures to guard against outbreak of avian influenza. He did not see the need to develop a central slaughtering plant in Hong Kong. The Chairman further said that he shared with Dr Kwok Ka-ki's views on the development of regional slaughtering plants. He commented that, despite its difficulty in identifying suitable lands for developing regional slaughtering plants, the Administration should make reference to the experience of Singapore in this respect.

26. The Deputy Chairman said that, when members discussed the issue of environmental nuisances caused by the Tsuen Wan Slaughterhouse (TWSH), the Administration had explained that TWSH should not be closed in order to maintain a stable supply of fresh pork in case the slaughtering service provided by the Sheung Shui Slaughterhouse was disrupted for some reasons. He asked whether there was any back-up measure in case PSPP failed to provide slaughtering service to the trade.

27. On the Chairman's and the Deputy Chairman's views, SFH reiterated that the Administration had practical difficulty in searching sites that were suitable for the development of PSPP and met the requirements on the transportation and environmental needs. With regard to the issue of the operation of TWSH, SFH clarified that TWSH was owned and operated by a private company and the Administration could not close its operation without giving any reason. He pointed out that, given the high and stringent safety standards and requirements of the slaughtering plant, SSSH had not experienced any problems in the past in respect of disruption of slaughtering service.

28. The Chairman criticized that the Administration had double standards towards the issues of the slaughtering of live pigs and live poultry. He said that he was concerned about the impact on the public and food premises if, for whatever reasons, the PSPP could not provide slaughtering and dressing service.

"Freshly slaughtered chicken"

29. As regards the "freshly slaughtered chicken", the Deputy Chairman said that he was told by veterinarians and experts during the Panel's visit to Singapore and Malaysia that the slaughtered chickens had to be kept at 4°C, otherwise the

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slaughtered chickens would be contaminated. He doubted whether "freshly slaughtered chicken" would pose any health risk and asked whether members would be invited to visit the laboratory to have a better understanding of the study of "freshly slaughtered chicken" conducted by FEHD.

30. SFH reiterated that the result of the study conducted by FEHD revealed that slaughtered chickens without chilling would be suitable for consumption for up to 24 hours if stored at or below 7°C. FEHD would continue to conduct more tests and studies to assess the health risk of "freshly slaughtered chicken" under different conditions in respect of storage and transportation. SFH said that FEHD would carry out a more comprehensive and detailed study on the food safety of "freshly slaughtered chicken". The Administration would revert to the Panel on the result of the study.

31. Mr Vincent FANG asked whether there were any other places where "freshly slaughtered chicken" were on sale in the market. He said that he was concerned that it was rather difficult to ensure that "freshly slaughtered chicken" was stored at the temperature of 7°C during delivery and at retail outlets.

32. SFH responded that the Administration conducted the study of the feasibility of providing "freshly slaughtered chickens" in the market in response to members' request for providing "freshly slaughtered chickens" by PSPP and in consideration of the public's preference to "freshly slaughtered chickens". He said that "freshly slaughtered chicken" was not available in other countries/places. In view that "freshly slaughtered chicken" was a new food product, the Administration would invite experts to conduct more tests and studies on the temperature and duration of storage to ascertain the feasibility of the provision of "freshly slaughtered chicken" in the market.

33. Mr Vincent FANG said that, under the present mode of operation, live chickens not sold at the end of the day would be kept at retail outlets. The wholesalers and retailers were not required to slaughter unsold live chickens at the close of business each day. He asked how the wholesalers and retailers should keep the unsold "freshly slaughtered chicken".

34. SFH reiterated that the result of the study conducted by FEHD revealed that slaughtered chickens without going through a chilling process would be suitable for consumption for up to 24 hours if stored at or below 7°C. He said that the Administration would work out a set of guidelines in respect of the storage, storage time and temperature to assist the trade operators in providing "freshly slaughtered chicken" under the new operating environment.

35. In response to Mr WONG Yung-kan's and Mr Vincent FANG's question on the importation of "freshly slaughtered chicken" from the Mainland, SFH said that the importation of poultry meat was subject to the established inspection and

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quarantine procedures. FEHD staff and veterinary officers would carry out appropriate ante-mortem and post-mortem examinations to ensure that live poultry or poultry carcasses were fit for human consumption. SFH further said that, given the storage limit of 24 hours for slaughtered chickens without chilling if stored at or below 7°C, it might be rather difficult for "freshly slaughtered chicken" from other places to comply with the required standards if the cargo containers that carried "freshly slaughtered chicken" had to pass through a number of border control points for customs clearance and inspection by the relevant authorities of the exporting countries/places and Hong Kong.

36. The Chairman said that he wondered how the Administration could impose restriction on the importation of "freshly slaughtered chicken" from the Mainland. He saw no reason for not allowing "freshly slaughtered chicken" to be imported from the Mainland if they could meet Hong Kong's import and hygiene requirements. He pointed out that customs clearance of goods from the Mainland would only take less than 24 hours. Mr WONG Yung-kan echoed the Chairman's views and said that it only took about two and a half hours to travel from Shenzhen to Hong Kong.

37. SFH said that, given that "freshly slaughtered chicken" was a new product, the Administration must ensure that it had undergone all necessary laboratory tests and met all the relevant food safety standards before launching into the market. The Administration would work out a set of food safety requirements for compliance of PSPP and local live poultry trade. When local live poultry trade became familiar with the new requirements and the new mode of operation and subject to the demand for "freshly slaughtered chicken" in Hong Kong, the Administration would then consider allowing the import of "freshly slaughtered chicken" from other sources.

Impact on the live poultry trade

38. The Deputy Chairman asked whether there would be any compensation to the live poultry traders and, if so, whether the compensation proposal would be similar to that of the voluntary surrender scheme. He further asked whether a consensus could be reached with the affected trade on the compensation proposal before July 2008 given that the Administration planned to submit the Bill to LegCo for scrutiny in early 2008.

39. SFH responded that, upon the operation of PSPP, the sale of live poultry at retail outlets would be prohibited. There would inevitably be impact on the live poultry trade under the new operating environment. The Administration would provide appropriate assistance and compensation to the affected traders and workers. However, the affected retailers could consider switching to the business of selling chilled or freshly slaughtered chickens. SFH said that, given that PSPP would not come into operation before 2011, he believed that the Administration

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would have sufficient time to discuss with the live poultry trade measures to alleviate the impact of the development of the plant on the trade. He stressed that the Administration would put forward the compensation proposals in an appropriate time and would reach a consensus with the affected trade before the legislation came into operation.

40. On the Administration's response, the Chairman pointed out that, apart from live poultry retailers, local live poultry farmers, wholesalers and transporters would also be affected by the development of PSPP. He asked whether the Administration would submit the compensation proposals to the Panel for discussion before introducing the legislative proposals related to the development of the PSPP.

41. SFH reiterated that FEHD and AFCD had already started consultations with various stakeholders in the trade, including local poultry farmers, importers, wholesalers, retailers and transporters to brief them on the latest development of the proposal and gauge their views and concerns on the proposal. The two departments were also discussing the issues of financial assistance and compensation with them.

42. Mr WONG Yung-kan said that he personally objected the idea of the development of PSPP. He commented that the proposal would have great impact on the livelihood of the wholesalers, retailers and transporters and the workers engaging in slaughtering service. He wondered whether the Administration had assessed the impact on the trade and asked whether the Administration had any data on the number of the affected traders and workers who would become unemployed. He held a strong view that the Administration should work out the compensation proposals to help them to tide over financial difficulties.

43. Regarding the data on the number of the affected operators and workers, SFH advised that there were presently 50 live poultry farmers, 71 wholesalers, 471 retailers. The number of affected workers employed by live poultry farmers, wholesalers and retailers were about 60, 450 and 1 400 respectively. There were some 160 vehicles operated by live poultry transporters and about 500 transport workers were employed by the transporters. The total number of the affected farmers, wholesalers, retailers and workers would be about 2 400. SFH said that the development of PSPP would entail a fundamental change in the way the live poultry business operated in Hong Kong as no more live poultry would be sold at retail markets. However, the impact on the farmers, wholesalers and transporters should be minimal. Though there would be a greater impact on the retailers, the Administration would work out a reasonable financial/compensation proposal on the basis of the ex-gratia payment under the voluntary surrender scheme with reference to other factors.

44. Dr Joseph LEE said that the Administration's paper failed to address the concern over the assistance to the live poultry trade including farmers, wholesalers,

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retailers and transporters to help them continue their businesses after PSPP came into operation.

45. SFH explained that the Administration's paper was to brief the Panel on the proposed legislative amendments related to the development of the PSPP and a brief outline on the operation of PSPP. He reiterated that FEHD and AFCD were communicating with the stakeholders to seek their views on the new mode of operation and to understand their preference. The Administration would revert to the Panel on the views of the trade.

46. Noting that the Administration planned to submit the Bill to LegCo in early 2008, Dr Joseph LEE asked whether the Administration had a timetable for reaching a consensus on the compensation proposal with the trade.

47. SFH said that, as the legislation would take effect in 2011 the earliest, there would be sufficient time for the Administration and the trade to reach a consensus on the financial/compensation proposal. He added that discussions with the trade and the scrutiny for the legislative proposals could take place concurrently.

48. Mr Alan LEONG asked why there was an imminent need for the Administration to introduce the relevant legislation before working out any compensation proposals and reaching a consensus with the affected trade. Noting that most members considered that the Administration should reach a consensus with the affected trade before enacting the legislation, he further asked how the Administration would address members' concern in this respect.

49. SFH explained that the Administration's plan was to invite tender after the enactment of the Bill and no prospective operators in the private sector would be willing to submit responses to tender without proper protection under the law. He said that it would take some time to draft and scrutinize the legislation and some time was also needed for construction of PSPP. In view of this, there would be sufficient time for the Administration to discuss with the affected traders as well as workers and to reach a consensus with them before the legislation came into operation.

50. On the Administration's explanation, Mr Alan LEONG suggested the Administration to consider either deferring commencement date of the relevant legislation until a consensus had been reached with the trade or including a condition in the tender document stating that the validity of the tender would be conditioned upon the enactment of the relevant bill. SFH responded that the Administration would take note of Mr LEONG's suggestions.

51. Mr WONG Yung-kan moved the following motion which was seconded by Mr Vincent FANG -

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"本委員會反對政府在未能與整個活雞養殖及銷售行業包括養殖、批發、零售和運輸從業員等部分，就收回牌照和妥善保障從業員的日後生計的方案達成共識之前，提交任何與興建家禽及加工廠有關的法例到立法會審議。"

[English translation

"That this Panel opposes the introduction of any legislation related to the construction of the poultry slaughtering and processing plant to the Legislative Council for scrutiny before a consensus has been reached between the Government and the whole live poultry trade, including farmers, wholesalers, retailers and transporters, on the surrender of licence and measures to safeguard properly the future livelihood of those people in the trade."]

52. The Chairman invited members to vote on the motion. Seven members voted for the motion. The Deputy Chairman voted against the motion. He expressed concern that the passage of the motion would likely cause a delay in the submission of the relevant bill for scrutiny.

53. SFH said that the Administration would proceed with the introduction of the Bill and the related legislative amendments into the LegCo as planned while making every endeavour to devise a suitable ex-gratia package in consultation with the trade. He expressed that any undue delay to the development of the poultry slaughtering and processing plant would adversely affect the implementation of the policy of separating humans from live poultry to minimize the risk of human infection of avian influenza in Hong Kong. As a result, the community would continue to be subject to such risk for a longer time.

V. Proposed regulatory framework for pesticide residues in food in Hong Kong

Briefing by the Administration

54. With the aid of the powerpoint, Consultant (Community Medicine) (Risk Assessment and Communication) of the Centre for Food Safety (Consultant/CFS) briefed members on the proposed regulatory framework for pesticide residues in food in Hong Kong, as detailed in the Administration's paper [LC Paper No. CB(2)289/07-08(03)]. He advised that, at present, the import, manufacture, formulation, distribution, sale and supply of pesticides in Hong Kong was regulated under the Pesticides Ordinance (Cap. 133), which was enforced by AFCD. While the general provision under PHMSO, which stipulated that all food on sale must be wholesome, unadulterated and fit for human consumption, could regulate cases

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related to pesticide residues in food, there was presently no legislation that specifically directed at controlling the level of pesticide residues in food.

(*Post-meeting note*: The powerpoint presentation materials tabled at the meeting were issued to members by Lotus Notes on 14 November 2007.)

55. Consultant/CFS said that, with a view to enhancing the effectiveness of regulatory control and enforcement in this respect, the Administration proposed to put in place a new regulatory framework for pesticide residues in food. The salient features of the proposed regulatory framework were as follows -

- (a) making reference mainly to the definitions adopted by the Codex Alimentarius Commission (Codex) in defining the key terms in the new subsidiary legislation, e.g. "pesticide", "pesticide residue", "maximum residue level" (MRL), "extraneous maximum residue limit" (EMRL);
- (b) adopting a "positive list" approach in the proposed regulatory framework for pesticide residues in food;
- (c) taking a two-step approach in determining the standards of pesticide residues in food (i.e. adopting the standards recommended by the Codex as the backbone and supplemented by standards of the Mainland and other major food-supplying countries for Hong Kong, notably Thailand and the United States of America, and conducting risk assessment studies to assess whether the proposed standards were adequate to protect public health in the local setting);
- (d) setting a "default value" (i.e. the residue level below which was considered acceptable) for those chemicals with no standards specified; and
- (e) adopting the Codex MRLs as the backbone of the local set of MRLs for pesticide residues in food, and making reference to the Codex when developing such classification system under the new regulatory framework.

56. Consultant/CFS further said that, under a "positive list" approach, MRLs of pesticides that were allowed to be found in food were specified in the legislation whereas any other pesticide residues without specified MRLs were either not allowed or the residual level of which should not exceed a "default value". As regards the "default value", he pointed out that the establishment of which could facilitate the trade in monitoring pesticide residues in their products and the laboratories in conducting corresponding analyses. In order to facilitate the trade to use pesticides that were natural and the residues of which were identical to or

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indistinguishable from natural food components, the Administration proposed to develop a list of "exempted substances".

57. On the transitional arrangement, Consultant/CFS informed members that the Administration proposed to allow a two-year grace period for the trade to comply with the new regulatory requirement. The Administration would conduct a public consultation for a period of two and a half months commencing on 13 November 2007.

Legislative timetable

58. The Chairman enquired about the legislative timetable for the new legislation on pesticide residues in food. Consultant/CFS responded that the Administration would take into consideration the views and comments received during the public consultation exercise and then decide on whether a Regulatory Impact Assessment would be conducted. In view of this, it was very unlikely that the legislative proposal would be introduced into LegCo in the current session. Deputy Secretary for Food and Health (Food) (DS/FH(Food)) supplemented that the Administration's plan was to submit the legislative proposal to LegCo for scrutiny by the end of 2008.

59. Mr WONG Kwok-hing said that, while he welcomed the introduction of the new regulatory control over pesticide residues in food, it was regretful that the legislation had not been introduced earlier. He pointed out that the earliest cases of the discovery of vegetables that contained prohibited pesticides could be dated back to 1991. Mr WONG commented that the legislation should be enacted as soon as possible and considered that a two-year grace period as proposed by the Administration was too long. He suggested the Administration to consider shortening the duration to 12 months.

60. DFEH responded that, in deciding on the duration of the grace period, the Administration had to take into consideration views of the trade and whether private laboratories could offer sufficient testing services for pesticide residues in food to the food trade. However, the Administration would have no objection to the suggestion of shortening of the grace period should there be a consensus among the food trade, other parties concerned and the community.

Implementation of the regulatory control

61. Dr KWOK Ka-ki said that he welcomed the Administration's proposal for regulating pesticide residues in food and considered that the legislative proposal should be introduced into LegCo as early as possible. Given that the Mainland was the Hong Kong's major food supplier to Hong Kong, he held the view that the proposed pesticide residues standards should synchronise with that on the Mainland. Dr KWOK expressed concern over the findings of some green groups

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about the presence of prohibited pesticides and residues of permitted pesticides exceeding the permitted levels in vegetables samples obtained from some local retail outlets. He asked whether the Centre for Food Safety (CFS) would increase the number of inspection and the number of food samples taken for testing under its food surveillance programme with a view to facilitating the enforcement of the legislation.

62. DS/FH(Food) responded that the Mainland adopted the "non-positive" approach to regulate pesticide residues in food, and there were some 100 pesticides listed in the Mainland's national standard for pesticide residues. As regards the Administration's proposed list of pesticides under the new piece of subsidiary legislation, there would be some 400 pesticides comprising some 200 pesticides included in the list of pesticides adopted by Codex, some 100 pesticides adopted by the Mainland and some 100 pesticides adopted by Hong Kong's major food importing countries/places. DS/FH(Food) said that the Administration maintained close contact and frequent exchanges with the relevant Mainland authorities on the proposed list of pesticides including the Guangdong Entry-Exit Inspection and Quarantine Bureau and the Shenzhen Entry-Exit Inspection and Quarantine Bureau (Shenzhen CIQ). He added that the Administration had a meeting with Shenzhen CIQ on 12 November 2007 and discussed various issues including inspection and quarantine requirements and testing of pesticide residues on fruits and vegetables.

63. The Chairman enquired whether the implementation of the new piece of subsidiary legislation would have any adverse impact on the number and variety of vegetables and fruits imported from the Mainland.

64. DS/FH(Food) responded that, given that the current list of pesticides adopted by the Mainland was in line with the standards of Codex, the Administration's proposal would not have any significant impact on most food products imported from the Mainland. The Director of Food and Environmental Hygiene (DFEH) supplemented that, although there was presently no legislation regulating pesticide residues, FEHD conducted regular inspection and took food samples for testing at Man Kam To (MKT) Border Control Point. However, the enactment of the legislation would facilitate the enforcement actions of FEHD in this respect as there would be clear provisions in the new piece of subsidiary legislation regulating the permitted levels of pesticide residues in food. DFEH pointed out that, given that the existing MKT food inspection facilities were built about ten years ago, they could not cope with the current mode of transportation of using cargo containers. To cope with different types of transport vehicles, the Administration planned to expand MKT food inspection facilities, including increasing the number of vehicle processing bays, to enhance FEHD's inspection work at the border control point.

65. In response to Dr Kwok Ka-ki's question, the Controller of CFS said that, apart from conducting tests on imported vegetables and fruits at import level at

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MKT Border Control Point, CFS also took samples of vegetables and fruits to test for pesticide residues and other harmful substances at wholesale and retail levels under its regular food surveillance programme. She further said that, after the implementation of the new regulatory control over the pesticide residues, the number of prohibited or restricted chemicals to be tested in food samples would be increased. Instead of increasing the number of samples, CFS would make appropriate changes to the types of pesticides to be analysed from samples taken at import, wholesale and retail levels.

Other issues discussed

66. Responding to Mr WONG Kwok-hing's enquiry as to what other areas in respect of Hong Kong's food standards that did not meet with the Codex standards, DFEH said that, since the establishment of CFS in May 2006, CFS had reviewed the current legislations relating to food safety in Hong Kong and examined whether the food standards presently adopted in Hong Kong were in line with prevailing international standards, notably the Codex standards. Having regard to the result of the review, the Administration planned to introduce a new food safety law into LegCo for scrutiny in the 2008-2009 session with a view to strengthening control over food safety Hong Kong. As regards the current food standards in Hong Kong, DFEH advised that the Administration was conducting a review on the veterinary drugs in food. The Administration intended to propose amendments to the regulation of veterinary drug residues in food and would consult the Panel on this matter in the second quarter of 2008.

67. Mr WONG Yung-kan said that, with a growing consumer demand for high quality food in recent years, coupled with the farming industry's efforts for maximizing productivity, the existing farming practices had been constantly improving over the years. Pointing out that there were media reports about the application of Chinese herbal medicine to pig feeds, he considered that the Administration should pay attention to the development of new veterinary drugs used for food-producing animals and the health risk posed by these new veterinary drugs.

68. Consultant/CFS responded that the Administration proposed to develop a list of "exempted substances" to facilitate the trade to use pesticides that were natural and the residues of which were identical to or indistinguishable from natural food components. In developing such a list, the Administration would base on the following principles: - (a) the substances used fell under the definition of pesticides; (b) the substances which were considered not necessary to require any MRLs by other regulatory authorities; and (c) the substances would not pose any public health risk. On the application of Chinese herbal medicine to animal feeds, Consultant/CFS said that the Administration would consider this issue when reviewing the Public Health (Animals and Birds) (Chemical Residues) Regulation (Cap. 139N) governing the use of veterinary drugs in food animals.

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69. Referring to the consultation document on the "Proposed regulatory framework for pesticide residues in food in Hong Kong", Dr Joseph LEE pointed out that the contents of the consultant document were rather technical, particularly the names of pesticides listed in annexes to the document and the public would find it difficult to comprehend. He wondered whether the Administration could provide a list of pesticides, with information on source countries/places, that were related to past food safety incidents for the public's easy reference.

70. Consultant/CFS said that methamidophos and isocarbophos were the pesticides that were found related to most of the food incidents in respect of pesticide residues in food that had caused acute food poisoning. He informed members that the Administration would hold two public forums for introducing and discussing the proposed regulatory framework for pesticide residues food in December 2007.

VI. Proposed amendments to the Preservatives in Food Regulations
[LC Paper Nos. CB(2)289/07-08(04) and (05)]

Briefing by the Administration

71. Consultant/CFS briefly presented the Administration's proposal to amend the Preservatives in Food Regulations (Cap. 132BD) (the Regulations), with details as set out in the Administration's paper [LC Paper No. CB(2)289/07-08(04)]. He advised that the proposed amendments aimed to bring local legislation in line with international development and standards, in terms of the framework of the regulatory regime, the types of preservatives and antioxidants regulated and the levels of the standards. Major proposals for amendments included the following -

- (a) expansion of the definition of "antioxidant" to cover also food additives which protected foodstuffs against colour changes;
- (b) incorporation of those preservatives and antioxidants, as well as their permitted levels of use, in the General Standard on Food Additives (GSFA) of Codex into the Regulations;
- (c) combination of the existing list of permitted preservatives and that of antioxidants (i.e. Part I and Part II of the First Schedule of the Regulations) in order to recognize the multi-functional property of food additives; and
- (d) development of a Food Category System which was based on the one adopted by the Codex GSFA.

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72. Consultant/CFS said that the shift from the current "product-specific" list to the proposed Food Category System would increase the number of food in which preservatives or antioxidants were allowed. To cater for local needs, there would be a food category in the proposed Food Category System that covered all existing specified food items that did not belong to any of the food categories under the Codex GSFA system. The Administration would issue a set of Guidelines to assist the trade to adapt to changes to be brought about by the amendments to the Regulations, in particular the Food Category System. The Guidelines would include a food descriptor list providing examples of individual food items included in each food category, particularly local food.

73. As regards the transitional arrangement, Consultant/CFS advised that, taking into account the views of members and the trade, the Administration proposed to provide a transition period of two years to allow sufficient time for the trade to prepare for the changes. In order for the trade and the consumers to benefit from the amendments, it was also proposed that, during the transitional period, it was legally in order for any single food item to comply wholly with either the existing Regulations or the amended Regulations. However, after the end of the transition period, the existing Regulations would be repealed and all food must comply with the amended Regulations. Consultant/CFS stressed that, from the perspective of food safety, both the standards under the existing Regulations and the amended Regulations were adequate to safeguard public health.

74. Members noted that the LegCo Secretariat had prepared a background brief entitled "Preservatives in Food Regulations" for members' reference [LC Paper Nos. CB(2)289/07-08(05)].

Application of carbon monoxide

75. The Deputy Chairman said that he remained concern about the application of carbon monoxide by some unscrupulous food traders to mask the staleness of food e.g. sashimi. He asked whether the use of carbon monoxide would be regulated by the amended Regulations.

76. Consultant/CFS explained that, given that carbon monoxide did not meet the definitions of preservative and antioxidant, carbon monoxide would not be governed by the amended Regulations. He, however, pointed out that, under PHMSO, food sold and intended for human consumption should be fit for human consumption. FEHD would follow up cases where food products that had been applied with carbon monoxide but were found not fit for human consumption.

77. On the Administration's response, the Deputy Chairman said that he was worried that, in the absence of relevant legislation to regulate the use of carbon monoxide, the public could not find out whether there would be any health risk of consuming food products that had been applied with carbon monoxide, and the

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unscrupulous food traders might use carbon monoxide to mask the staleness of food products beyond the expiry date.

78. In response, Consultant/CFS said that the purpose of this legislative amendment exercise was to bring about harmonization of the local legislation and international development, in terms of the framework of the regulatory regime, the types of preservatives and antioxidants regulated and the levels of the standards. The use of carbon monoxide was a separate issue and would be considered at an appropriate time. Consultant/CFS reiterated that it was an offence for any person to provide food that was unfit for human consumption according to PHMSO. Whenever any food product was found unfit for human consumption, FEHD would take necessary follow up actions.

VII. Any other business

[LC Paper No. CB(2)289/07-08(06)]

Overseas duty visit

79. Members agreed in principle to undertake a duty visit to France and the United Kingdom (UK) to study the regulatory frameworks of food safety, food labelling requirements as well as relevant consumer protection measures in these places and invite non-Panel Members to join the proposed visit. Members also agreed that a five-day visit programme be conducted either during the Chinese New Year break in early February 2008 or during the Easter break in late March 2008.

Clerk

80. The Chairman requested the Clerk to write to the Hong Kong Economic and Trade Offices (HKETOs) in Brussels and London to seek their initial advice on the proposed dates and whether they would envisage any problem for the government agencies and the relevant food trade organizations to receive the delegation during the periods of time as suggested above. At the suggestion of the Deputy Chairman, members further agreed that a circular would be issued to ascertain members' interest in joining the visit and preference for the proposed dates. Subject to members' feedback and the advice from HKETOs, the Panel would then decide on the date of the proposed visit to France and the UK.

(Post-meeting note: A circular inviting Panel members to indicate their interest to join the duty visit and their preference for the visit dates was issued vide LC Paper No. CB(2)359/07-08 on 15 November 2007.)

Proposed research outline

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81. Members endorsed the proposed research outline on food safety mechanism and food labelling requirements in the European Union, the UK and France, prepared by the Research and Library Services Division of the LegCo Secretariat.

82. There being no other business, the meeting ended at 4:50 pm.

Council Business Division 2
Legislative Council Secretariat
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