

立法會
Legislative Council

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(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, 11 March 2008, at 2:30 pm
in Conference Room A 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 Vincent FANG Kang, JP
Hon WONG Kwok-hing, MH
Dr Hon Joseph LEE Kok-long, JP
Hon Alan LEONG Kah-kit, SC

Members absent : Hon TAM Yiu-chung, GBS, JP
Dr Hon KWOK Ka-ki

Public officers attending : Item III and IV

Food and Health Bureau

Ms Rhonda LO Yuet-yee, JP
Deputy Secretary for Food and Health (Food) (Acting)

Item III

Food and Environmental Hygiene Department

Mr CHEUK Wing-hing, JP
Director of Food & Environmental Hygiene

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Ms Alice LAU Yim, JP
Deputy Director of Food & Environmental Hygiene
(Environmental Hygiene)

Item IV

Agriculture, Fisheries and Conservation Department

Mr LAU Sin-pang, JP
Deputy Director of Agriculture, Fisheries and Conservation

Dr LIU Kwei-kin
Assistant Director (Agriculture)

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. Information paper(s) issued since the last meeting

Members noted that no information paper had been issued since the last meeting.

II. Items for discussion at the next meeting

[Appendices I and II to LC Paper No. CB(2)1273/07-08]

2. Members agreed to discuss the following two items proposed by the Administration at the next regular meeting scheduled for 8 April 2008 -

(a) review on the provision of public markets; and

(b) regulation of veterinary drugs in food.

3. Referring to the subject of implementation of code of practice in pig farms to be discussed under agenda item IV, Mr WONG Yung-kan suggested that

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deputations should be invited to present their views at the next regular meeting. Members agreed. To allow sufficient time for discussion, members further agreed that the meeting on 8 April 2008 would be held from 2:30 pm to 5:30 pm at Conference Room A of the Legislative Council Building.

(Post-meeting note: At the request of the Administration and with the concurrence of the Chairman, the agenda item referred to in paragraph 2(b) was deferred to a future meeting and a new item on "Anti-Mosquito Campaign 2008" was added to the agenda of the meeting.)

III. Future operation and management of Sheung Shui Slaughterhouse

Presentation by the Administration

4. Deputy Secretary for Food and Health (Food) (Acting) (DS/FH(food)(Ag)) informed members that the current term of the Operation Services Agreement (OSA) with Ng Fung Hong Limited (NFH) for operating and managing the Sheung Shui Slaughterhouse (SSSH) would expire on 31 July 2009. The Administration planned to invite open tenders in the third quarter of 2008 from the private sector to operate and manage SSSH.

5. Deputy Director of Food and Environmental Hygiene (Environmental Hygiene) of Food and Environmental Hygiene Department (DD(EH)/FEHD) briefly highlighted the inadequacies of the existing OSA terms and the proposed enhancements to the terms of the future contract with the operator of SSSH, with details as set out in the Administration's paper [LC Paper No. CB(2)1267/07-08(01)]. The major enhancements in the future OSA terms were summarised as follows -

(a) Lairage Management

The operator would be required to admit live food animals and allocate lairage spaces on a first-come-first-served and non-discriminatory basis. The operator might levy different levels of fees and charges according to the arrival hours and duration of stay of live food animals and their need for specific services, provided that the same arrangement would apply equally to all customers.

(b) Fees

The operator would be required to seek the Administration's prior approval for changing its fees and charges.

(c) Information Provision and Disclosure

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In addition to the information and documents required to be disclosed to the Administration under the existing OSA, the new OSA would also require the operator to provide information and records necessary for monitoring the operator's performance (e.g. operating and maintenance costs), enhancing market transparency (e.g. trading information) and enabling food traceability (e.g. source and subsequent movement of live food animals/slaughtered carcasses).

(d) Sanctions and Incentives

The new OSA would provide financial sanctions for specific breaches of the provisions of OSA and also financial incentives for service enhancements with tangible benefits with a view to motivating the operator to improve and excel.

6. Members noted that the LegCo Secretariat had prepared a background brief entitled "Live pig supply and Sheung Shui Slaughterhouse" for members' reference [LC Paper No. CB(2)1273/07-08(01)].

Monopolization of the market for fresh pork

7. The Deputy Chairman said that the current SSSH operator, NFH, as one of the live pig import agents had also set up its own subsidiary companies which ran business in relation to live pig wholesaling (i.e. pig buyers) and transportation. He expressed concern over the possibility of monopolization of the import, wholesale, slaughtering and transportation by the future operator of SSSH. He asked whether the Administration would consult the Consumer Council (CC) and the Competition Policy Advisory Group (COMPAG) on the competition issues and the new OSA.

8. Director of Food and Environmental Hygiene (DFEH) responded that the Administration did not intend to restrict the slaughterhouse operator to act also as agents to import live pigs from the Mainland into Hong Kong. He stressed that, under the new OSA, there would be clear provisions to require the SSSH operator to allocate lairage spaces to all users of SSSH services and facilities on a non-discriminatory basis and to provide same options of services to all customers on an equal basis. Given that the operator would be required to admit live pigs and allocate lairage spaces on a first-come-first-served basis, the possibility of giving preferential treatment to particular users by the slaughterhouse operator could be prevented.

9. On the Deputy Chairman's suggestion, DFEH said that FHED would seek the advice of the Food and Health Bureau (FHB) on consultation with CC and COMPAG. He added that COMPAG had previously looked into the pork supply market and did not detect any unfair trade practice.

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10. Mr Vincent FANG shared similar concern as the Deputy Chairman over the possibility of monopolization of the market for fresh pork. He said that slaughtering time was critical to the trade and any delay would cause impact on its business. He was worried that, if the SSSH operator also ran other subsidiary business related to live pig supply, there might be unfair treatment of other live pig agents by the operator who had the right to manage and operate the slaughterhouse. Live pigs sold by the other live pig agents might have to be kept in lairage spaces for an extended period of time.

11. DFEH responded that, having regard to the existing slaughtering throughput of live pigs in SSSH, live pigs auctioned at SSSH could either be slaughtered in the early morning or morning session. He reiterated that the operator under the new OSA would be required to allocate lairage spaces to all users of SSSH services and facilities on a non-discriminatory and first-come-first-served basis. DFEH explained to members that there were different lairages in SSSH, namely auctioning lairages, waiting lairages and holding lairages. When live pigs were transported to the slaughterhouse, they were kept in the auctioning lairages for auctions. After live pigs were sold, they would be transferred to the holding lairages pending for the laboratory results on urine samples. The laboratory tests would usually take half a day. For unsold live pigs, they would be kept in the auctioning lairages. There were presently 135 holding lairages in SSSH, each of which could accommodate 20 live pigs.

Lairage management

12. Mr WONG Yung-kan said that members belonging to the Democratic Alliance for Betterment and Progress of Hong Kong (DAB) were, in principle, supportive of the Administration's proposal. He, however, expressed concern over the allocation of lairage spaces on a first-come-first-served basis and whether there would be sufficient lairage spaces to cater for the needs of live pig import agents if more agents were being appointed in future. He asked whether the Administration would consider allocating lairage spaces on the basis of the export quota ratio of the live pig agents.

13. The Deputy Chairman pointed out that the proposed enhancements relating to lairage management would only take effect after the expiry of the current OSA in July 2009. He asked what measures the Administration would take in addressing the current problem of insufficient lairage spaces before the new OSA came into effect.

14. In response to Mr WONG Yung-kan's and the Deputy Chairman's questions, DFEH said that there were presently 240 auctioning lairages, each of which could accommodate 20 to 40 pigs. The auctioning lairages at SSSH could provide sufficient spaces to accommodate over 9 000 live pigs at a maximum. In the light

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of this, the proposed arrangement of allocating lairage spaces on a first-come-first-served basis would not be an obstacle to the introduction of more agents to import Mainland live pigs to Hong Kong in future.

15. As regards the current problem at SSSH, DFEH explained that some of the lairage spaces at SSSH had already been leased to other companies by NFH. It was the main reason leading to the current problem of insufficient lairage spaces to admit live pigs imported by the second and the third agents (i.e. Guangnan Hong Limited (GNH) and Hong Kong Agriculture Special Zone Development Association (HKASZDA)). To solve the problem, the Administration had made use of transit lairages to provide extra lairage spaces for GNH and HKASZDA. DFEH said that noise barriers and air purified units would be installed at the transit lairages and works had commenced in last December. With the implementation of these improvement measures, GNH and HKASZDA could keep their unsold stock of live pigs overnight at SSSH. As regards the export quota of three live pig agents, DFEH understood that the ratio of the quota of importing live pigs from the Mainland for NFH, GNH and HKASZDA was 75%, 15% and 10% respectively. He added that GNH and HKASZDA had recently increased their daily supply of live pigs imported from the Mainland from 600 to 1 000 and from 400 to 800 respectively.

16. Mr Vincent FANG said that he was supportive of the Administration's proposed enhancements to the terms of the new OSA. He considered that the first-come-first-served arrangement for assigning lairage spaces was fair to all live pig agents but was worried whether such arrangement would cause any confusion in the operation of SSSH. He also enquired about the uses of the lairage spaces that had been leased out by NFH.

17. DFEH responded that the daily supply of live pigs imported from the Mainland was around 4 000 and about 3 000 of them were auctioned at SSSH. Given that the average daily slaughtering throughput of pigs at SSSH was around 5 000, the first-come-first-served arrangement would not cause any problem to the operation of SSSH. He said that, in the worst case scenario, the Administration would also be given power in the new OSA to take over the management of a part of or all the lairage facilities when public interest so warranted. On the lairage spaces that had been leased out by NFH, DFEH advised that the rental lease agreements between NFH and its leasees did not have a fixed term. The agreements would remain in effect until NFH's current OSA with the Administration expired.

18. The Chairman said that members belonging to the Liberal Party supported, in principle, the proposals set out in the Administration's paper. He, however, was concerned about the details in the implementation of the proposed enhancements. He asked whether the enhanced lairage management measures could address the problem of insufficiency in lairage spaces allocated to live pig agents. DFEH

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responded that the first-come-first-served arrangement in allocating lairage spaces at SSSH would prevent the recurrence of the current problem where some agents might be prevented from importing more live pigs from the Mainland due to insufficient lairage spaces at the slaughterhouse.

Information provision and disclosure

19. Noting that the future operator would be required to submit the required information at such periodic intervals and in such format as might be specified by the Administration, Mr Alan LEONG asked about the intervals and formats of the information to be submitted.

20. DFEH responded that the purposes of requiring the operator to submit information and records were to facilitate the Administration to monitor the operator's performance, enhance market transparency and trace source and subsequent movement of live food animals/slaughtered carcasses. He said that some of the trading information such as auction/transaction prices of pigs sold at SSSH was time critical and would not serve its purpose of enhancing market transparency if the operator failed to submit the necessary data by the deadline set by the Administration. In the light of this, the operator would be required to provide daily auction/transaction prices to facilitate the Administration to get hold of the information as much and early as possible, with a view to enhancing information flow and transparency of the market.

21. The Chairman said that, while he appreciated the public's right to know about the wholesale prices and supply of the pork market, he was concerned about the extent of the disclosure of information. He pointed out that pork trade operators might regard such information as commercial secrets, worrying that the disclosure of information might put them in a disadvantageous position if their competitors were able to obtain such information. He considered that it would be important for the Administration to strike a right balance between the public's right to know and the trade's interests. The Administration should not disclose wholly and indiscriminately all the information submitted by the slaughterhouse operator.

22. DFEH responded that the Administration would analyze and summarize the necessary trading information submitted by the operator prior to its release to the public (e.g. the highest, the lowest and the weighted average wholesale prices for live pigs sold through auctions at SSSH). The new OSA would provide flexibility for the Administration to release more information where necessary and appropriate.

23. On the Administration's response, Mr WONG Yung-kan considered that the information on the auction/transaction prices for live pigs should be widely publicized through various media channels including television. He asked whether the Administration would consider broadcasting such information on television

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channels. The Chairman echoed Mr WONG Yung-kan's view and asked whether the daily auction/transaction prices were available on the Government website.

24. Mr Vincent FANG shared similar views with Mr WONG Yung-kan and the Chairman. He said that information on the supply of live pigs could help alleviate the worries of pork traders and retailers, thereby preventing the occurrence of overbidding and overstocking and hence stabilizing the prices of pork.

25. In response to members' views and questions, DFEH said that the Administration issued press release everyday to inform the public of the information e.g. the range of the wholesale price, the average price for live pigs, the number of live pigs arriving at slaughterhouses and the estimated number of live pigs to come from the Mainland and local farms the following day. Such information was also made available on Government website. He further said that the press release would be issued by around 6:00 pm each day. Should the future operator submit such information via electronic means, the Administration would be able to provide real-time information.

26. The Chairman asked whether the Administration could publicize the information instantly once information on the supply of live pigs was available. He said that, if information on the supply of live pigs on the following day could be released before noon of the day, pork buyers would not overbid for live pigs due to uncertainty on the live pig supply on the following day.

27. DS/FH(food)(Ag) explained that the Administration usually received information on the estimated number of live pigs to be imported from the Mainland on the following day in the late afternoon. The Administration would then collate all information concerning the total pig supply for the following day, including live pigs from the Mainland, local pig farms and unsold pigs in the slaughterhouses. She said that the Administration would consider the Chairman's suggestion and would continue to liaise with the Mainland authorities on this matter.

Term of the contract

28. Both Mr WONG Yung-kan and Mr Alan LEONG shared similar view that, should the SSSH operator had an outstanding performance in operating and managing the slaughterhouse, the operator should be given an opportunity to further extend the term of its contract at the end of the 10-year contract term. Mr WONG Yung-kan asked whether the Administration would consider awarding further extension of the term of the contract upon expiry of the first four-year contract term subject to further enhancement of the facilities at the slaughterhouse.

29. DFEH responded that, generally, the Administration did not award contract of the kind for an indefinite period. The Administration's plan was to award the contract of operation and management of SSSH through an open tender initially for

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four years and the contract would be renewable for two three-year terms subject to satisfactory performance. He said that a 10-year contract would not only enhance the attractiveness of the tender and provide an incentive for the operator to maintain its standard of performance, it would also retain flexibility for the Administration to switch to a different operator should circumstances so warranted. On the facilities in SSSH, DFEH said that the Administration did not consider that there was such a need to enhance the facilities in SSSH at the present moment. Nonetheless, the Administration would discuss with the SSSH operator on the areas where enhancements would be required should such a need arose in future.

30. Noting that any change to fees and charges proposed by the operator should be subject to the Administration's prior approval, the Chairman asked about the criteria for the Administration in granting approval for the operator's application to change its fees and charges. DFEH responded that, in considering the operator's application for changes in fees and charges, the Administration would require the operator to provide necessary and essential information relating to its application and take into account various factors including market situation and whether the proposed rate of increase was reasonable.

Selection criteria for tender assessment

31. The Chairman asked whether the Administration would require the tenderer to provide information on the proposed slaughtering fees to be charged to the customers and take into account the proposed fees in assessing the tender offers. He considered that the proposed slaughtering fees might have direct impact on the prices of pork and a proper weighting of each tender selection criteria including the slaughtering fees proposed by the tenderers should be set by the Administration.

32. DFEH responded that the operator would be required to provide information on the slaughtering fees. In assessing the tender offers, the Administration would take into account all aspects of information provided by the tenderer including the quality of service provided, fees and charges, and fees to be paid to the Administration.

33. The Deputy Chairman asked about the selection criteria for the tender offers and whether the selection criterion was based solely on the highest quarterly fees to be paid to the Administration or whether the experience/track record of the prospective operator in operating and managing a slaughterhouse would be taken into account.

34. DFEH explained that it was the Administration's policy that fees should in general be set at levels sufficient to recover the full cost of providing the services. Under the present OSA, the operator of SSSH was required to pay a Basic Fee to the Administration on a quarterly basis for the right to provide the operation services. The Administration would not consider solely the proposed fees to be

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paid by the operator in assessing the tender offers. DFEH said that the Administration would also take into account the background and relevant experience of the operator, the manpower and professional expertise and the quality of services in making a decision on the selection of a tenderer. Generally speaking, quality of service would be given a higher priority, rather than the proposed fees to be paid to the Administration. He added that the Administration would take into consideration the relative importance of different criteria in assigning weightings to various types of criteria in evaluating the tender offers.

Live pig supply

35. The Deputy Chairman said that, in the wake of shortage of live pig supply and the soaring prices of fresh pork, he considered that co-ordination between SSSH and the Tsuen Wan Slaughterhouse (TWSH) in the live pig supply for auctions at the slaughterhouses would prevent the occurrence of a situation where pig buyers competed and bided up the prices for fear of insufficient live pig supply at the slaughterhouses. He asked whether the Administration would co-ordinate the live pig supply at SSSH and TWSH.

36. DFEH responded that the recent average daily supply of live pigs had been kept at 4 000. To maintain a stable supply, the Administration would continue to monitor closely the supply of live pig to Hong Kong from the Mainland and maintain close liaison with the relevant Mainland authorities and the agents. The Administration would discuss with the relevant Mainland authorities the need to increase the supply of Mainland live pigs to Hong Kong if there was such a need in future. As regards TSWH, DFEH explained that, given that TWSH was owned and operated by a private company, the decision on the source and the number of live pigs to be admitted for sale at the slaughterhouse would be a commercial decision for its operator.

37. Noting that there was a quota system for the live pig agents to import live pigs to Hong Kong, the Chairman commented that it was not an open market in a true sense, thereby creating an unfair competition and resulting in an upsurge in price. He asked whether the Administration would discuss with the Ministry of Commerce (MOC) to abolish the quota system in the importation of Mainland live pigs.

38. DFEH responded that MOC had agreed to increase the number of live pigs exported to Hong Kong should there be a need in the Hong Kong market. To his understanding, MOC would review the quota for the three live pig import agents every six months. He said that, even if more live pig agents were appointed in future, the proposed enhancement in lairage management in the new OSA would ensure the sufficiency of lairage spaces at SSSH, thereby facilitating the further opening up of live pig market.

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39. On the requirement of providing a Performance Deposit, Mr Alan LEONG asked how the Administration would ensure the stability of fresh pork supply if an operator had breached a serious default and was charged a full forfeiture of the Performance Deposit.

40. DFEH responded that the Performance Deposit amounted to tens of million of dollars and a forfeiture of the Deposit would be a very serious sanction. He stressed that the Administration would endeavour to ensure that any forms of sanctions would not affect the supply of fresh pork. DFEH said that the current OSA did not provide for any effective sanction in the event of unsatisfactory delivery of services by the operator. Although there were provisions that enabled the Administration to recover cost, loss or damage arising from default by the operator through forfeiture of the security deposit, they could not be invoked to address breaches which might not incur a direct cost to or loss or damage to the Administration. To address the inadequacy, the new OSA would have a provision to require the operator to provide a Performance Deposit to effect financial sanctions for specific breaches of requirements under the new OSA.

IV. Implementation of code of practice in pig farms

Presentation by the Administration

41. Assistant Director (Agriculture) of Agriculture, Fisheries and Conservation Department (AD(A)/AFCD) briefed members on the details of the proposed code of practice for pig farming (COP) to be introduced to licensed local pig farms as detailed in the Administration's paper [LC Paper No. CB(2)1273/07-08(02)]. He said that COP covered four main areas, namely husbandry and farm management; movement control; disease monitoring and control; and, waste treatment and hygiene. There would be a set of penalty for non-compliance of the requirements in COP, the details of which were set out in Annex to the Administration's paper. AD(A)/AFCD stressed that AFCD staff would liaise closely with the pig farmers who failed to comply with COP and provide them with ample opportunities for explanation before imposing the penalty. All cases would be dealt with fairly and impartially. He further said that the Administration's plan was to finalize COP and relevant measures before the end of 2008.

The Administration's policy on pig farming

42. Mr WONG Yung-kan pointed out that the remaining 43 pig farms, which did not apply for the voluntary surrender scheme for pig farm licences, had expressed serious concern over and objection to the Administration's proposed COP. He said that these pig farms had all along endeavoured to follow closely the standards and practices, promulgated by the Administration, to minimize risks to public health and the environment. To assist pig farmers to comply with the

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requirements in COP, the Administration should provide necessary veterinary services and technical advice to help them enhance their pig farming practices and facilities, e.g. installation of waste treatment facilities. Mr WONG also considered that the Administration should formulate a sustainable policy on the development of livestock farming.

43. On the Administration's policy on pig farming, AD(A)/AFCD responded that the Administration had all along provided necessary veterinary services and technical advice to farmers such as the choice of pigs to be raised and prevention of pig diseases. He explained that COP was designed to set out the basic standards and requirements of a good pig farming practice. Compliance with the requirements in COP would help generate useful information to facilitate the provision of assistance to pig farmers by AFCD in case of need. The purpose of requiring pig farmers to keep proper records for the production and the use of veterinary drugs was similar to the purpose of keeping patients' clinical records. The records kept by pig farmers could enable AFCD staff to provide appropriate and suitable assistance to pig farms when they encountered problems. AD(A)/AFCD said that AFCD provided veterinary laboratory service to pig farms. Pig farmers could contact the laboratory for assistance and visits to pig farms would be arranged if necessary. AD(A)/AFCD assured members that AFCD would continue to liaise with individual pig farms and explain to them the requirements under COP with a view to relieving pig farmers' worries over the introduction of COP. He added that AFCD could provide some template forms of records for reference of pig farmers.

44. In response to Mr WONG Yung-kan's question on whether the Administration would consider issuing new pig farm licences, Deputy Director of Agriculture, Fisheries and Conservation (DD/AFC) said that, at this stage, the Administration would not consider issuing new pig farm licences. He explained that, Hong Kong being a small place with a high population, it was very difficult to identify suitable land for pig farming. He further said that, as a result of urbanization of the New Territories, there were increasing concerns over environmental pollution associated with the operation of pig farms. The emergence of Japanese encephalitis (JE) in recent years and the presence of JE virus among pigs in South East Asia had also drawn public attention to the management and hygiene of local pig farms. In the light of this, the Administration had introduced in mid-2006 a voluntary surrender scheme for pig farms to encourage pig farmers to cease their operation.

45. The Chairman asked whether the remaining 43 pig farms could comply with the requirements in COP, in particular livestock waste disposal requirements. AD(A)/AFCD responded that, when drawing up COP, AFCD had visited individual pig farms to consult farmers on the proposed COP and to better understand the feasibility of pig farms to meet the standards. Having regard to the fact that the Waste Disposal Ordinance (Cap. 354) had come into operation for a number of

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years, all pig farms had been installed with appropriate waste treatment facilities to comply with the statutory requirements. According to the information provided by the Environmental Protection Department (EPD), there had been improvement in the pollution problem related to the disposal of livestock waste as illustrated by a reduction in the number of prosecution cases for breaching the relevant provision in the Waste Disposal Ordinance.

46. Mr Vincent FANG said that, taking into consideration the recent shortage of flour supply and live pig supply to Hong Kong, he considered that the Administration should assist local pig farmers to set up their farms on the Mainland and export their pigs back to Hong Kong, thereby stabilizing the food supply in Hong Kong.

47. DS/FH(food)(Ag) responded that, in last July, FHB and MOC had reached in-principle consensus on the setting up of pig farms by local pig farmers on the Mainland. The farms must comply with the relevant food safety, bio-security and environmental requirements on the Mainland. These farms could export pigs to Hong Kong directly through their selected agents. She said that, in last September, the State General Administration of Quality Supervision, Inspection and Quarantine had organized a seminar to brief local farmers on the requirements of setting up farms supplying live pigs to Hong Kong in Guangdong such as food safety, bio-security, environmental and rearing capacity requirements. On the rearing capacity requirement, the pig farms should rear at least 5 000 pigs. DS/FH(food)(Ag) said that so far no local pig farms have met the requirements and set up farms on the Mainland.

Penalties

48. The Deputy Chairman said that, in most cases, the penalties imposed on persons for contravening certain regulations or codes of practice were fines. Noting that the penalties for breaching the requirements in COP might lead to a reduction in the licensed rearing capacity, he asked why the Administration would consider such form of penalty having a greater deterrent effect. He further asked about the implementation and enforcement of such penalty.

49. The Chairman pointed out that it would take about six to seven months to rear piglets before they could be sold to the market. He wondered how the pig farmers could reduce the number of pigs they reared instantly. He also expressed doubt as to how the penalty of a reduction in rearing capacity could be put into implementation.

50. AD(A)/AFCD responded that the problems associated with pig farming were related generally to the rearing capacity of the licensed pig farms, such as pollution load caused by the discharge of livestock waste. In the light of this, the proposed reduction in rearing capacity would be an effective measure to address the

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problem. He stressed that the original licensed rearing capacity would be restored when all breaches had been duly rectified. As regards the implementation of the proposed penalty, AD(A)/AFCD explained that it was the normal practice for pig farms to rear pigs, at various age levels, at the farms. The farms would sell those pigs at mature age to the market and deliver new borne piglets about every ten days. Should a penalty of a reduction in the rearing capacity be imposed on a licensed pig farm which failed to comply with the requirements of COP, the pig farm concerned would be given time to sell their pigs to the market. However, they would have to cease mating adult pigs so as to reduce the rearing capacity gradually.

51. The Chairman said that, while he would agree that the rearing capacity might be related with the discharge of livestock waste, it should not have a bearing on the breaching of the requirements on unauthorized alteration of drain pipes, illegal slaughtering, improper disposal of pig carcasses and use of prohibited chemicals. He was of the view that different penalties should be set to different natures of breaches which would have varying degrees of threats to public health and rural environment. The Chairman also expressed concern over the stringent law enforcement actions taken by EPD staff against breaches of waste disposal requirements under the law and its possible implications on the enforcement of COP by AFCD.

52. AD(A)/AFCD explained that the penalty for breaches causing minor and medium threats to public health and rural environment (e.g. failure to keep records of pig reduction) was a reduction in the licensed rearing capacity depending on the accumulated total number and nature of breaches committed. For breaches of the relevant requirements on preventing discharge of untreated liquid waste from farms, unauthorized alteration of drain pipes, illegal slaughtering, and improper disposal of pig carcasses and use of prohibited chemicals, the licensed pig farms concerned might be subjected to licence revocation or rejection of licence renewal if no reasonable excuse was given. On the enforcement of COP, AD(A)/AFCD reiterated that AFCD staff would liaise closely with the pig farmers concerned and adequate notifications and warnings would be given to them.

Appeal mechanism

53. In response to the Deputy Chairman's question on the appeal mechanism for pig farm license revocation or rejection of licence renewal, AD(A)/AFCD said that, although the existing legislation had empowered the Director of Agriculture, Fisheries and Conservation (DAFC) to revoke licences of those farmers who had violated the relevant provisions, the power had been exercised in a very prudent manner. The power would only be exercised after adequate notification and warnings were given, and the farmers concerned would have the right to make representations. According to the proposed COP, only a few breaches posing serious threats to the environment or public health would carry the penalty of licence revocation. As regards the appeal mechanism, AD(A)/AFCD advised that,

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under the Public Health (Animals and Birds) Ordinance (Cap. 139), any person who was dissatisfied with the exercise of the discretion of the Director under the Ordinance might appeal to the Chief Executive in Council. The grounds of such appeal should be stated in writing. If the appellant remained dissatisfied with the appeal decision, he could apply to the Court for a Judicial Review.

54. On the Administration's response, the Deputy Chairman asked whether there were any appeal cases against a licensing decision made by DAFC. AD(A)/AFCD responded that there were appeal cases made under Cap. 139 but, to his knowledge, the cases were not related to the provisions on livestock farming under Cap. 139.

Admin

55. At the request of the Chairman, AD(A)/AFCD agreed to provide the Panel with information on the appeal procedures on decisions related to cancellation of pig farm licences stipulated in Cap. 139 and any appeal cases made under Cap. 139.

56. The Chairman considered that the Administration should make reference to the appeal mechanisms in respect of Closure Orders (Immediate Health Hazard) under Public Health and Municipal Services Ordinance (Cap. 132) and the decision of the Liquor Licensing Board (LLB) in granting a liquor licence. Citing liquor licence as an example, he said that applicant for liquor licence had the right to lodge an appeal to the Municipal Services Appeals Board (MSAB) against the decision of LLB. Under the relevant legislation, a District Judge would be appointed as the Chairman of MSAB and there was specific time period where LLB must give notice in writing of the refusal, together with reasons, to the appellant. The appellant might appeal to MSAB against the refusal within a specified period of time after receiving the notice. The Chairman called on the Administration to consider setting up an appeal board in handling appeals for decision on pig farm licence revocation or rejection of licence renewal.

57. AD(A)/AFCD responded that the Administration would need to discuss with the Department of Justice (DoJ) on the Chairman's suggestion. However, legislative amendments might be required to effect a new appeal mechanism for pig farm licensing which would take some time. He said that the Administration would consult DoJ on whether any administrative measures could be put in place to address the Chairman's concern in the meantime.

Mainland's statutes

58. Referring to paragraph 14 of the Administration's paper, the Deputy Chairman asked whether the Administration's proposed COP was similar to the statutes on the management of livestock husbandry enacted by the Mainland's provincial and municipal authorities. AD(A)/AFCD responded that the provincial and municipal governments on the Mainland had, in accordance with the "Livestock Husbandry Law of the People's Republic of China" promulgated similar statutes to regulate livestock husbandry activities. Their requirements on husbandry and farm

Action

management, disease monitoring and control were similar to that of COP proposed by the Administration. He added that more stringent requirements on the management of livestock husbandry had been imposed on the registered live pig export farms on the Mainland. For instance, these registered export farms were required to have a registered veterinary surgeon stationed in the pig farm.

59. The Chairman requested the Administration to provide details of the Mainland's statues on the management of livestock husbandry enacted by the Mainland authorities and the penalties imposed on pig farms for breaching the stipulated requirements, to facilitate members' further discussion on the subject at the next regular meeting. AD(A)/AFCD undertook to follow up on the request.

Admin

V. Any other business

60. There being no other business, the meeting ended at 4:30 pm.

Council Business Division 2
Legislative Council Secretariat
7 April 2008