

**立法會**  
**Legislative Council**

LC Paper No. CB(2)2804/07-08  
(These minutes have been seen  
by the Administration)

Ref : CB2/PL/FE

**Panel on Food Safety and Environmental Hygiene**

**Minutes of special meeting  
held on Friday, 27 June 2008, at 4:00 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 WONG Kwok-hing, MH  
Dr Hon Joseph LEE Kok-long, JP  
Hon Alan LEONG Kah-kit, SC  
Dr Hon KWOK Ka-ki

**Members attending** : Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP  
Hon CHAN Yuen-han, SBS, JP  
Hon Albert CHAN Wai-yip  
Hon Audrey EU Yuet-mee, SC, JP

**Member absent** : Hon Vincent FANG Kang, JP

**Public officers attending** : Food and Health Bureau  
  
Dr York CHOW Yat-ngok  
Secretary for Food and Health  
  
Ms Olivia NIP Sai-lan  
Deputy Secretary for Food and Health (Food)

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Mr Owin FUNG Ho-yin  
Principal Assistant Secretary for Food and Health (Food)3

Food and Environmental Hygiene Department

Mr CHEUK Wing-hing  
Director of Food and Environmental Hygiene

Ms Alice LAU Yim  
Deputy Director of Food and Environmental Hygiene  
(Environmental Hygiene)

Agriculture, Fisheries and Conservation Department

Miss CHEUNG Siu-hing  
Director of Agriculture, Fisheries and Conservation

Dr Thomas SIT Hon-chung  
Assistant Director (Inspection and Quarantine)

Dr LIU Kwei-kin  
Assistant Director (Agriculture)

**Attendance by invitation** : Hong Kong Poultry Wholesalers and Retailers Association

Mr WONG Wai-chuen  
Chairman

Mr LAU Chun-san  
Secretary

The New Territories Chicken Breeders Association Limited

Mr WONG Yee-chuen  
Chairman

Mr FONG Chi-hung  
Co-Chairman

Fresh Poultry Wholesaler Association

Mr Tommy HUI Hon-man

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Kowloon Poultry Transporter and Poulterer Association

Mr WONG Tak-leung  
Chairman

Mr CHAN Tak-sing  
General Affairs Officer

Honwal Healthy Agro Products Co Ltd

Mr KWOK Ming-cheung  
Director

The World's Poultry Science Association (Hong Kong Branch)

Mr Peter WONG Chun-kow  
President

Hop Shing Co Ltd

Mr MAN Yun-fai  
Partner

Mr CHAN Wing-leung  
Assistant

Kowloon Poultry Laan Merchants Association

Mr NG Chi-kin  
Chairman

Mr LEUNG Fu-man  
Vice Chairman

Hong Kong and Kowloon Poultry Dealers and Workers Association

Mr NG Ka-lok

Mr WONG Pak-wing

" Hong Kong Day-old Chicks Development Association"  
(香港雞苗發展協會)

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Mr TSE Wing-hum  
Vice Chairman

Mr CHAN Wai-chung  
Committee member

Hong Kong Poultry Wholesalers Association

Mr TSUI Ming-tuen  
Chairman

Poultry Trade Workers Union

Mr LEE Yuet  
Committee Member

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

**Staff in attendance** : Mr Stephen LAM  
Assistant Legal Adviser 4

Ms Alice LEUNG  
Senior Council Secretary (2)1

Ms Anna CHEUNG  
Legislative Assistant (2)2

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- I. Precautionary measures to be taken against H5N1 virus and proposed compensation package for poultry trade**  
[LC Paper Nos. CB(2)2446/07-08(01), CB(2)2279/07-08(01) and (02)]  
[FCR(2005-06)28, FCR(2001-02)10 and FCR(2003-04)67]

Presentation by the Administration

*Prohibition of overnight stocking of live poultry at retail outlets*

Secretary for Food and Health (SFH) briefed members on the Administration's paper in regard to the proposals on banning overnight stocking of live poultry at retail level and offering a buyout package for the live poultry trade which was tabled at the meeting [LC paper No. CB(2)2446/07-08(01)]. SFH informed members that live chicken sales would be resumed on 2 July 2008 with

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the introduction of daily slaughtering of unsold live chickens at retail outlets. He pointed out that the new requirement of "no overnight live poultry" at retail level was essential to the protection of public health through minimizing the risk of avian influenza outbreak at the retail level, especially after the resumption of live poultry retail sales. The compulsory slaughtering of live poultry by 8:00 pm each day under the new requirement would help avoid the accumulation of virus in the environment of retail outlets. The new measure would also discourage retailers to sell smuggled chickens as any unsold chicken at the close of the day's business had to be slaughtered. SFH advised that, to facilitate the implementation of prohibition of overnight stocking of live poultry at retail outlets, the amendments to the Food Business Regulation (Cap. 132X) was gazetted on 27 June 2008 and the Food Business (Amendment) Regulation 2008 (the Amendment Regulation) would come into operation on 2 July 2008.

2. Director of Food and Environmental Hygiene (DFEH) briefly highlighted the amendments to the Food Business Regulation and a copy of the Amendment Regulation was attached at Annex A to the Administration's paper. He explained that the Amendment Regulation required the slaughtering of all live poultry remaining at retail premises before 8:00 pm each day and that there would be no live poultry at retail premises between 8:00 pm each day and 5:00 am the next day. Offenders would be subject to a maximum penalty of level 5 (i.e. a fine of \$50,000) and an imprisonment for six months. DFEH said that, after the implementation of the new requirement on 2 July 2008, Food and Environmental Hygiene Department (FEHD) officers would inspect every retail outlets every day in the first month to ensure that retailers would comply with the new requirement.

*Proposed buyout package for the affected live poultry trade*

3. SFH stressed that the proposed extra-gratia payment (EGP), as detailed in Annex B to the Administration's paper, offered to the live poultry trade was reasonable. In working out EGP and financial assistance under the proposed buyout package, the Administration had used the formulae adopted in the previous Voluntary Surrender Schemes (VSS) launched for the live poultry trade in 2004 and 2005 as the basis for calculating EGP and had suitably made some adjustments to its initial proposed packages taking into account the views of the live poultry trade. The latest proposed buyout package for the trade amounted to slightly over \$1 billion. If a substantial majority (e.g. around 90%) of the number of live poultry retailers would accept the proposed buyout package to surrender their licences/tenancies and cease their operation permanently, the Administration would offer buyout packages to farmers, wholesalers, retailers, transporters and workers. SFH said that the Administration would give one-month's time (i.e. by 24 July 2008) to poultry retailers and three-month's time (i.e. by 24 September 2008) to poultry farmers, wholesalers and transporters to decide, subject to funding approval by the Finance Committee (FC). He added that the Administration planned to seek funding approval from FC on 4 July 2008.

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4. With regard to EGP offered to retailers, DFEH said that it would be calculated in accordance with the size of the live poultry stalls which were divided into nine bands, instead of five in VSS, as detailed in paragraph 23 of the Administration's paper. On EGP for live poultry farmers, Director for Agriculture, Fisheries and Conservation (DAFC) said that the Administration would continue to adopt the more lenient factors for calculating EGP as in VSS. In addition, the Administration proposed to triple the lump sum payment of \$0.15 million for biosecurity facilities under VSS to \$0.45 million for each chicken farm. For live poultry wholesalers, transporters and workers, details of EGP and one-off grant were set out in paragraphs 22, 24 and 25 of the Administration's paper.

5. SFH advised that the Administration had made it clear that those who chose to stay in the live poultry trade would have to bear the risks of any further avian influenza outbreaks in Hong Kong. No EGP or financial assistance, other than the statutory compensation for poultry culled would be provided in the event of an avian influenza outbreak.

Presentation of views by deputations

*Hong Kong Poultry Wholesalers and Retailers Association*  
[LC Paper No. CB(2)2477/07-08(01)]

6. Mr WONG Wai-chuen presented the views of the Association as detailed in its submission. He said that live poultry retailers would find it very difficult to do business in this new mode of operating environment where live poultry was not allowed to be kept overnight at retail outlets. There would be no room for their business operation and they would be forced to cease their live poultry business. They hoped that the Administration would consider increasing the rates of EGP to them by 30% to 50%. Mr LAU Chun-san said that he shared the view of some infection control experts that the implementation of the new requirement at retail outlets could not prevent avian influenza outbreaks in Hong Kong. He pointed out that the Administration had not consulted the live poultry trades fully on whether or how such measure could be implemented, and urged the Panel to move a motion to cease the implementation of "no poultry overnight" requirement.

*The New Territories Chicken Breeders Association Limited*  
[LC Paper No. CB(2)2477/07-08(02)]

7. Referring to the submission of the Association tabled at the meeting which set out the details of the facilities, devices and equipment required by the Administration in setting up a chicken farm, Mr WONG Yee-chuen questioned why the Administration did not take into account the investment of live chicken farmers on these infrastructure and facilities in calculating the proposed EGP to them. He pointed out that these facilities were requirements specified in the licensing conditions and farmers were required to renew and upkeep these facilities in good operating order. Mr WONG expressed strong dissatisfaction with the

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Administration's offering of generous EPG to live poultry retailers and wholesalers to attract them to surrender their licences/tenancies given that the ceasing of operation of wholesalers and retailers would adversely affect farmers and force them to close down their farming business. He also urged the Administration to assist local farmers to deal with the existing 400 000 chickens at farms that had past the average marketable age.

*Fresh Poultry Wholesaler Association (FPWA)*

8. Mr Tommy HUI Hon-man considered that the Administration should not set a condition that, only if 90% of retailers would leave the trade, the Administration would offer buyout packages to live poultry farmers, wholesalers, retailers, transporters and workers. He was of the view that the Administration should be more flexible in this triggering percentage given that some live poultry farmers and traders would like to continue their business. The Administration should also ensure the continuous operation of the live poultry trade.

*Kowloon Poultry Transporter and Poulturer Association (KPTPA)*  
[LC Paper No. CB(2)2455/07-08(01)]

9. Mr WONG Tak-leung presented the views of the Association as detailed in its submission. He expressed objection to the implementation of the new requirement of allowing no stocking of live poultry overnight at retail level and criticized that the Administration had not worked out any complementary measures. He said that the operating cost for the transporters who had monthly carpark tenancies at the wholesale market was much higher than those transporters without monthly carpark tenancies, and requested that, when working out EPG to them, the Administration should consider compensating them the amount of rent of parking spaces in the wholesale market that they had paid in the past years. Mr CHAN Tak-sing also requested that the Administration should consider allowing the existing chicken lanns operating in the Cheung Sha Wan Wholesale Food Market to change to wholesaling business of chilled live poultry so that the existing live poultry transporters renting parking spaces there could continue their business.

*Honwal Healthy Agro Products Co Ltd*  
[LC Paper No. CB(2)2446/07-08(02)]

10. Mr KWOK Ming-cheung presented the views of the company as detailed in its submission and commented that the Administration had adopted an unfair attitude towards the live poultry trade and queried about the need to implement the new requirement at retail level. Mr KWOK requested that the Administration should discuss with the Ministry of Commerce to suspend live chicken exports to Hong Kong so as to avoid oversupply of live chickens in markets and overstocking of live chickens at local farms.

*The World's Poultry Science Association (WPSA) (Hong Kong Branch)*

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[LC Paper No. CB(2)2455/07-08(02)]

11. Mr Peter WONG Chun-kow presented the views of the Association as detailed in its submission. He pointed out that, since 2003, there were about several tens of millions of live chickens sold in the retail outlets in Hong Kong but no single live chicken had been infected with H5N1 avian influenza virus. Given that there was "zero risk" of avian influenza infection to the public, he doubted how the Administration could further reduce the "zero risk" by implementing the enhanced daily cleansing measure at retail level. He criticized that the implementation of such measure would wipe out the whole live poultry trade in Hong Kong.

*Hop Shing Co Ltd*

12. Mr CHAN Yun-fai said that the chicken feed manufacturers, suppliers and workers of the chicken feed trade were a group of people that had all along been neglected by the Administration. Despite that they had reflected their concerns and difficulties to the Administration, they did not receive any positive response from the Administration. He further said that, similar to live poultry farms, the business operation of chicken feed trade also involved huge capital investment and, if local farms ceased to operate, the manufacturers and traders of the chicken feed trade would be affected greatly and might be forced to close their business. He hoped that the Administration would also consider providing compensation to them.

*Kowloon Poultry Laan Merchants Association*

[LC Paper No. CB(2)2455/07-08(03) and CB(2)2477/07-08(03)]

13. Mr LEUNG Fu-man presented the views of the Association as detailed in its submissions. He said that the new requirement would leave no room for operation for wholesalers. He requested that the Administration should suitably adjust EPG to the poultry laan merchants and allow them to switch to the chilled poultry wholesale business at the existing lanns in the wholesale food market.

*Hong Kong and Kowloon Poultry Dealers and Workers Association*

14. Mr NG Ka-lok said that most of their members were live poultry stall traders at the public markets managed by FEHD. He considered that the Administration should further adjust the proposed EGP to retail stalls of the size from less than 15 m<sup>2</sup> to 45 m<sup>2</sup> given that all stalls were given the same permission to sell live poultry irrespective of their sizes of areas. Mr NG suggested that the Administration should increase slightly the one-off grant to the affected live poultry workers having regard that it might take them a long time to switch to another trade.

*"Hong Kong Day-old Chicks Development Association" (香港雞苗發展協會)*

[LC Paper No. CB(2)2455/07-08(04)]

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15. Mr TSE Wing-hum presented the views of the Association as detailed in its submission. He said that he doubted whether there was a need for banning the importation of day-old chicks from the Mainland given that there was no avian influenza outbreak at local chicken farms. He said that, as they had to place their order for day-old chicks from the Mainland one month in advance, they were required to take up the responsibility for compensation to the Mainland farms due to the import ban of day-old chicks. He said that they would be affected greatly if the whole live chicken trade would be wiped out. He hoped that the Administration would address to their concern and provide reasonable compensation. Mr CHAN Wai-chung pointed out that, as day-old chicks trade and live chickens trade were interrelated to each other, the Administration should also provide compensation to the day-old chicks trade.

*Hong Kong Poultry Wholesalers Association (HKPWA)*  
*[LC Paper No. CB(2)2455/07-08(05 )]*

16. Mr TSUI Ming-tuen presented the views of the Association as detailed in its submission. He queried about the formula used by the Administration in calculating the proposed EGP for the wholesalers and considered that the Administration should also take into account the licence fee, the rents and the profits of the wholesalers in working out the EGP.

*The Poultry Trade Workers Union*  
*[LC Paper No. CB(2)2455/07-08(06 )]*

17. Mr LEE Yuet presented the views of the Association as detailed in its submission. Given that most of the affected workers were in their middle age with no other working experience, it would be very difficult for them to find alternative employment. He considered that the one-off grant of \$35,000 should be increased slightly and should not be used to balance off the compensation payable for being laid off. He also requested that the Administration should provide training to assist the affected workers to switch to another trade.

The Administration's response to the deputations' views

18. On the views of the deputations, SFH responded that the recent detection of H5N1 avian influenza virus in environmental swabs taken from four public markets indicated that, despite the preventive and control measures that the Administration had put in place, they were inadequate in containing the public health risks posed by avian influenza, especially at retail level. The location of the four retail markets all over the territory further suggested that the virus might have a propensity to spread. It would be too late if the Administration had to wait for the occurrence of a human case to take measures to contain the disease. He stressed that the Administration would not compromise on the daily slaughtering of unsold live poultry at retail outlets. SFH appealed to the trade operators to give their support

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and to be understanding in respect of implementing the new requirement of "no overnight live poultry " when live chicken sales resumed on 2 July. He also hoped that the trade would continue its discussion with the Administration on the proposed EGP.

19. On the Chairman's question as to whether there would be any EGP provided to the operators and workers of the day-old chicks and chicken feed trades, SFH explained that, in principle, EGP would only be offered to the farmers, wholesalers, retailers, transporters and workers who were affected directly by the avian influenza outbreak. He said that this was the rationale that the Administration had adopted in working out EPG proposals in 2004 and 2005. He considered that this policy should be maintained.

Banning of overnight stocking of live poultry at retail outlets

20. In response to Mr Albert CHAN's enquiries about the scrutiny period of the Amendment Regulation which was subject to the negative vetting procedure, Assistant Legal Adviser 4 (ALA4) explained that, under section 34 of the Interpretation and General Clauses Ordinance (Cap. 1), an item of subsidiary legislation which was published in the Gazette was to be tabled in the Legislative Council at the meeting immediately following its publication. The scrutiny period referred to the 28 days immediately following the day on which the subsidiary legislation was tabled. In respect of the Amendment Regulation gazetted on 27 June 2008, it would be tabled at the Council meeting on 2 July 2008, and the 28-day scrutiny period would expire on 15 October 2008. During the scrutiny period, a motion could be moved to amend (including to repeal) the subsidiary legislation or to have the period extended. Notice of a motion to amend (including to repeal) an item of subsidiary legislation subject to negative vetting procedure was to be given not less than five clear days before the relevant Council meeting, unless the President dispensed with such notice.

21. Mr Albert CHAN said that, as he was greatly dissatisfied with the Administration's way of handling the matter, he had already given notice of moving a motion to repeal the Amendment Regulation at the Council meeting on 9 July 2008. He commented that the Administration should locate the source of infections and provide solid evidence to support its claim for the imminent need to implement the new requirement of "no overnight live poultry " at retail outlets. He considered that the Administration should step up its efforts to combat smuggling of live chickens. Mr CHAN pointed out that he had already put forward a proposal in respect of measures to separate live poultry from humans including the implementation of daily cleansing at retail outlets to the Administration for consideration a few years ago when there was an avian influenza outbreak in Hong Kong. He criticized that the Administration failed to take any actions to follow up his suggestions over the past years.

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22. Mr WONG Yung-kan said that he was deeply saddened by the way the Administration had handled the incident of the detection of H5N1 avian influenza in public markets. He was gravely concerned that the introduction of the compulsory banning of overnight stocking of live poultry at retail outlets would be detrimental to the whole live poultry trade in Hong Kong. He further said that many of the live poultry farmers, traders and workers would become unemployed as a result of the Administration's move to implement the new daily slaughtering requirement at retail level.

23. The Chairman also questioned about the effectiveness of banning overnight stocking of live poultry at retail outlets as a measure to prevent the possible spread of avian influenza virus by smuggled chickens.

24. In response to members' views, SFH reiterated that H5N1 avian influenza virus was found in the environmental swabs collected at the four public markets and the detailed studies of the genetic sequencing of the virus showed that the virus was originated from the same source and of the same strain. This was already a sign indicating that there was a spread of virus in the markets. There was an imperative need to enhance the measures to arrest any possible spread of avian influenza virus in Hong Kong in order to reduce the risks of human infection of avian influenza. SFH said that the Administration was well aware of the difficulties of the trade but daily slaughtering of unsold live poultry at retail level was a feasible option that could safeguard public health. It could also help combat the smuggling of live chickens. DFEH supplemented that the Administration had discussed with the trade about the proposal of prohibiting overnight stocking of live poultry at retail level from mid 2002 until March 2003. However, in view of the strong objection from the trade, the Administration had subsequently decided to add one more market rest day to enhance the hygiene of markets. FEHD also stepped up market inspections and enhance licensing conditions/tenancies to require poultry licensees/tenants to meet with the hygiene requirements.

25. Ms CHAN Yuen-han said that Members belonging to the Hong Kong Federation of Trade Unions (HKFTU) would not object to the implementation of the new requirement of "no overnight live poultry " at retail outlets. However, she was dissatisfied that the Administration used the reason of safeguarding public health as a justification for implementing the new requirement.

26. The Deputy Chairman said that he was supportive of the implementation of the new requirement at retail level. According to the findings of a public opinion survey on the implementation of daily slaughtering of unsold live poultry conducted by the Democratic Party (DP) during the period of 16 to 19 June 2008, 60% of respondents supported the implementation of the new measure. About 70% of respondents indicated that they wished that there were live chicken sales at retail outlets. Around half of the respondents accepted that the sale of live chickens would be ceased immediately on the ground of public health. In the light of the results of the public opinion survey, he reminded the Administration that a proper

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balance should be struck between safeguarding public health, views of the public and the interests of the trade.

27. Both the Deputy Chairman and Mr Albert CHAN shared similar view that the Administration should work out complementary measures to facilitate the implementation of the new measure. They urged the Administration to work out complementary measures to facilitate live poultry wholesalers, retailers and transport operators to run their business under the new mode of operation, such as allowing delivery service to be arranged from the wholesale market to retail outlets on a need basis (i.e. more than one delivery of live chickens per day). DFEH responded that the Administration would not restrict the number of deliveries from wholesale market to retail outlets and it would be individual traders' decision and arrangement between wholesalers and retailers on the number of deliveries. DAFC advised that, hitherto, the wholesalers would have completed their sale of all their live chickens to the retailers and the chickens would have left the wholesale market, before 7:00 am everyday. The Administration would not prohibit the wholesalers and retailers from arranging more than one delivery per day. However, the Administration would monitor closely the daily throughput in the wholesale market to ensure that there was no over-stocking which might pose a public health risk and environmental hygiene problem.

28. In response to the Chairman's question as to whether the transporters could do more than one-delivery from wholesale market to retail outlets, Mr WONG Tak-leung of KPTPA said that the transporters could not do so because they were not allowed to stop their vehicles and unload the live poultry in prohibited and restricted zones in the afternoon. Mr TSUI Ming-tuen of HKPWA said that, even if retailers could arrange those self-employed lorry drivers to make another delivery in the afternoon, it might not be economically viable for retailers to do so.

29. Mr TAM Yiu-chung expressed concern as to whether the trade had been provided with clear guidelines on the implementation of daily slaughtering of unsold live poultry at retail outlets. In response, DFEH said that the district offices of FEHD had already arranged a briefing to help retail traders understand the new requirements under the law. He said that the requirements were simple and the Amendment Regulation provided that permittees with permission to sell live poultry (including public market stall tenants and FPS licensees) must slaughter any live poultry remaining in their stalls/shops by 8:00 pm everyday. Live poultry would not be allowed at such premises from 8:00 pm to 5:00 am. He added that this had taken account of the opening hours and operational requirements of poultry retail outlets, and the retail traders could continue to do the cleansing work after 8:00 pm as long as no live poultry was on the retail premises.

Live chicken supply at retail level

30. The Chairman, Mrs Selina CHOW, Ms CHAN Yuen-han and Mr Albert CHAN expressed concern that the withdrawal of a majority of live poultry retailers

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from the market would force local farmers and wholesalers to cease their operation, and, as a result, live chickens would no longer be available in the market. They pointed out that that Hong Kong people had a preference for freshly slaughtered chickens and the status of Hong Kong as a food paradise would also be jeopardized if no such chickens were made available. Both Ms CHAN Yuen-han and Mrs Selina CHOW pointed out that live chicken sales were also available in some overseas countries.

31. In response to Mrs Selina CHOW's enquiry about live chicken sales in overseas countries, Mr TSUI Ming-tuen of HKPWA, Mr Tommy HUI of FPWA and Mr Peter WONG of WPSA (Hong Kong Branch) said that, to their knowledge, there were live chicken sales in the China Towns in New York and San Francisco of the United States and Toronto of Canada.

32. SFH explained that, while there might be a small number of individual live chicken stalls in the markets of some urban cities in some overseas countries, it was rather rare to have large-scale live chicken supply in markets in the cities in North America and Europe. Given that Hong Kong was a densely populated city and public market stalls/fresh provision shops (FPSs) were in close proximity to housing estates, live chicken sales in markets would pose a high risk of avian influenza infection to the public. SFH also pointed out that, in the past few years, there were several incidents of avian influenza outbreaks and human infections on the Mainland and live chicken imports had to be suspended because of these incidents. Against this background, the banning of overnight stocking of live poultry at retail outlets was considered the most feasible option to guard against avian influenza in Hong Kong. He, however, stressed that live chicken supply should be ceased at retail level in the long run for the sake of protecting public health. SFH added that, if there were about 10% retailers remaining at retail level, the Administration would study and adjust suitably its development plan for central slaughtering and consider how to assist the trade to switch to the mode of operation under central slaughtering.

33. Mr WONG Yung-kan asked whether the Administration would facilitate the farms to implement "through train" mode of live chicken supply (i.e. dispatching live chickens from farms directly to the retail outlets). SFH responded that it would be a commercial decision for farmers to decide on.

34. On the Administration's response, the Chairman asked how and whether local live chicken farms were allowed to dispatch live chickens to retail outlets if all the live chicken wholesalers ceased to operate their business. DAFC responded that, under the existing licensing regime, local farms were required to dispatch their chickens to the wholesale market. On the other hand, DFEH also pointed out that farms would be required to apply for FPS licence for selling and slaughtering live poultry at retail outlets if farms were allowed to sell live chicken on site. As that the Administration was now offering buyout package to live poultry retailers for

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the surrender of their licences/tenancies, the granting of new permission to sell live poultry at farms would create policy inconsistency and confusion to the public.

35. Mr TAM Yiu-chung said that, if the number of remaining chicken farms was not large and "through train" mode of live chicken supply could be implemented, it would no longer be economical to implement central slaughtering in Hong Kong. SFH responded that segregation of live poultry from humans was the long term policy objective of the Administration in safeguarding public health and eliminating the risk of avian influenza outbreaks in Hong Kong. Following the prohibition of overnight stocking of live poultry at retail level and, if many traders chose to leave the live poultry trade and there was an increased public preference for chilled and frozen chickens, it might no longer be economically viable to build a large-scale poultry slaughtering and processing plant in Hong Kong. In the light of this, the Administration would revisit its plan to develop a poultry slaughtering and processing plant in Hong Kong, and study whether there were any other alternatives that only freshly slaughtered chickens, not live chickens, would be supplied at retail outlets.

Proposed buyout package for the live poultry trade

36. The Chairman, the Deputy Chairman, Mr TAM Yiu-chung, Mr WONG Yung-kan and Ms CHAN Yuen-han expressed similar view that the Administration should be more flexible as far as the triggering percentage was concerned. They considered that there was no need to set the percentage strictly at 90% and called on the Administration to lower the triggering percentage of the number of retailers and allowed some flexibility in deciding to offer the proposed buyout package to the entire trade. Mr WONG Yung-kan asked whether the Administration would consider increasing the amount of EGP of the buyout package to the traders, farmers and transporters if it turned out that less than 90% retailers opted for the buyout package.

37. SFH responded that the Administration would keep in view of the responses of retailers and review the overall situation if the 90% triggering percentage was not reached.

38. On the Deputy Chairman's concern as to whether those wholesalers and retailers who chose to continue to stay in the live poultry trade would receive any EGP when central slaughtering was to be implemented in future, SFH clarified that, should central slaughtering be implemented in 2011-2012 and the live trade operators had to cease their business permanently, the Administration would offer EGP to the affected live poultry operators. However, the Administration would only use the rate adopted in the VSS launched for the live poultry trade in 2004 and 2005 and adjust it by an inflation factor.

39. On the EGP offered to the farms, the Chairman said that he considered that the value of goodwill and brand of the farms should be taken into account in

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calculating the package. He shared the view of the representative of the wholesaler association that a flexible approach should be adopted by the Administration in working out the EGP to them. As regards the concerns raised by the day-old chicks and chicken feed trades, the Chairman considered that day-old chicks and live poultry chicken feed were also part of the live poultry chain supply and their business would be inevitably affected if farmers, wholesalers and retailers ceased their operations. He requested that the Administration should consider providing compensation/financial assistance to them.

40. As regards the proposed one-off grant of \$35,000 to the affected workers, Ms CHAN Yuen-han was strongly of the view that the grant to these workers should be a separate budget item in the Administration's financial proposal for FC's approval. The one-off grant should not be used to set off with the actual severance payments and the gratuities made, in accordance with the provisions of the Employment Ordinance (Cap. 57), by their employers. She also suggested that the relevant registered trade unions could assist to certify the workers' status. Having regard to the fact that the affected workers might not be able to switch to another trade within a short time frame, she considered that the Administration should consider increasing the amount of one-off grant to about six-months' salary.

41. In response, DFEH confirmed that the proposed one-off grant would be a separate budget item in the Administration's financial proposal for FC's approval. He pointed out that it was the responsibility of an employer to meet his obligations towards his employees. The employer had a legal responsibility to pay any laid off employees the wages and other benefits provided for under the Employment Ordinance and the employment contract. As regards Ms CHAN's suggestion of increasing the one-off grant to the affected workers, DFEH explained that, given that the amount was equivalent to about three months' average salary of a semi-skilled worker according to the pay statistics in 2007 (i.e. about \$11,700 per month), the proposed grant of \$35,000 was already a generous offer.

42. On Ms CHAN Yuen-han's question about the documentation required to support the workers' employment status, DFEH responded that the documentary evidence to be provided by workers to support their claim in employment in the live poultry trade could be Mandatory Provident Fund records, employment contracts, or salary payment records, etc. If no documentary proof could be provided to ascertain the worker's employment status, he and his employer could make a declaration confirming the worker's employment. At the request of Ms CHAN Yuen-han, the Administration undertook to provide such information in its proposal to FC.

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43. In response to the Chairman's enquiry, Ms CHAN Yuen-han said that she reserved her position on the financial proposal as she would need to discuss with other Members belonging to HKFTU before making a decision whether to support the Administration's financial proposal. Mr WONG Yung-kan said that he had

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reservation about the Administration's financial proposal whereas Mr Albert CHAN expressed objection to the Administration's proposal to FC.

44. In concluding the discussion, the Chairman said that Members belonging to the Liberal Party would not object to the Administration submitting its financial proposal to FC for approval. He noted that Members belonging to DP, Democratic Alliance for Betterment of Hong Kong and Progress of Hong Kong and HKFTU also did not raise objection to the Administration's submission of its financial proposal to FC meeting on 4 July 2008. He urged the Administration to take note of Members' views and suggestions in respect of the proposed EGP to the live poultry trades and the one-off grant to the affected workers.

Other issues discussed

*Mature chickens at local farms*

45. Mr WONG Yung-kan said that there were about 400 000 chickens at local farms which had already passed the average marketable age. He asked how the Administration would assist farmers to dispatch these mature chickens to markets for sale if no wholesalers and retailers would operate on 2 July 2008. SFH pointed out that, given that the market value of these 400 000 chickens would be relatively lower than those of marketable age when they were dispatched to the retail outlets on 2 July 2008, the Administration proposed to offer the local farmers \$30 per chicken for these chickens to provide some relief to farmers. SFH also explained that there was no public health reason for prohibiting live chicken imports from the Mainland after 2 July 2008. However, the Administration had already reflected the views of the trade to the Ministry of Commerce and the General Administration of Quality Supervision, Inspection and Quarantine that, when the markets resumed live chicken sales on 2 July 2008, the demand of live chickens might not resume to the previous level instantly.

*Public markets managed by FEHD*

46. Mr WONG Yung-kan pointed out that all the incidents of detection of H5N1 avian influenza virus were found in the public markets managed by FEHD. He considered that FEHD should be held responsible for the incidents. The Chairman also expressed similar view and pointed out that there was no detection of H5N1 avian influenza virus at the private markets or the markets under the Link Management Limited since the first avian influenza outbreak in 1997. He was of the view that the relatively large number of live poultry stalls at FEHD's public markets might be the cause of the spread of avian influenza infection in public markets and suggested that the Administration should consider reducing the number of live poultry stalls in public markets.

47. Mr Albert CHAN also shared similar view with Mr WONG Yung-kan and the Chairman. He considered that the design of public markets should be improved

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and reconfigured to complement the current hygiene requirements for separating live poultry from humans.

48. DEFH explained that, after the environmental swabs taken at Po On Road Market was found with virus on 7 June 2008, FEHD had taken environmental swabs at all public markets managed by FEHD and virus was detected in the samples in other three public markets. No environmental swabs were taken at any FPSs. It was thus only natural that H5N1 virus was only detected in FEHD markets. DFEH further explained that, amongst the four public markets detected with virus, three of them had been installed with air-conditioning system. Only Po On Road Market had not been installed with air-conditioning system. This went to show that, contrary to the suggestion of some people, the outbreak was not caused by the lack of air-conditioning or ventilation. On the number of live poultry stalls in public markets, he said that, on average, there were only four live poultry stalls in each public market. So any assertion that the H5N1 outbreak was caused by FEHD markets having too many poultry stalls did not stand up to scrutiny. As regards the design of public markets, DFEH advised that all the public markets built after the establishment of FEHD in 2000 had been designed with individual poultry scalding facilities.

49. Mr Albert CHAN pointed out that the closing of business of live poultry stalls at public markets would have great impact on the business of other stalls in the markets. He queried whether the Administration had made any impact assessment study. He considered that the Administration should provide compensation to the stalls in the public markets if their businesses were affected by the withdrawal of live poultry stalls from public markets.

50. DEFH responded that, as compared to the total number of stalls of some 11 000 leased out in public markets, the number of live poultry stalls was only 260. In the light of this, it was not expected that the attractiveness of public markets to shoppers would be undermined significantly as a consequence of unavailability of live poultry stalls.

51. In response to Mr WONG Yung-kan's request for the Administration's undertaking to conduct a study of the impact on the public markets, SFH said that, given that the deadline for the retailers to apply for EGP by surrendering their licences/tenancies would be 24 July 2008 whereas the time limit for the farmers, wholesalers and transporters would be 24 September 2008, it would be premature at this stage to predict whether there would be any impact on the business of the stalls in public markets.

Motion for the adjournment debate

52. The Chairman proposed that an adjournment debate be held at the Council meeting on 2 July 2008 to allow Members to discuss the issue of predicament faced by the live poultry trade. He said that the issue was urgent as the trades concerned

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had been affected seriously by the Administration's suspension of the import of live poultry and the imminent implementation of daily slaughtering of unsold live chickens at retail level. The Deputy Chairman, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr Alan LEONG and Dr KOWK Ka-ki expressed support for the proposal of having an adjournment debate at the Council meeting on 2 July 2008. The Chairman said that he would seek the agreement of the President for dispensing with the seven days' notice period for moving the motion.

*(Post-meeting note : the proposal to move a motion for adjournment debate was considered and agreed to by the President. The motion for adjournment was moved at the Council meeting on 2 July 2008.)*

**II. Any other business**

53. There being no other business, the meeting ended at 6:55 pm.

Council Business Division 2  
Legislative Council Secretariat  
23 September 2008