

立法會
Legislative Council

LC Paper No. CB(1) 1657/00-01

(These minutes have been seen
by the Administration)

Ref: CB1/PL/EA/1

LegCo Panel on Environmental Affairs

**Minutes of meeting held on
Tuesday, 3 April 2001, at 2:30 pm
in Conference Room A of the Legislative Council Building**

- Members present** : Prof Hon NG Ching-fai (Chairman)
Hon Cyd HO Sau-lan (Deputy Chairman)
Ir Dr Hon Raymond HO Chung-tai, JP
Hon Martin LEE Chu-ming, SC, JP
Hon Bernard CHAN
Hon Mrs Miriam LAU Kin-yee, JP
Hon Emily LAU Wai-hing, JP
Hon CHOY So-yuk
Hon LAW Chi-kwong, JP
Hon Abraham SHEK Lai-him, JP
Hon Henry WU King-cheong, BBS
Hon Tommy CHEUNG Yu-yan, JP
Hon Albert CHAN Wai-yip
Dr Hon LO Wing-lok
Hon LAU Ping-cheung
Hon Audrey EU Yuet-mee, SC, JP
- Members attending** : Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Hon NG Leung-sing
- Members absent** : Hon WONG Yung-kan
Hon Michael MAK Kwok-fung

**Public officers
attending : For item IV**

Environment and Food Bureau

Mr Kim SALKELD
Deputy Secretary

Mr Donald TONG
Principal Assistant Secretary

Environmental Protection Department

Mr Rob LAW
Director

Mr Benny WONG
Assistant Director (Waste & Water)

Drainage Services Department

Mr C H LAM
Assistant Director/Sewage Services

For item V

Environment and Food Bureau

Mr Kim SALKELD
Deputy Secretary

Mr Donald TONG
Principal Assistant Secretary

Environmental Protection Department

Mr Benny WONG
Assistant Director (Waste & Water)

Drainage Services Department

Mr C H LAM
Assistant Director/Sewage Services

For item VI

Environment and Food Bureau

Mr Kim SALKELD
Deputy Secretary

Mr Donald TONG
Principal Assistant Secretary

Home Affairs Bureau

Mr John DEAN
Principal Assistant Secretary

Clerk in attendance : Miss Becky YU, Chief Assistant Secretary (1)1

Staff in attendance : Mrs Mary TANG, Senior Assistant Secretary (1)2

I Confirmation of minutes of previous meeting

(LC Paper No. CB(1) 929/00-01 -- Minutes of the meeting held on 2 January 2001)

The minutes of the meeting held on 2 January 2001 were confirmed.

II Information papers issued since last meeting

2. Members noted the following information paper which had been issued since the last meeting -

LC Paper No. CB(1) 856/00-01 -- Referral from Islands District Council on the issue of delay in rural minor works programmes.

III Date of next meeting and items for discussion

(LC Paper No. CB(1) 933/00-01(01) -- List of follow-up actions arising from discussion

LC Paper No. CB(1) 933/00-01(02) -- List of issues to be considered)

3. Members agreed to discuss the following subjects at the next regular Panel

meeting scheduled for Tuesday, 8 May 2001, at 2:30 pm -

- (a) Addition of Noise Control Designated Area;
- (b) Increase in approved project estimate for “Outlying Islands Sewerage, Stage 1, Phase I - Consultants’ fee and investigation”; and
- (c) Review of Government waste management contracts.

(Post meeting note: At the request of the Administration, the agenda had been revised to include discussion on the proposed amendment to the Noise Control Ordinance.)

IV Way forward for sewage treatment for the harbour area

(The Legislative Council Brief issued by the Environment and Food Bureau (Ref: EFB 9/55/07/69(2000) Pt.2))

LC Paper No. CB(3) 520/00-01 - Progress report on the motion on “Strategic Sewage Disposal Scheme”

LC Paper No. CB(1) 801/00-01(09) - Information paper provided by the Administration

LC Paper No. CB(1) 933/00-01(03) - A list of contracts awarded under phase 1 of the Harbour Area Treatment Scheme)

4. At the invitation of the Chairman, the Deputy Secretary for the Environment and Food (DSEF) briefly explained the need for undertaking trials and studies for the development of the Harbour Area Treatment Scheme (HATS) (formerly known as the “Strategic Sewage Disposal Scheme”) by highlighting the salient points of the information paper. He said that the Administration intended to submit the funding proposals for these trials and studies to the Public Works Subcommittee (PWSC) at its meeting on 18 April 2001. He added that the latest estimate for the capital cost of the studies and trials was \$75.2 million instead of \$74.33 million as set out in the Administration’s paper (LC Paper No. CB(1) 801/00-01(09)).

Environmental impact of commissioning Stage I collection systems

5. Miss CHOY So-yuk sought information on the measures which would be adopted to abate odour and other environmental nuisances associated with the operation of the first stage of the collection systems at the Stonecutters Island Sewage Treatment Works (SCISTW). DSEF said that the issues of odour and environmental impact of the Stage I collection systems had been examined in the Environmental Impact Assessment conducted earlier. The Environmental Protection Department (EPD) and the Drainage Services Department (DSD) had provided the Sham Shui Po District Council with information on measures to address the environmental impact and to respond to community concerns. In any event, the operation of SCISTW

would need to comply with the Air Pollution Control Ordinance (Cap. 311) (APCO) and any discernable odour outside the plant would be addressed.

6. Noting that the amount of sewage to be treated at SCISTW would increase from 0.3 to 1.3 million tons per day upon the commissioning of the Stage I collection systems, Mr Tommy CHEUNG remained concerned about the environmental nuisances. The Assistant Director/Sewage Services, DSD (AD/SS) said that SCISTW was designed to treat 1.7 million cubic metres of sewage per day. All potential sources of odour emission in the treatment process were identified and were covered or enclosed in buildings equipped with de-odourization facilities. As regards the use of ferric chloride in the chemical treatment process, AD/SS advised that the dosage was too low to have any impact on the marine environment. Chloride was a principal component of seawater. Iron was not considered a toxic metal and most of the iron was precipitated out with the sludge.

7. The Director of Environmental Protection (DEP) added that Stage I of HATS was designed to operate at full level through the interim outfall to the western harbour. Although this would bring about much environmental improvement to the water quality of the harbour, it was envisaged that the reliance on the discharge at the interim outfall was only for the short term. As the population grew, there was a need for a longer-term solution to the pollution problem. The Administration was looking at the feasibility of higher levels of sewage treatment before discharge at the harbour as proposed by the International Review Panel (IRP).

Need for consultants

8. Given that reference could easily be made to existing technologies adopted by sewage plants in overseas countries, and that there was already expertise within the Government, Miss CHOY So-yuk queried the need for commissioning consultancy firms to conduct the studies and trials for HATS. Even if consultancy firms were to be employed, she considered that there should be transparency in the selection process to ensure that the Government would not be employing the same consultants all the time. DEP said that while Government staff would be expected to perform a lot of work in-house, there were some areas which required special expertise which were not available within the Government. Outside assistance would be required, particularly if the assignment had to be achieved within a short period of time. The consultants to be employed would need to investigate in greater detail the implications of discharging the sewage on the water quality of the inner harbour area. A series of environmental and engineering feasibility studies would be conducted to assess, inter alia, the extent of nitrogen to be removed from the effluent and the size of the plant.

9. On the selection of consultants, DEP said that the Government prided itself of having a level playing field and it was fully committed to maintaining its credibility in contracting out consultancy studies. In order to obtain an independent opinion and to avoid apparent conflict of interest, consultants involved in a significant way in developing the previous scheme would not be allowed to participate in the current studies. At Miss CHOY's request, the Administration agreed to provide the list of

consultants involved in the studies for HATS.

(Post meeting note: The list of consultants involved in the studies for HATS was circulated vide LC Paper No. CB(1) 998/00-01.)

Sewage treatment technologies

10. Referring to an earlier discussion with a delegation from the Government of the City of Vienna, Miss CHOY So-yuk noted that unlike Hong Kong, the City of Vienna did not apply the Chemically Enhanced Primary Treatment (CEPT) process in the treatment of wastewater. She asked if the Administration would take this into account in conducting the studies and trials for HATS. DEP said that as IRP had explicitly stated that Biological Aerated Filters (BAF) were ideally suitable to add on to the CEPT process at SCISTW to achieve the necessary level of treatment for the Victoria Harbour, the Administration would not propose to look at alternatives that would exclude the CEPT process. Besides, a lot of investment had been made to provide the CEPT process at SCIWTS which was one of the most successful plant of its kind in the world. The effluent quality from SCISTW was about 90% of the quality of a conventional biological plant. As most of STWs using BAF did have the CEPT process, it was inconceivable that a lower level of treatment than CEPT could be applied prior to the BAF process. Nevertheless, if members considered it useful to have the consultants' appraisal of the options which did not involve CEPT, this could well be done.

11. Miss CHOY enquired if the studies and trials for HATS would also cover other technologies apart from BAF, including the one proposed by the Viennese delegation. DEP said that according to IRP, BAF were the best treatment option for Hong Kong on account of their compactness and high treatment characteristics. Being international experts in the field of sewage treatment technologies, the recommendation of IRP would need to be taken seriously. He assured members that the Administration would not rule out other possibilities as technology was always changing. However, there was a point in time that a decision had to be made. The important point was that whatever the technology to be adopted, it had to be proven effective before the Administration would decide to invest in it. DEP added that the Administration maintained close liaison with the Austrian Government in respect of sewage treatment. In fact, the Government of the Hong Kong Special Administrative Region and the Government of the City of Vienna had signed a Memorandum of Understanding on Environmental Collaboration. What was being proposed by the Government of the City of Vienna was a variation of BAF. It was one of the many competing proprietary systems to be added to the CEPT process.

12. The Chairman enquired if it was the intention of the Administration to focus its trial on BAF and whether it would be possible to allow for testing of other technologies within the limited time of seven months and funding of \$14 million. DSEF said that the Administration was inviting the manufacturers of BAF to provide some pilot plants which would run for a continuous period to test out the treatment process against different flows and composition of sewage. DEP added that while

BAF had yet to be tested with saline sewage, these had been proven effective in removing nutrient from wastewater. Besides, there had been better understanding on the complexity of BAF which had been showing consistent improvements. To test out other technologies would give rise to all sorts of questions, for example, the effectiveness of the technology and the worthiness of the test. Therefore, the Administration would tend to focus its trial on BAF as recommended by IRP. As some members of the Panel would be taking part in an overseas duty visit to Europe, they would be able to see for themselves the effectiveness of BAF. He added that the Administration did not have a preconceived view on the level of treatment and would be consulting the public on the water quality to be achieved which would have an implication on the treatment cost. If the recommendation of IRP was to be implemented, there would be a significant improvement in the water quality of the harbour.

13. Given that the Administration had already decided to proceed in the direction of BAF as recommended by IRP, Ms Cyd HO questioned the need for conducting the studies and trials. DEP said that there was a number of proprietary versions of BAF which varied in different ways. Studies and trials had to be carried out to determine which version would work best in a compact setting with saline sewage and at a reasonable cost. Other performance factors such as reliability and complexity of the system, mode of operation and maintenance would have to be tried out too. AD/SS added that owing to land constraints, there was a need to ascertain the engineering feasibility of accommodating a compact BAF plant of adequate capacity within the very limited land available at Stonecutters Island. Responding to Ms HO, AD/SS said that the studies and trials were to enable the Administration to gauge the performance of the BAF technology under local conditions and to evaluate its application to HATS.

14. Mr Martin LEE remarked that the substantial delays of Stage I of HATS had enabled the Administration to benefit from the technological advancement in respect of sewage treatment. He considered that it was fortunate for the Administration to be able to abandon the original idea of HATS, and that there were merits in adopting a step-by-step approach as advocated by the Chief Executive. DEP said that as technology would keep changing during the course of constructing an infrastructure that took a decade to complete, there were difficulties in keeping up with the latest technological development and a decision had to be made some point in time.

Studies and trials

15. Mr Tommy CHEUNG said that he was tired of approving piecemeal funding for HATS. He urged the Administration to provide comprehensive information on all its funding proposals, including the operating costs of the project. DSEF said that the Administration was in the process of putting in an effective sewage treatment scheme for the whole of Hong Kong. Over the last decade, more than \$15 billion had been spent on the sewage treatment programme, including the construction of over 200 kilometres of tunnels to connect the deep sea tunnels. As a result, 23% of the sewage collected was receiving more than primary treatment. It

was anticipated that after the commissioning of the Stage I collection system in the end of the year, over 60% of the sewage collected would be receiving more than primary treatment. The good progress in respect of wastewater treatment over the past years could be reflected by the improvement in beach water quality. Notwithstanding, there was a need for continuing efforts to bring all the sewage into the collection and treatment system and it would be unavoidable for the Administration to commit funds to improve the sewerage network to make up for the shortfall in the 1960s and 1970s. To ascertain the viability of the recommendations made by IRP, a series of studies and trials would need to be conducted to test out the technologies as well as the environmental and engineering feasibility. Upon completion of these studies, the Administration would then be able to decide on the option to be chosen and to seek the necessary funding. At the request of the Chairman, the Administration agreed to provide more information on the cost estimates, in particular, on the setting up of pilot plants to test out different technologies in Hong Kong.

Admin

16. Referring to the cost breakdown of the studies and trials at Enclosure 4 to the Administration's paper (CB(1) 801/00-01(09)), Mrs Miriam LAU considered that works such as preparation in relation to community consultation and identification as well as establishment of ecological and water quality standards and criteria could have been done by EPD staff rather than outside consultants. She enquired about the work which would be performed in-house by EPD. DSEF advised that details of the work to be undertaken by staff of EPD and DSD were set out in paragraph 9 of the information paper. The Administration would adopt a stepwise approach and would not propose to start all the feasibility studies at the same time. The funds for the studies would be drawn down over a period of two years. DEP added that DSD would be doing the assessment study on the capacity of SCISTW while EPD would be responsible for the flow re-assessment study. While agreeing that public consultation work could be done by EPD, DEP remarked that as a consortium of services was required from consultants, EPD could make use of their resources to help out with the work. This would not only ensure impartiality but also save the limited resources of EPD as no additional staff deployment would be required.

17. Mr Abraham SHEK remained of the view that it would be more appropriate for EPD staff to conduct the consultation exercise as consultants might not have the necessary experience. He added that in view of the continuous nature of the field survey work, this should also be done in-house by EPD. Consideration should be given to incorporating the itemized work involved in a fixed-sum contract for tender. DEP said that the field survey work was extremely manpower intensive and as such, if the work were to be undertaken by EPD, there might not be sufficient manpower left for some of the existing work. It would be more cost effective to engage consultants to perform the work instead of doing it in-house. With the proposed funding of \$75.2 million, the Administration was confident that the studies would be completed on time. If part of the work was to be performed in-house, there would be some savings in costs but the process would be lengthened and some of the existing work undertaken by EPD could not be performed.

18. Mrs Miriam LAU queried the need for including the development of the contractual framework, such as preparation of core contract documents, comprising Instructions to Tenderers, Form of Tender, Conditions of Contract, Specifications etc. in the current funding proposal when the possible contractual arrangements had yet to be determined. DEP advised that while the prevailing design-built-operate (DBO) contractual framework for the solid waste facilities was proved to be effective, there was a need to ascertain if such a framework was also applicable to contracts for sewage works. The studies were meant to be interactive and it was expected that the Monitoring Group to be appointed to monitor the progress of the studies and trials would consult the Panel and the Advisory Council on the Environment (ACE) at key stages of the process. If there was a consensus on the use of the DBO mode, the Group would then proceed to develop the contract model. This would save the time for awaiting in-principle agreement on the suitable contractual framework before applying for funding for the development and preparation of the contract documents. He assured members that consensus would be sought before committing further funds for the studies.

19. Mr LAW Chi-kwong enquired about the composition of the Monitoring Group and whether the Group would be involved in drawing up specifications for the tender documents for the studies. DSEF said that letters had been sent to the three local members of IRP and representatives of ACE inviting them to join the Group. Before tendering the studies, the Monitoring Group would be consulted on the scope of the studies.

20. While acknowledging that Mr Peter WONG, Chairman of ACE, had written a letter to solicit members' support for the funding proposal for the studies and trials, Ms Emily LAU noted that ACE had expressed concern that these studies and trials might lead to a further delay of HATS. Ms LAU said that she would like to join ACE in urging the Administration to explore the possibility of expediting the studies and trials. She also enquired about the continuing role of IRP and whether there would be further re-assessment of the sewage flows and loads so that suitable adjustments could be made.

21. DEP said that he fully agreed with ACE on the need to expedite the studies and trials. The study on the development of the contractual framework was in fact part of the Administration's effort to fast track the entire process. According to past experience, contracts using the DBO approach were more efficient than those using the conventional approach. He believed that with the concerted effort of LegCo Members, ACE and the Monitoring Group, expedition could be achieved in the course of the studies. It was hoped that HATS could be in place between 2012 to 2014. Based on the professional judgement of IRP, HATS might have more capacity than expected. In this connection, IRP suggested that the Administration should construct those sections of the tunnels that would provide a common base for the different options. Although this would pose difficulties from an engineering perspective as the design would vary taking into account the direction and amount of flow, the Administration was actively pursuing the recommendations of IRP. The Monitoring Group would oversee the work and ensure continuity in the overview. Ms LAU

considered it way too long for a project conceived in 1989 to be completed in 2014. She said that subject to community consensus, she would support measures to expedite the process.

22. As to whether the Administration had any intention to conduct overseas visit to study sewage treatment in other countries, DEP said that the Director of Drainage Services had already visited a number of overseas sewage treatment facilities. DSEF added that some study trips by Government officials and members of ACE would be made during the course of the studies and trials. He trusted that the Government would benefit from more exchanges on sewage technologies. The Chairman informed members that a representative from DSD would join members on the overseas duty visit to Europe.

Water quality objective

23. Mr Albert CHAN enquired whether the water quality objective for the harbour area could be set to the extent that the previous cross-harbour recreational activities such as swimming and canoeing could be resumed. DEP advised that the water quality objective of a body of water was set in accordance with its beneficial uses, and that there were cost implications in determining the beneficial uses. As the fundamental use of the harbour was mainly for navigation, there was bound to be oil leakages and other discharges. These discharges, coupled with the storm water drainage, would not make swimming recommendable within the harbour. Therefore, it would not be sensible to achieve a water quality for the harbour that was comparable to bathing beaches. Besides, there was no major port in the world at which swimming was regarded as a beneficial use. While efforts would be made to clean the harbour so that there would be no risk of infection from secondary contact and the water could be used for purposes such as flushing, air-conditioning and general marine uses, there remained a need to determine the water quality objective to be applied for the harbour area. One of the purposes of the studies was to achieve community consensus on the water quality objective before the Administration could determine the necessary level of treatment to meet the objective. There would be an opportunity for the community to debate on what was required in terms of harbour water quality.

24. Sharing Mr CHAN's concern, the Chairman noted that there used to be around 500 species of fishes in the harbour area. He asked if the water quality objective could be set to foster an environment conducive to the return of some 300 species of fishes. Dr LO Wing-lok enquired about the number of species of fishes which were currently present in the harbour area and whether this could serve an indicator on how clean the harbour was. While detailed information on the number of species of fishes had to be obtained from the Agriculture, Fisheries and Conservation Department, the Assistant Director of Environmental Protection (Waste and Water) (ADEP(W&W)) agreed that the biota in the ocean was a good indicator about pollution and its effects. EPD was in the course of developing a biological indicator system. The system would require a year or two to be developed and by that time there would be a better understanding of the pollution in the marine environment.

The Administration's position

25. Given that the recommendations made by the two IRPs were contradictory to each other, Ir Dr Raymond HO considered it necessary for the Administration to formulate its own views on the type of treatment required before proceeding to appoint consultants to undertake the next stage of studies.

26. In response, DEP clarified that there was no conflict of ideas. The first IRP had taken the view that the compact technologies at that time were not well proven. They also felt that there was a need for nutrient removal for discharges in the harbour area and a disinfection process using the longer outfall. The second IRP had the benefit of the knowledge of the technological development over the last few years. They were more confident that the BAF technology had reached a mature stage that could be applied to the Hong Kong situation. The Administration's view was that the recommendations of the second IRP were acceptable but the reliability of the BAF technology in treating saline sewage had yet to be determined. Moreover, the need for nutrient removal was still unknown pending the outcome of the studies. To facilitate members' understanding of the overall situation, Ir Dr HO requested the Administration to provide a paper setting out its views on issues such as sludge treatment, length of outfall and level of treatment as well as the merits of centralized and decentralized treatment taking into account past experience. DEP said that with the knowledge gained over the past years, the Administration was prepared to accept that the BAF technology should be mature enough to be considered for Hong Kong. It had also accepted IRP's recommendation of a higher level of treatment and a shorter outfall. However, studies had to be carried out to assess the cost implications of this option since a higher level of treatment would no doubt be more costly. Besides, the level of treatment would hinge on the water quality objective to be determined subject to community consensus. As regards sludge treatment, DEP said that IRP had supported the Administration's proposal for sludge incineration.

Way forward

27. The Chairman sought members' views on whether the proposal should be recommended to PWSC for funding. With the impending overseas duty visit by the Panel and ACE, Miss CHOY So-yuk said that she would prefer to wait for the outcome of these visits before recommending the funding proposal. Mrs Miriam LAU said that she would have difficulty in supporting the proposal unless the Administration agreed to trim down the costs. She urged the Administration to re-consider the need for consultants in conducting consultation exercises and water quality tests which could be done by EPD. This would help cut down the costs before the proposal was submitted to PWSC. Ms Audrey EU noted that there appeared to be a consensus on the need for studies and trials for HATS subject to a general review of costs. Mr LAW Chi-kwong said that he would not object to the submission of the funding proposal to PWSC which would examine the proposal in greater detail. He however cautioned that members' request for cost review might in future encourage the Administration to over-estimate the costs for funding proposals submitted to the Panel, thereby leaving room for cost review before submission to PWSC. DSEF said that

the paper to the Panel would not be the same paper to PWSC. The Administration had taken note of the comments being made at the current meeting and would reflect and respond to these comments in the paper to be presented to PWSC at its meeting on 18 April 2001.

V Trade Effluent Surcharge Scheme
(LC Paper No CB(1) 933/00-01(04))

28. In response to the Chairman, Mr Tommy CHEUNG said that the subject was raised in the light of a recent incident where a caterer set himself on fire in the LegCo Building in an attempt to express his strong dissatisfaction over the imposition of Trade Effluent Surcharge (TES) in addition to the basic sewage charge. He said that the incident should not be regarded as an isolated case since the restaurant trade had been aggrieved by the imposition of TES on effluents from restaurants. Although restaurant operators were allowed to appeal against TES, the high costs incurred ranging from \$20,000 to \$40,000 had deterred them from using the appeal mechanism. Mr CHEUNG was disappointed that despite repeated requests from the trade, the Administration had refused to review the generic Chemical Oxygen Demand (COD) value of 2,000 milligrams per litre (mg/l). He cautioned that the TES Scheme had posed immense difficulties to the restaurant trade and other trades/industries which would not be beneficial to Hong Kong in the long run.

29. DSEF explained that under the Water Pollution Control Ordinance (Cap. 358) (WPCO), there were originally two separate schedules of fees for sewage discharged inside and outside the Water Pollution Control Zones (WPCZ). Consequent upon the extension of WPCZ to cover the entire territory, there was only one common charge for sewage. However, as the strength of effluents produced by some trades and industries were much stronger than domestic sewage, TES was subsequently levied on top of the basic sewage charge to reflect the additional treatment costs incurred. In implementing the TES Scheme, an administratively simple system of charging through the assignment of generic values to the industries was adopted, coupled with an appeal mechanism. In the light of the views from the industries, the Administration was prepared to make further amendments to the system with a view to formulating a simplified and economical appeal mechanism. DSEF added that he was grateful for the efforts, such as the installation of grease traps, which the restaurant trade had made in reducing the pollution and the situation had been improving over the past years.

30. Mr CHEUNG was not convinced of the Administration's response. He pointed out that at the time when the TES Scheme was introduced in 1995, WPCZ had not been extended to cover the entire territory. However, TES was set without having regard to the lower fee for discharge outside WPCZ. As a result, all restaurants were subject to the same charge, irrespective of whether the restaurants were located inside or outside WPCZ.

Basis for charging TES

31. Referring to paragraph 13 of the information paper, Mr CHEUNG was not convinced of the consultant's conclusion that there was not a strong case for lowering the generic value of 2,000 mg/l assigned to restaurants since the results of the survey indicated that the mean COD value of 2,250 mg/l of the survey samples was higher than that of the generic value. He considered it unfair for the Administration to use the mean COD value for comparison purpose as this would not be able to reflect the actual situation, particularly if the samples were taken from an extremely concentrated source of effluent. Mr LAW Chi-kwong echoed that the application of generic values for effluent strength to all trades, albeit simple and easily administered, was in fact an unfair arrangement. He pointed out that since the assigned generic value was based on the mean COD value of a number of samples taken from effluents discharged from restaurants, it followed that those restaurants which discharged effluents with a strength that was lower than the average COD value should not be required to pay the standard TES. However, under the present Scheme, all restaurants were required to pay a standard TES unless they were successful in their appeals, after which a lower TES would be levied. This would be most unfair to those restaurants that discharged less polluting effluents as they would have to pay up-front for the appeal costs in order to have a fair assessment. He questioned whether TES levied from the industries were used in cleaning the effluent or as a means to raise revenue.

32. DSEF explained that COD values were selected because they were simple and provided a reliable indicator of the strength of the effluent. To reduce the administrative cost of measuring the discharge at each premises, each prescribed trade and industry liable to pay TES was assigned a set of generic COD values to represent the average strength of wastewater discharged by its particular type of operation. Any individual operator who considered that his or her own business was discharging effluent which was less polluting than the generic values suggested could appeal for a lower TES rate. Consideration was being made to improve the appeal mechanism in the light of concerns of the trades and industries. DSEF stressed that the purpose of the TES Scheme was not to recover cost but to provide an incentive for polluters to find ways to reduce or avoid pollution. Since the implementation of the Scheme, it was noted that quite a number of restaurants were able to reduce the strength of their effluents through the use of grease traps. ADEP(W&W) added that during the review of COD values of the restaurant trade in 1996, a sensitivity analysis had been conducted. Efforts had been made to disregard the particularly high COD values of 10,000 mg/l or above before assessing the average value. It was found that the average value of 2,250 mg/l so derived was even higher than the assigned generic value of 2,000 mg/l.

33. Mr Tommy CHEUNG remained of the view that the use of the mean generic COD value was an unfair arrangement. He said that the restaurant operators were unanimous in their request to lower the assigned generic COD value of 2,000 mg/l for the trade which was considered too high and accounted for the high successful rate of appeals. They were more prepared to accept the use of the median generic COD value which could provide a fairer and more accurate assessment. While accepting

the polluter-pays principle, Mr CHEUNG considered that the TES Scheme was a mere revenue raising measure. This was because even if the restaurant operators had made efforts to reduce the strength of their effluents, they would still have to pay TES. He said that the Administration owed the public an explanation as to how TES collected over the last six years had been used given that SCISTW had only been able to treat 20% of the sewage since its commissioning.

34. In response, DSEF said that the subject of whether sewage charges should be collected prior to sewage treatment had been discussed at length when the Sewage Charging Scheme and the TES Scheme were introduced in 1995. The decision taken was that sewage charges should be levied before sewage treatment because the pollutants were already having an effect on the environment and there was a need for a deterrent against polluters. Besides, many other sewage services had been provided before the commissioning of SCISTW. Sewage charge and TES were based on apportionment of the total cost incurred in the provision of sewage collection and treatment services throughout the territory. While the treatment to be provided for the harbour area would be more cost effective than that for Shatin and Taipo in view of the scale, the Administration felt that it was unreasonable to charge residents in Shatin and Taipo according to the type of treatment received. The costs were equally shared among all users of the system since it would create immense administrative difficulties and costs to apportion the share of the specific type of treatment received.

Appeal mechanism

35. Miss CHOY So-yuk expressed concern that problems arising from the implementation of TES Scheme had remained unresolved over the years. She agreed with Mr Tommy CHEUNG that the generic value of 2,000 mg/l assigned to the restaurant trade was too high as evidenced by many of the successful appeals. The Chairman also questioned the propriety of using generic COD values as the basis for TES given the high successful rate of appeals. DSEF advised that while there was a large number of appeals that had been allowed, there were some appeals which had been rejected or withdrawn. AD/SS supplemented that as at the end of February 2001, 370 accounts, including 349 restaurant accounts, were paying reduced TES rates following COD reassessment. In the past 12 months, five appeals against COD had been withdrawn by the applicants and 37 had been rejected. Although the unsuccessful cases comprised about 10% of the total appeal cases, this was not considered a low percentage bearing in mind that the applicants would not usually apply for reassessment unless they had a good case for appeal. He said that DSD was looking at ways to lower the cost of reassessment from the present \$20,000 to \$40,000 per annual COD reassessment to \$14,000 to \$25,000 per three yearly COD reassessment (or around \$4,700 to \$8,400 each year). This would significantly reduce the cost of reassessing COD values and minimize the disturbance to the traders' business during the collection of samples.

36. Mr Tommy CHEUNG said that while the trades and industries were generally in support of the proposed "group" COD reassessment and the extension of the validity period of reassessment results from one to three years, they had

reservations over the transfer of responsibility for sampling and testing from private laboratories to DSD as the latter would be acting as both the enforcing and testing agents. Mrs Miriam LAU shared Mr CHEUNG's view that the proposed extension might not be beneficial to restaurant operators who had rental contracts of less than three years and those of smaller restaurants and fast food shops who might not be sure about the continuity of their businesses. She asked if it was possible for the operators to pay the reassessment cost on a year-by-year basis instead of on a cycle of three years.

37. In reply, AD/SS said that at present, restaurant operators would engage and pay the private laboratories direct for sampling and testing of effluents under the supervision of DSD. Consequent upon the review of the structure and operation of the TES Scheme, consideration was being given to address the trade's concerns about cost of COD reassessment by simplifying and streamlining methods and procedures. These measures included:

- changing the sampling method from "flow proportional composite sampling" which lasted throughout the operation hours (about 15 hours a day) for 3 to 6 consecutive days to "grab sampling" with 4 to 10 half-hourly samples collected randomly and without prior notice by DSD over a period of 2 to 4 months; and
- entrusting DSD with the responsibility for sampling and testing work with full costs being recovered from applicants, so that DSD could collect samples without prior notice in order to ensure the statistical reliability of the samples

As regards Mrs LAU's suggestion of apportioning the costs on a year-by-year basis, AD/SS said that DSD might not be able to recover the sampling and testing costs incurred from each reassessment which was valid for three years if the restaurant operator concerned ceased operation after one or two years of the reassessment. A fair and equitable arrangement would need to be worked out.

38. As to whether applicants for reassessments would be refunded the reassessment costs in the event of successful appeal, AD/SS answered in the negative as application for COD reassessment was not an appeal. Mr Tommy CHEUNG said that restaurant operators had in fact requested for refund of reassessment costs for successful appeals but such a request had not been acceded to by the Administration. The restaurant trade had therefore demanded for a review of the assigned generic COD value. Mr LAW Chi-kwong opined that as the generic COD values were assigned to the trades by the Administration, both parties should share the responsibility of reassessment, in particular on successful appeal cases.

39. On enforcement, ADEP(W&W) said that the Administration would seldom use COD values for prosecution. DSEF added that most of the prosecutions were initiated under WCPO, using parameters that were different from the TES Scheme.

Way forward

40. Mrs Miriam LAU expressed concern that the Administration had adopted a confrontational approach based on enforcement actions in its dealings with the trades and industries. She considered that to tackle the problem of pollution, a partnering relationship had to be developed among all the parties concerned, with suitable assistance provided by the Administration as necessary. ADEP(W&W) said that the Administration had held about seven to eight meetings with the restaurant trade in 2000. These meetings were attended by a large number of representatives from the trade and there had been active exchanges over the latest technology to reduce pollution loads from effluents. The Administration would continue to have direct dialogues with the trade. It was noted that the number of restaurants which had taken active measures to reduce the strength of their effluents to meet the requirements of EPD had been on the increase. Mrs LAU however reminded the Administration that it was the smaller restaurants and cafes which needed assistance.

41. Mr LAW Chi-kwong requested that an overall review of the TES Scheme be conducted by taking effluent samples from different trades. This would not only help ascertain whether the TES was reasonable but also help find a more effective way to deal with the pollution problem, thereby resolving the row between the trades and the Administration which had lasted for six years. On the timeframe for the review, DSEF said that in the light of the comments received at the meeting and the concerns raised by the trade, the Administration would put forward proposals to the trade in the next few weeks. Subject to the response of the trades, the Administration was hopeful that it could submit the proposals to members within the session.

VI Report of the Hong Kong Special Administration Region of the People's Republic of China in the light of the International Covenant on Economic, Social and Cultural Rights
(LC Paper No CB(1) 727/00-01)

42. The Principal Assistant Secretary for Home Affairs (PAS/HA) said that the Report of the Hong Kong Special Administration Region of the People's Republic of China in the light of the International Covenant on Economic, Social and Cultural Rights (the Report) was drafted between 1997 and 1998 for submission to the United Nations (UN) in 1999. The cut-off date was 30 June 1998. It was prepared in accordance with the UN Manual on Human Rights Reporting, covering the articles of the Covenant in sequence. It addressed views submitted by non-government organizations and the September 1996 concluding observations of the Committee on Economic, Social and Cultural Rights (the Committee) on the third report made under the Covenant by the United Kingdom Government (in respect of Hong Kong). After receipt of the current Report, the Committee had sent a list of 34 written questions for the Administration's response before the hearing. The responses to the written questions had been uploaded onto the website of the Home Affairs Bureau for public reference. The Committee had advised that the replies would form the focus of discussions at the hearing to be held on 27 and 30 April 2001. The Administration

would attend the hearing under the leadership of the Secretary for Home Affairs. The Committee would issue concluding observations of the hearing and the Administration would need to respond to those in due course.

43. Ms Emily LAU said that the inclusion of the discussion on the Report at the current meeting was made in response to the request of the Panel on Home Affairs that respective Panels should follow up the subjects of the Report which fell under their purviews. Since the cut-off date for the Report was June 1998, she was concerned that the Report might not be able to reflect the latest development in Hong Kong. At the last meeting on 19 March 2001, she asked the Administration to provide an update on the issues covered by the Report in order to facilitate discussion at the hearing on the one hand and provide a frank admission of Hong Kong's successes and failures on the other. To her disappointment, no supplementary information had been provided by the Administration. PAS/HA said that there was a possible misunderstanding as he recalled that at the meeting of the Panel on Home Affairs, the Administration was asked if it would provide a supplementary report. The Secretary for Home Affairs had then said that the Administration would consider the request and should it conclude that a supplementary report was necessary, it would issue the document in good time to include the latest developments that had taken place. Consequent upon the discussion with the Committee, the Administration had concluded that there was no need for such a supplementary report. The Chairman of the Committee had explicitly advised that the written questions were what the Committee was interested in and what was required. The replies to these questions had been made available on the Internet and the Administration had not been asked to provide these to the Panel.

44. Ms LAU said that the Administration should have provided the written questions and the replies for members' reference. Otherwise, there was no information paper to be discussed. Referring to the letter dated 19 March 2001 to the Administration from the Clerk to the Environmental Affairs Panel, the Chairman noted that the Administration had been asked to repackage the Report to include the latest development in Hong Kong. PAS/HA said that the Administration did not consider it necessary to provide an update on the Report since the replies to the written questions were already made available on the Internet and, as he had already stated, the Committee had made it clear that this was all it required.

45. Mr LAW Chi-kwong suggested that the Administration should provide the available information to members who could then decide if it was necessary to convene a separate meeting to discuss the subject. PAS/HA said that he had in hand a copy of the reply to the written questions and he suggested that the pages relating to the environment be made available for members' reference. He added that there was only one question (question no. 34) relating to the environment and this was on the effects of pollution on the health of the population and the measures taken by the Government to address the problem. At members' request, DSEF read out the Administration's reply to question no. 34.

46. Ms Emily LAU considered that there was a need to review the present arrangement to ensure that discussion papers were provided by the Administration

before meetings. The Chairman advised that the request for an update had in fact been conveyed to the Administration by the Clerk. DSEF said that in preparing the Report, there had been a public consultation exercise so that anyone who might have comments on the Report as drafted could have reflected their views to the Administration which would in turn decide whether such views should be included. This was the fourth report to the Committee and there would be further opportunities to submit updated reports. The Administration had no intention to conceal the latest development. The delegation to UN would be provided with the latest information to facilitate discussion and to answer questions which the Committee might raise. While appreciating members' concern that the Report had not included the most updated information, DSEF pointed out that it did satisfy the requirements set out by the Committee. He added that although the Administration had missed the deadline for submitting revisions to the Committee, this would not preclude the delegation from using information that was in the public domain in its presentation to UN. PAS/HA supplemented that the Administration was asked to submit its reply to the written questions by December 2000. His experience with UN was that it did not welcome late submissions as arrangements had to be made to translate the submissions into 12 languages. Any supplementary reports had to be submitted to the Committee at least 12 weeks before the hearing. He said that the Administration would endeavour to include any important new developments in the Secretary for Home Affairs' opening statement to the Committee.

(Post meeting note: The replies to the written questions raised by the Committee were circulated under LC Paper no.CB(1) 987/00-01. The Administration advised that the Committee issued its concluding observations on 11 May 2001 and made no statement about environmental issues.)

VII Any other business

47. There being no other business, the meeting ended at 5:30 pm.

Legislative Council Secretariat
29 June 2001