

### INDUSTRY LAWS AND REGULATIONS

#### **Law of Animal Epidemic Prevention of the PRC (中華人民共和國動物防疫法)**

The *Law of Animal Epidemic Prevention of the PRC* (中華人民共和國動物防疫法) came into force on 1 January 1998 and was further amended in August 2007. It sets up a legal framework on quarantine of animal and animal products, epidemic prevention and health protection in the PRC. The veterinary administrative authority under the State Council is the principal authority responsible for setting standards for animal epidemic prevention, and supervising agencies for animal epidemic prevention and the work of animal epidemic prevention.

In accordance with the *Law of Animal Epidemic Prevention of the PRC* (中華人民共和國動物防疫法):

- Anyone intending to build and operate a livestock farm shall hold the Animal Quarantine Qualification Certificate (動物防疫條件合格證).
- Quarantine supervision shall be implemented on animal slaughtering and quarantine inspection has to be passed prior to sale in the market.
- Supervising agencies for animal epidemic prevention shall carry out quarantine of animals slaughtered in slaughterhouses and affix onto slaughtered animals their stamps after inspection.
- Consignors must provide a quarantine certificate for shipping consignment of animals or animal products to be transported by railways, highways, waterways or by air. Any consignee must undertake the shipment based on the validity of the quarantine certificate. The conveyed goods must be disinfected.

Enterprises and individuals in violation of the provisions of the *Law of Animal Epidemic Prevention of the PRC* (中華人民共和國動物防疫法) will be given warnings, orders to stop operation, orders for rectification or penalties by the animal epidemic prevention supervisory authorities depending on individual circumstance. Criminal liabilities may also be imposed on enterprises or individuals whose conducts result in, among others, a serious animal epidemic which causes huge losses to the breeding production or serious harm to human health in accordance with the laws.

Any person/farm engaging in livestock farming without an Animal Quarantine Qualification Certificate (動物防疫條件合格證) may be ordered for rectification within a prescribed period and subject to a fine ranging from RMB1,000 to RMB10,000, and such fine will be increased up to RMB100,000 in case of serious breach.

#### **Measures for the Administration of Animal Quarantine (2010) (動物檢疫管理辦法2010)**

The *Measures for the Administration of Animal Quarantine (2010)* (動物檢疫管理辦法2010) was promulgated by the Ministry of Agriculture in 2010 and was formulated in accordance with the *Law of Animal Epidemic Prevention of the PRC* (中華人民共和國動物防疫法), in order to strengthen the administration of animal quarantine activities, prevent, control and eliminate animal epidemics, guarantee the safety of animals and animal products, and protect human health and safeguard public

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health safety. It states that an examination must be conducted by local authorities on animal-related products, and an Animal Quarantine Certificate (動物檢疫合格證明) must be obtained for distributing such products. The *Measures for the Administration of Animal Quarantine (2010)* (動物檢疫管理辦法 2010) are applicable to animal quarantine activities conducted within the PRC.

Enterprises in violation of the *Measures for the Administration of Animal Quarantine (2010)* may be ordered to stop operation, rectify the violation and/or to pay monetary penalties up to RMB10,000 by the animal epidemic prevention supervisory authorities. Penalties under the *Law of Animal Epidemic Prevention of the PRC* are also applicable to the violation of the Animal Quarantine Measures.

### **Administrative Rules of Hog Slaughtering (生豬屠宰管理條例) and Implementation Measures of the Administrative Rules of Hog Slaughtering (生豬屠宰管理條例實施辦法)**

The *Administrative Rules of Hog Slaughtering* (生豬屠宰管理條例) was promulgated by the State Council of the PRC on 19 December 1997 and was amended on 19 December 2007 and the *Implementation Measures of the Administrative Rules of Hog Slaughtering* (生豬屠宰管理條例實施辦法) was promulgated by the former Ministry of Domestic Trade (which is now merged into the Ministry of Commerce) on 18 February 1998 and was re-issued in July 2008 and became effective on 1 August 2008 (hereinafter collectively referred to as the “Administrative Regulations”).

Pursuant to the Administrative Regulations, the State has implemented a hog slaughtering system at designated slaughterhouse, centralised quarantine, uniformed taxation and dispersed operations. The administrative department of commodity circulation of the State Council is in charge of the trade management of hog slaughtering. The People’s Governments of cities and counties organise administrative departments of commodity circulation, agriculture and animal husbandry and other relevant departments to examine, determine the slaughterhouses, and issue certificates to designated slaughterhouse.

The designated slaughterhouses should meet the following requirements:

- Have water resources corresponding to the scale of the slaughterhouse and satisfying the requirements of national standard of water quality;
- Have slaughter-waiting room, slaughter room, emergency-slaughter room, hog slaughtering equipment and means of transport which meet the requirements of national standard;
- Have slaughter professionals who have obtained the health certificate in accordance with the PRC laws;
- Have full-time or part-time flesh quality inspection personnels who have passed the required examinations;
- Have necessary inspection equipment, sterilising equipment, disinfectant and pollution treatment facilities;
- Have harmless treatment facilities for hogs and the products of hogs;

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- Meet the epidemic prevention requirements prescribed by the *Law of Animal Epidemic Prevention of the PRC*.

The hogs slaughtered by the designated slaughterhouses should pass the quarantine of the department of animal epidemic prevention supervision in the area where the hogs are raised. The designated slaughterhouses should establish strict management rules of flesh quality inspection. Flesh quality inspection must be synchronised with hog slaughtering. The result of flesh quality inspection and the settlement of it should be registered. The pork that pass the flesh quality inspection should be sealed with an identifying seal and allowed to be transported out of the slaughterhouse. The pork from the hogs slaughtered by designated slaughterhouses are not allowed to be sent out of the slaughterhouses if they do not pass the flesh quality inspection.

The designated slaughterhouses for hogs should meet the operating rules and technical requirements prescribed by the state.

For enterprises in violation of the *Administrative Rules of Hog Slaughtering and Implementation Measures of the Administrative Rules of Hog Slaughtering*, the local commercial administration authorities (商務主管部門) designated by Ministry of Commerce of the PRC may impose on them orders to stop operation, rectify the violation, confiscate illegal gains and the hogs and pork and/or to pay monetary penalties amounting to three to five times of the illegal gains or RMB100,000 to RMB200,000 if those illegal gains cannot be ascertained. Criminal liabilities may also be imposed.

### **Standards of Level Recognition for Hog Slaughtering Enterprises (生豬屠宰企業資質等級要求)**

*Standards of Level Recognition for Hog Slaughter Enterprises (生豬屠宰企業資質等級要求)* (the “Rating Standards”) issued by the Ministry of Commerce of the PRC and effective on 1 October 2005 sets out the requirements for different levels of recognition of a hog slaughterhouse in order to differentiate designated slaughterhouses of different qualities and standards. The Rating Standards set out the requirements of obtaining 5 different levels of recognition for a hog slaughterhouse, with ‘1-star’ being the least stringent level and ‘5-star’ being the most stringent level.

The level of “star-rating” is determined with reference to the following eight aspects. The higher standard the slaughterhouse attains in such aspects, the higher “star-rating” will be granted. The eight aspects are summarised as:

- (i) Basic requirements — relates to the designed capacity and scale of production and operation;
- (ii) Design and Environmental requirements — relates to the design of production flow and conformity with a number of quality standards including, *inter alia*, pork hygiene standard GB2707-1994 and Hogs slaughtering operating procedures GB/T17236-2008;
- (iii) Facilities and Equipment requirements — relates to different production facilities and equipments being housed in the slaughterhouse;
- (iv) Slaughtering Technique requirements — relates to the procedures and techniques apply during the slaughtering process;

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- (v) Inspection and Quarantine requirements — relates to the capabilities of quality assurance testing and examinations, testing equipments and conformity with various national quality control standards;
- (vi) Quality Control requirements — relates to the implementation and execution of quality control measures and the minimum number of inspection and quarantine personnel;
- (vii) Product Transportation requirements — relates to types of transportation, vehicles use, temperature control during transportation; and
- (viii) Product Quality requirements — relates to the quality of products and conformity with certain quality national standards.

### **Implementation of Recognition of Hog Slaughtering Enterprises of Fujian Province (福建省生豬屠宰企業資質等級認定工作實施方案)**

Pursuant to the *Implementation of Recognition of Hog Slaughtering Enterprises of Fujian Province* (福建省生豬屠宰企業資質等級認定工作實施方案), which was promulgated and became effective on 1 June 2007, the Economy and Trading Committee of Fujian Province (福建省經濟貿易委員會) has established an expert committee specialising in granting recognition to hog slaughtering enterprises to confirm whether an applicant satisfies the relevant requirements under the Rating Standards. The committee shall be responsible for reviewing and granting relevant “star-rating” recognition to hog slaughtering enterprise regarding the “3-star” rating level or lower, and referring such application to the Ministry of Commerce for “4-star” or “5-star” rating recognition applications.

Enterprises which do not satisfy the conditions of the relevant standards recognition may have their “star-rating” recognition being downgraded or their certificates being suspended or cancelled by the Economy and Trading Committee of Fujian Province.

### **Outline in Respect of the Development of the National Hog Slaughtering Industry (2010–2015) (全國生豬屠宰行業發展規劃綱要)**

The *Outline in Respect of the Development of the National Hog Slaughtering Industry (2010–2015)* (全國生豬屠宰行業發展規劃綱要) was promulgated by the Ministry of Commerce at the end of 2009, to ensure the hygiene and quality standard of pork, the governmental control measures on the number of designated locations for slaughterhouses nationwide in order to enhance industry consolidation, and in turn strengthening brand development as well as improving the technology and management standards of the industry. The Outline does not include any penalty provisions.

### **Putian Special Rectification Program for Quality and Safety of Hog Products (莆田市生豬產品質量安全專項整治方案)**

The *Putian Special Rectification Program for Quality and Safety of Hog Products* (莆田市生豬產品質量安全專項整治方案) was promulgated by the General Office of the People’s Government of Putian on 20 November 2009 to clarify responsibilities of relevant local authorities and to set out specific rules for enterprises and individual businesses in the industry.

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Designed slaughterhouses regulated by the Putian Special Rectification Program for Quality and Safety of Hog Products may have their certificates for operations being revoked by the Economy and Trading Committee of Fujian Province if they cannot satisfy the conditions imposed thereunder.

### **Delimit Plan of Forbidden Zones for Livestock and Poultry Farming and Construction in Putian City (莆田市畜禽養殖禁養區及禁建區劃定方案)**

The *Delimit Plan of Forbidden Zones for Livestock and Poultry Farming and Construction in Putian City* (莆田市畜禽養殖禁養區及禁建區劃定方案) was promulgated by the General Office of the People's Government of Putian on 1 April 2010. In accordance with the Delimit Plan, for the farming of livestock, areas of Putian has been divided into three categories: prohibited area for livestock farming, prohibited area for construction of livestock farm, and permitted area for livestock farming.

- In prohibited area for livestock farming, it is prohibited to conduct livestock farming. Existing farms, whether large farms or family farms, have to be moved or closed if they are situated in the protected area of water source. If it is not in the protected area of water source, family farms can continue to exist, but large farms have to be relocated or shut down.
- In prohibited area for construction of livestock farm, existing farms are prohibited to expand and one must obtain an acceptance confirmation of environmental protection standards and comply with relevant standards on environment protection. Otherwise it shall be moved or shut down.
- Other areas shall be deemed as permitted area for livestock farming. In permitted area, one must obtain an acceptance confirmation of environmental protection standards and satisfy the relevant environment protection regulations in order to conduct livestock farming.

Farms which operate in areas regulated by the Delimit Plan of Forbidden for Livestock and Poultry Farming and Construction in Putian City and which are in breach of the conditions imposed thereunder may be ordered to shut down or move out of the areas.

### **Standardisation Law of PRC (中華人民共和國標準化法) and Regulations for The Implementation of The Standardisation Law of The People's Republic of China (中華人民共和國標準化法實施條例) (“Standardisation Law and Regulations”)**

The *Standardisation Law of the PRC* (中華人民共和國標準化法), which came into effect on 1 April 1989, has formed the legal framework for the development of standard directives and their applications by all industries and sectors nationwide. The tasks of standardisation work include the formulation of standards, the implementation of the standards and the supervision over the implementation of the standards.

National standards and trade standards are classified into compulsory standards and voluntary standards. Those standards created for safeguarding human health and ensuring the safety of the person and of property as well as those standards for compulsory execution as prescribed by the laws and administrative rules and regulations shall be compulsory standards, the others shall be voluntary standards.

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The following standards are in the compulsory category:

- standards for pharmaceuticals, food hygiene and veterinary medicine;
- safety and hygiene standards for products and the production, storage and transportation and utilisation of products; standards for the safety of labour and hygiene standards and safety standards for transportation;
- quality, safety and sanitation standards for project construction and other standards for project construction that must be controlled by the State;
- standards for the discharge of pollutants and standards for environmental quality;
- important technical terms, symbols, codes and drafting methods in common use;
- standards on universal methods of experimentation and examination;
- standards for conversion and coordination; and
- quality standards for important products which need to be controlled by the State.

The food hygiene standard is a compulsory standard. Enterprises engaging in the businesses of the production and sale of raw pork must comply with the relevant standards. In addition, standards with “/T” stand for voluntary.

Enterprises producing, selling or importing products which do not conform with the compulsory standard may be ordered to stop operations. The authorities of the Industry and Commerce Administration may also confiscate non-standardised products and illegal gains derived thereunder. Criminal liabilities may also be imposed for serious breach of the Standardisation Law and Regulations. Standard certificates obtained by enterprises which are in breach of the Standardisation Law and Regulations may be revoked.

### **Pork hygiene standard (豬肉衛生標準) — GB2707-1994**

GB2707-1994 Standard of the PRC specifies the inspection benchmarks of fresh pork allowed to be sold in the market.

The following standards are in the voluntary category:

### *Hogs slaughtering operating procedures (生豬屠宰操作規程) — GB/T 17236-2008*

These procedures set out required handling details in respect of each of hog slaughtering process, including the inspection, examination and timing of each process and the treatment of pork and the by-products.

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*Quality inspection procedures of products produced from hog slaughtering* (生豬屠宰產品品質檢驗規程) — GB/T 17996-1999

These procedures specifies the requirements in respect of the procedures, methods and treatments of quality inspection during hog slaughtering and processing processes of enterprises engaged in the hog slaughtering and processing in the PRC.

### **Administrative Measures on Breeds of Livestock and Poultry of the PRC (種畜禽管理條例)**

The *Administrative Measures on Breeds of Livestock and Poultry of the PRC* (種畜禽管理條例) (the “Administrative Measures”) was promulgated by the State Council in April 1994 and took effect on 1 July 1994.

Pursuant to the Administrative Measures and the *Measures for the Licensing of Production of Livestock Genetic Materials* (家畜遺傳材料生產許可辦法) promulgated in January 2010 and effective in March 2010, any entity or individual that engages in the production and operation of the breeds of livestock and poultry shall apply for the Licence for Production and Operation of Breed Livestock (種畜禽生產經營許可證) (the “Licence”) from competent governmental authority at the county level or above. The administrative authorities of livestock and poultry at the county level are responsible for the issuance of the Licence unless otherwise provided for by the Administrative Measures.

According to the Administrative Measures, penalties including order to rectify, fines and confiscation of illegal income and even cancellation of the Licence will be imposed on the following activities: (i) producing or operating breeds of livestock or poultry without the Licence, (ii) failure to produce and operate breeds of livestock or poultry in accordance with the provided breed, series, generation, year of use; (iii) promoting the use of the breeds of livestock or poultry which have not been examined or approved in accordance with the Administrative Measures; and (iv) sales of breeds of livestock or poultry without Licence for Qualified Livestock and Poultry (種畜禽合格證).

### **Stock-breeding Law of the PRC (中華人民共和國畜牧法)**

The *Stock-breeding Law of the PRC* (中華人民共和國畜牧法) (“the Stock-breeding Law”) was promulgated by the Standing Committee of the National People’s Congress in 2005 and implemented in 2006. The Stock-breeding Law is applicable to the protection, utilisation, breeding, rearing, business operations and transport of the genetic resources of livestock and poultry within the PRC.

Pursuant to the Stock-breeding Law, the producers and business operators of livestock breeding business are obliged to prevent animal diseases and to protect the environment, and shall accept the supervision and inspection conducted by the relevant competent organisation in accordance with the law.

Relevant authorities overseeing the management of livestock and poultry (畜牧行政主管部門) designated by the corresponding level of People’s Government may order enterprises in violation of the Stock-breeding Law of the PRC to rectify the breach, confiscate any illegal gains obtained under the breach and impose monetary penalties in the range of two times to five times of the illegal gains to RMB500,000. Criminal liability may also be applicable for violation of the Stock-breeding Law of the PRC.

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### **Food Safety Law of the PRC (中華人民共和國食品安全法)**

The *Food Safety Law of the PRC* (中華人民共和國食品安全法) was promulgated on 28 February 2009 and became effective on 1 June 2009. According to the *Food Safety Law of the PRC*, food products include finished products edible or drinkable by human beings, raw materials used in the production of finished food products and substances which have been traditionally used both as food and medicinal materials, excluding substances used for therapeutic purposes. Such food products include health (functional) food, pediatric food products and processed food.

For breach of the Food Safety Law of the PRC, relevant authorities could confiscate any illegal gains and food products, issue warnings and impose rectification orders and monetary penalties ranging from two times to ten times of the value of the illegal products, which are capped at RMB100,000. Cancellation of the food safety certificate and criminal liability may also be imposed.

### **Regulations for the Implementation of the Food Safety Law of the PRC (中華人民共和國食品安全法實施條例)**

In accordance with the *Regulations for the Implementation of the Food Safety Law of the PRC* (中華人民共和國食品安全法實施條例) promulgated and implemented on 20 July 2009, food producers and traders shall engage in production and trading activities in accordance with the laws, regulations and food safety standards, establish and improve their food safety management systems and adopt effective measures to ensure that the food produced is safe. Food producers and traders should be responsible for the safety of the food which they produce and trade, be responsible to society and the public, and undertake social responsibility.

### **Law on the Quality and Safety of Agricultural Products of the PRC (中華人民共和國農產品質量安全法)**

The *Law on the Quality and Safety of Agricultural Products of the PRC* (中華人民共和國農產品質量安全法) (the “Agricultural Products Safety Law”) was promulgated on 29 April 2006 and became effective on 1 November 2006. The purpose of Agricultural Products Safety Law is to regulate the quality and safety of the agricultural products, maintain public health and promote the development of agricultural industry and economic development in rural areas. Under the Agricultural Products Safety Law, agricultural products include plants, animals, and micro-organisms and their related products.

Enterprises and collectives engaging in the production of agricultural products shall conduct inspection on the quality and safety of the agricultural products by themselves or by appointing testing institutions and maintain records of the agricultural products they manufacture. Any product which fails to meet the quality and safety standards for agricultural products shall not be sold.

Agricultural products are required to be packaged and labelled before they can be sold. Such requirements include specifying and stating the name of the product, origin of production, identity of producer, date of production, expiry date, product quality grade and additive used in the agricultural products on the packing and labels. Any genetically modified agricultural products must be labelled in accordance with the relevant provisions of the administration of the safety of genetically modified agricultural products.



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For violation of the Law on the Quality and Safety of Agricultural Products of the PRC, relevant authorities could confiscate any related illegal gains and impose rectification orders and monetary penalties up to RMB20,000. Criminal liabilities may also be imposed in case of a serious breach. In addition, consumers are entitled to claim damages against the wholesalers or the producers of agricultural products which are in breach thereunder.

### **Administrative Measures for Harmless Agriculture Products to the Public (無公害農產品管理辦法)**

The *Administrative Measures for Harmless Agriculture Products to the Public* (無公害農產品管理辦法) was promulgated by the Ministry of Agriculture and the General Administration of Quality Supervision, Inspection and Quarantine of the People's Republic of China (AQSIQ) in 2002 and was amended in 2007. In order to obtain the Certificate of Harmless Agriculture Product to the Public, an enterprise's products must meet the Industry Standards for Harmless Agriculture Products to the Public (無公害農產品行業標準), which was formulated by the Ministry of Agriculture. The effective standard for pork and hog industry is NY 5029-2008, was promulgated by the Ministry of Agriculture on 16 May 2008, which sets out the requirement regarding the hygiene, equipment, production process and managerial system for an enterprise to be awarded the Certificate of Harmless Agriculture Product to the Public. As advised by the PRC Legal Advisers, obtaining the Certificate of Harmless Agriculture Product to the Public is not a prerequisite for selling pork.

For violation of the Law on the Quality and Safety of Agricultural Products of the PRC, relevant authorities at the provincial level for agriculture may give out warnings, impose rectification orders and cancel the Certificate of Harmless Agriculture Product. Also, illegal gains can be forfeited and monetary penalties up to three times of the illegal gains, which shall not exceed RMB30,000, may be imposed.

### **Regulation on Veterinary Drug Administration (獸藥管理條例)**

According to *Regulation on Veterinary Drug Administration* (獸藥管理條例), it is prohibited to add in animal feed or drinking water any hormonal drug or other prohibited drugs specified by the administrative department for veterinary of the state council. It also prohibits the usage of human medicine in animals.

According to Article 42 of the Regulation on Veterinary Drug Administration, the administrative department for veterinary of the State Council shall formulate and arrange for the implementation of national programs for monitoring the residue of veterinary drugs in animals and animal products; the administrative department for veterinary of the people's government at or above the country level shall be responsible for the detection of the residual of veterinary drugs in animal products. The results of veterinary residual detection shall be published by the administrative department for veterinary of the State Council, the people's government of the province, autonomous region or municipality in accordance with their respective authorities.

For violation of the Law on the Quality and Safety of Agricultural Products of the PRC, relevant authorities may impose orders to stop production and rectify the breach. Illegal veterinary drugs and gains obtained can be forfeited and monetary penalties may be imposed, the range of which is from two times to five times of the illegal gains or a maximum of RMB200,000 if the amount of the illegal gains cannot be ascertained. For a serious breach, the responsible person may be prohibited from operating the veterinary drug business and may incur criminal liabilities.

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### **Administration Regulations for Feed and Feed Additives (飼料和飼料添加劑管理條例)**

According to *Article 19 of Administration Regulations for Feed and Feed Additives* (飼料和飼料添加劑管理條例), which was promulgated by the State Council on 29 May 1999 and later amended on 29 November 2001, it is prohibited to add any hormonal medicine or any other medicine the use of which is prohibited by the competent agricultural administrative department of the State Council to animal feed or drinking water for animals. According to Article 20 of the Administration Regulations for Feed and Feed Additives, if animal feed and feed additives are, through use, proved to be harmful to animals raised, human health and the environment, the competent agricultural administrative department of the State Council shall decide to restrict, cease or prohibit the use thereof and make it public.

For violation of the Administration Regulations for Feed and Feed Additives, the relevant authorities may impose orders to stop the production. Illegal products and gains derived from such production can be forfeited and monetary penalties may be imposed, which range from two times to five times of the illegal gains and up to RMB50,000, in cases of a serious breach, the certificate for production of feed and feed additives can be cancelled and criminal liabilities may also be imposed in the event that it is regarded as a crime of illegal business operation according to the criminal laws of the PRC.

### **List of Drugs Forbidden to be Used in Feeds or Drinking Water of Animals (關於禁止在飼料和動物飲用水中使用的藥物品種目錄)**

The *List of Drugs Forbidden to be Used in Feeds or Drinking Water of Animals* (關於禁止在飼料和動物飲用水中使用的藥物品種目錄) was co-promulgated by Ministry of Agriculture, Ministry of Health, and State Food and Drug Administration on 21 March 2002, which specifies adrenergic receptor agonists, sex hormone, anabolic steroids, psychotropic drugs and various antibiotic residue as drugs forbidden to be used in feeds or drinking water of animals.

Fujian Tianyi has engaged external third party quality inspection agents, including Fujian Inspection and Research Institute for Product Quality and China National Quality Supervision and Testing Center for Professional Food to conduct regular tests of residuals of fertilisers and drugs on a quarterly basis on its pork. The Directors confirmed that, based on the reports issued, the Group's quality of the pork are in compliance with the relevant requirements.

For violation of the List of Drugs Forbidden to be Used in Feeds or Drinking Water of Animals, the relevant authorities may impose orders to stop the production and rectify the breach on the enterprise in question. Illegal products and gains can be forfeited and other penalties may be imposed. In cases of serious breach, criminal liabilities may also be imposed.

### **CRSC RELATED ISSUES**

On 8 August 2006, six PRC regulatory agencies, including the China Securities Regulatory Commission (CSRC), enacted the *Provisions Regarding Mergers and Acquisitions of Domestic Enterprises by Foreign Investors* (關於外國投資者併購境內企業的規定) (as amended on 22 June 2009) (the "New M&A Rules"), to regulate foreign investment in the PRC domestic enterprises. The New M&A Rules provide that the Ministry of Commerce must be notified in advance of any transaction in which a foreign investor takes control of a the PRC domestic enterprise, and if any of the following situations exists: (a) the transaction involves an important industry in China, (b) the transaction may

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affect national “economic security”, or (c) the PRC domestic enterprise has a well-known trademark or historical Chinese trade name in the PRC. The New M&A Rules contain a provision requiring all overseas special purpose vehicles (“SPV”), formed for listing purposes through acquisitions of PRC domestic enterprises and controlled by PRC individuals, to obtain the approval of the CSRC prior to publicly listing their securities on an overseas stock exchange.

According to Article 2 of the *Provisions Regarding Mergers and Acquisitions of Domestic Enterprises by Foreign Investors* (關於外國投資者併購境內企業的規定), “Merger with and acquisition of domestic enterprises by foreign investors” in these Regulations means a foreign investor purchases the equity interest of a shareholder of a non-foreign-invested enterprise in the PRC (domestic company) or subscribes the enlarged capital of a domestic company so as to convert and re-establish a domestic company as a foreign-invested enterprise (equity merger and acquisition); or, a foreign investor establishes a foreign-invested enterprise and purchases and operates the assets of a domestic enterprise by the agreement of that enterprise, or, a foreign investor purchases the assets of a domestic enterprise by agreement and uses this asset investment to establish a foreign-invested enterprise and operate the assets; and Article 55 “Where a foreign investor purchases the equity interest of a domestic foreign-invested enterprise or subscribes the increased capital of a domestic foreign-invested enterprise, it shall be subject to the current laws, administrative regulations on foreign-invested enterprises and the relevant provisions on alteration in investors’ equity interest of foreign-invested enterprises.”

As advised by the Group’s PRC Legal Advisers, since Fujian Tianyi is a foreign-invested enterprise established and registered before 8 August 2006, the New M&A Rules are not applicable to Fujian Tianyi. The applicable law is *Provisions for the Alteration of Investors’ Equities in Foreign-Funded Enterprises* (外商投資企業投資者股權變更的若干規定). According to article 7 of the *Provisions for the Alteration of Investors’ Equities in Foreign-Funded Enterprises* (外商投資企業投資者股權變更的若干規定), the Company obtained the required approval from the relevant governmental authority. Therefore, the Company does not have to obtain approval from CRSC in order to be listed on the Stock Exchange.

In case the merger and acquisition causes material influences to the state economy, the Ministry of Commerce of the PRC and relevant authorities can terminate the transaction or take relevant measures including the transfer of relevant shares or assets in order to eliminate such influences.

### INDUSTRY POLICY ON FOREIGN INVESTMENT

Pursuant to the *SAFE’s Notice on Relevant Issues Concerning Foreign Exchange Administration for PRC Residents to Engage in Financing and Inbound Investment via Overseas Special Purpose Vehicles* (國家外匯管理局關於境內居民通過境外特殊目的公司融資及返程投資外匯管理有關問題的通知) (“SAFE Circular No. 75”) issued on 21 October 2005 and became effective on 1 November 2005:

- (a) a PRC citizen residing in the PRC (a “PRC Resident”) must register with the local branch of SAFE before he or she establishes or controls an overseas special purpose vehicle (“SPV”) for the purpose of overseas equity financing (including convertible debt financing);

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- (b) when a PRC Resident contributes the assets of or his or her equity interests in a domestic enterprise to an overseas SPV, or engages in overseas financing after contributing assets or equity interests to an overseas SPV, such PRC resident must register his or her interest in the overseas SPV or any changes to his or her interest in the overseas SPV with the local branch of SAFE;
- (c) when the overseas SPV undergoes a material corporate action outside the PRC, such as change in share capital or merger and acquisition, the PRC Resident must, within 30 days after the occurrence of such event, register such change with the local branch of SAFE.

Under SAFE Circular No. 75, failure to comply with the registration procedures may result in penalties, including imposition of restrictions on a PRC subsidiary's foreign exchange activities and its ability to distribute dividends to the overseas SPV.

As advised by the PRC Legal Advisers, Putian central sub-branches of SAFE convened a meeting regarding issues on Fujian Tianyi's make-up registration of foreign exchange on 12 May 2011. Considering that:

- (a) Mr. Cai Chenyang is a "Macau Resident";
- (b) In 2005, with his "Macau citizenship", Mr. Cai Chenyang registered Fujian Tianyi in Putian as a foreign-invested enterprise and obtained the required approvals from relevant authorities; and
- (c) In 2009, Mr. Cai Chenyang registered China Modern in Hong Kong with his citizenship of Macau.

Putian central sub-branches of SAFE reached a conclusion that SAFE Circular No. 75 is not applicable to Mr. Cai Chenyang and Fujian Tianyi.

### THE REGULATIONS ON THE FOREIGN EXCHANGE CONTROL IN CHINA

In order to strengthen the management of foreign exchange, maintain the balance of international payments, and promote the healthy development of the national economy, Chinese government still exercises control on foreign exchange. *Regulations of the People's Republic of China on the Management of Foreign Exchange* (中華人民共和國外匯管理條例) is one of the main regulations for foreign exchange control in China.

Pursuant to the *Regulations of the People's Republic of China on the Management of Foreign Exchanges*, foreign exchange activities are divided into two categories, which are "Current account" and "Capital account". "Current account" refers to items of transactions taking place frequently in international payments. They include trade incomes and expenditures, incomes from and expenditures on labour services, and unitary transfers; "Capital account" refers to the increase and decrease of the assets and liabilities arising from the inflow and outflow of capital in international payments. They include direct investment, various loans, and securities investment.

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Articles 12 to 15 under Chapter 2 regulate the foreign exchange on current account. The Article 12 states that “Foreign exchange on the current account shall have real and legal transaction basis. The Bank for sale and purchase of foreign exchange shall execute duly examinations of the authenticity of the documents, and check the consistency between the documents and the foreign exchanges. In addition, SAFE has the power to supervise and examine the aforesaid matter.”

In accordance with *Explanations to Regulations on Forex Sale, Purchase And Payment* (關於結匯、售匯及付匯管理規定中有關問題的解釋和說明) issued by SAFE on 4 July 1996, the remittance of profits from foreign-invested enterprises belongs to “Current Accounts”. The procedure of remittance of profits of foreign-invested enterprises include:

- (a) to obtain Tax Certificate, which is to certify that the enterprise has satisfied relevant tax rules before remittance of the profits abroad from National Taxation Bureau and Local Taxation Bureau;
- (b) to proceed with Designated Foreign Exchange Banks.

In accordance with *Circular on Issues Concerning Outward Remittance of Profit, Stock Dividends And Stock Bonuses Processed by Designated Foreign Exchange Banks* (國家外匯管理局關於外匯指定銀行辦理利潤、股息、紅利匯出有關問題的通知) issued by SAFE on 22 September 1998, and was further amended on 21 September 1999, in order to remit profits abroad, enterprises shall provide the following documents to the designated foreign banks:

- (1) Tax certificate for tax paid proof;
- (2) Audit report of annual profits, dividends and distributions issued by accounting firm;
- (3) Resolution made by the board for the distribution of profits and dividends;
- (4) Foreign exchange certificate;
- (5) Capital verification report issued by accounting firm;
- (6) Other documents required by SAFE.

However, where foreign exchange activities are deemed as activities on capital account, it has to be registered with SAFE, and be approved by SAFE and relevant government authorities according to the businesses of the applying enterprises.

In respect of the violation of relevant foreign exchange control regulations, the relevant assets can be ordered to be transferred back into the state and a usual penalty of 30% of the amount in question can be imposed. In case of a serious breach, criminal liability may also be imposed on the responsible person.

### ENVIRONMENTAL PROTECTION LAWS

The PRC government has formulated and implemented various environmental protection laws and regulations, including the *Environmental Protection Law of the PRC* (中華人民共和國環境保護法), the *Law of Prevention and Treatment of Water Pollution of the PRC* (中華人民共和國水污染防治法), the

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*Atmospheric Pollution Prevention and Control Law* (中華人民共和國大氣污染防治法), the *Solid Waste Environment Protection and Control Law* (中華人民共和國固體廢物污染環境防治法), the *Environmental Noise Pollution Prevention and Control Law* (中華人民共和國環境噪聲污染防治法) and the *Environmental Impact Evaluation Law* (中華人民共和國環境影響評價法) (collectively, the “Environmental Laws”).

### **Law of Prevention and Treatment of Water Pollution of the PRC (中華人民共和國水污染防治法)**

According to the *Law of Prevention and Treatment of Water Pollution of the PRC* (中華人民共和國水污染防治法) which was amended in 2008 and effective on 1 June 2008, all new, renovated or rebuilt construction projects discharging polluted wastes directly or indirectly into water must conform to the regulations relating to the relevant environmental protection administration of construction projects of the state. Units discharging polluted wastes directly or indirectly into water must report and register their contaminated wastes discharge facilities and processing facilities and the types, amounts and concentrations of polluted wastes discharged under normal operating conditions and provide technical information in respect of prevention and control of water pollution to the local environmental protection departments. Enterprises discharging polluted wastes into water should pay the prescribed waste discharge fees. If the discharges exceed the standard, relevant enterprise may subject to a fine and be ordered to take remedial measures.

Where the provisions of the *Law of Prevention and Treatment of Water Pollution of the PRC* (中華人民共和國水污染防治法) are violated, the environmental protection administrative and supervisory authority shall impose penalties, subject to individual cases, such as warnings, fines, orders to suspend operations or even orders to close down, to enterprises which have violated the provisions. Enterprises having caused the water pollution hazards shall be responsible to get rid of the hazards and compensate any victims of such contamination.

In respect of violation of the Law of Prevention and Treatment of Water Pollution of the PRC, the relevant authorities for environment protection can impose orders to stop production until the enterprise has complied with the standards set by the relevant environmental laws and rectified the violation. The relevant equipment which caused the pollution can be ordered to be removed if the enterprises could not rectify the violation in the required time limit. In addition, the enterprise is also liable for damages caused by such pollutions.

### **Environmental Protection Law of the PRC (中華人民共和國環境保護法)**

According to the *Environmental Protection Law of the PRC* (中華人民共和國環境保護法) which was promulgated in 1989, enterprises producing environmental contamination and other public hazards must incorporate environmental protection work into their planning and establish environmental protection systems. Those enterprises should also adopt effective measures to prevent contamination and hazards to the environment, such as waste gas, water, deposits, dusts, pungent gases, radioactive matters as well as noise, vibration, magnetic radiation. Enterprises discharging contaminated wastes must report to and register with the State Administration for Environmental Protection (“SAEP”) or the relevant local environmental protection department. Enterprises discharging contaminated wastes in excess of the discharge standards prescribed by SAEP must pay excess discharge fees in accordance with state regulations and be responsible for its cure.

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Government authorities shall impose different penalties against persons or enterprises in violation of the *Environmental Protection Law of the PRC* (中華人民共和國環境保護法) depending on the individual circumstances and extent of contamination. Such penalties include warnings, fines, decisions to impose deadlines for cure, orders to suspend production, orders to re-install contamination prevention and cure facilities which have been removed or left unused, imposition of administrative actions against relevant responsible persons, or orders to close down those enterprises or authorities. Any of the above penalties together with fines may be imposed by government authorities. Where the violation is serious, persons in violation may be required to pay damages to victims. Persons directly responsible may be subject to criminal liability.

Under the *Environmental Laws* the construction, expansion and operation of the production facilities are subject to certain government evaluation process, inspection procedures and approvals. The failure to go through such government process or procedures or to obtain such government approvals may result in the manufacturer being liable to fines and penalties imposed by the relevant PRC environmental authorities, including suspension of the production facilities. The *Environmental Laws* also impose fees for the discharge of waste substances; permit the imposition of fines and compensation for the improper discharge of waste substances and serious environmental offences. The PRC environmental authorities may, at their discretion, close any facility that fails to comply with orders requiring it to rectify non-compliance activities or to stop operations causing the environmental damage.

In respect of the violation of the Environmental Protection Law of the PRC, the relevant authorities for environment protection may impose warnings, orders to stop production until the enterprise has complied with the standards set by the relevant environmental laws and rectified the violation. The actual penalties imposed would depend on the actual damage done and the specific circumstances. In addition, the responsible person of the enterprise may also be subject to criminal liabilities if such pollution causes personal injury or material influences to the environment or public or private properties.

### **Administrative Measures on Prevention and Cure of Pollution Caused by Breeding of Livestock and Poultry (畜禽養殖污染防治管理辦法)**

The *Administrative Measures on Prevention and Cure of Pollution Caused by Breeding of Livestock and Poultry* (畜禽養殖污染防治管理辦法) set out the requirements for the prevention and cure of the pollution caused or contaminants emitted during the breeding of livestock and poultry.

For violation of the Administrative Measures on Prevention and Cure of Pollution Caused by Breeding of Livestock and Poultry, the relevant authorities for environment protection can impose orders to stop production and to rectify the violation. The actual penalties imposed would depend on specific circumstances.

### **TAXATION LAWS**

On 1 January 2008, the *Foreign-invested Enterprise and Foreign Enterprise Income Tax Law of the PRC* (中華人民共和國外商投資企業和外國企業所得稅法) was repealed, and the *Enterprise Income Tax Law of the PRC* (中華人民共和國企業所得稅法), promulgated on 16 March 2007, became effective. Pursuant to the *Enterprise Income Tax Law of the PRC*, the rate of EIT for both domestic enterprises and foreign-invested enterprises is 25%.

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According to Article 16 (1) of the *Provisional Regulations of the People's Republic of China on Value-Added Tax* (中華人民共和國增值稅暫行條例), self-produced agricultural products sold by agricultural producers shall be exempted from VAT.

According to Article 86 (1) of the *Implementation Regulations of the Enterprise Income Tax Law of the PRC* (中華人民共和國企業所得稅法實施條例), income derived by an Enterprise engaging in raising of livestock and poultry shall be exempted from EIT.

According to the *Circular of Ministry of Finance and State Administration of Taxation Concerning Exemption From VAT ON Organic Fertiliser Products* (中華人民共和國財政部國家稅務總局關於有機肥產品免徵增值稅的通知), the company is entitled to an exemption of VAT on organic fertiliser products.

According to the *Circular of State Council Concerning the Unification of Urban Maintenance and Construction Tax and Education Surcharges of Domestic and Foreign-invested Enterprise* (國務院關於統一內外資企業和個人城市維護建設稅和教育費附加制度的通知), the company as a foreign-invested company no longer enjoys any preferential taxation policies.

In respect of violation of the Taxation Laws, the relevant authorities for taxation can impose orders to stop further violation and to rectify the violation. The actual penalties imposed would depend on specific circumstances. In addition, the responsible person of the enterprise in question may also be subject to administrative punishment or criminal liabilities according to specific circumstances in each case.

### EMPLOYMENT LAWS

The PRC has many labour laws and regulations, including the *Labour Law of the PRC* (中華人民共和國勞動法), the *Labour Contract Law of the PRC* (中華人民共和國勞動合同法), the *Regulation of Insurance for Work-Related Injury* (工傷保險條例), the *Unemployment Insurance Law* (失業保險條例), the *Provisional Measures on Insurance for Maternity of Employees* (企業職工生育保險試行辦法), the *Interim Provisions on Registration of Social Insurance* (社會保險登記管理暫行辦法), the *Interim Regulation on the Collection and Payment of Social Insurance Premiums* (社會保險費徵繳暫行條例), the *Regulations of Management of Housing Provident Fund* (住房公積金管理條例), the *Social Insurance Law* (中華人民共和國社會保險法) and other related regulations, rules and provisions issued by the relevant governmental authorities from time to time for operations in the PRC.

According to the *Labour Law of the PRC* (中華人民共和國勞動法) and the *Labour Contract Law of the PRC* (中華人民共和國勞動合同法), labour contracts in written form shall be executed to establish labour relationships between employers and employees. Wages cannot be lower than the relevant prescribed local minimum wages. All companies must establish a system for labour safety and sanitation, strictly abide by national standards, provide relevant education to its employees, and carry out regular health examinations of employees engaged in hazardous occupations. Employees are also required to work in safe and sanitary conditions set by the state. As required under the *Regulation of Insurance for Work-Related Injury* (工傷保險條例), the *Provisional Measures on Insurance for Maternity of Employees* (企業職工生育保險試行辦法), the *Interim Regulation on the Collection and Payment of Social Insurance Premiums* (社會保險費徵繳暫行條例), and the *Interim Provisions on*



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*Registration of Social Insurance* (社會保險登記管理暫行辦法), companies are obliged to provide employees with welfare schemes covering employee pension, unemployment insurance, maternity insurance, employment injury insurance and medical insurance.

In respect of violation of the Employment Laws, the relevant authorities can impose orders to rectify the violation and to compensate the employees according to specific circumstances. In case of unpaid social insurance, the enterprises in question might be ordered to pay the unpaid social insurance with a maximum of 2% surcharge per day calculating from the overdue date. In case of a serious breach, the responsible person of the enterprise may also be imposed of penalties ranging from RMB1,000 to RMB10,000.