

立法會
Legislative Council

LC Paper No. CB(1) 1542/04-05
(These minutes have been seen
by the Administration)

Ref : CB1/PL/EA/1

Panel on Environmental Affairs

**Minutes of meeting held on
Monday, 25 April 2005, at 2:30 pm
in Conference Room A of the Legislative Council Building**

Members present : Hon CHOY So-yuk (Chairman)
Hon Emily LAU Wai-hing, JP (Deputy Chairman)
Ir Dr Hon Raymond HO Chung-tai, S.B.St.J., JP
Hon Martin LEE Chu-ming, SC, JP
Hon CHEUNG Man-kwong
Hon WONG Yung-kan, JP
Hon LAU Kong-wah, JP
Hon Miriam LAU Kin-yee, GBS, JP
Hon Albert CHAN Wai-yip
Hon Audrey EU Yuet-mee, SC, JP
Hon LEE Wing-tat
Hon Jeffrey LAM Kin-fung, SBS, JP
Dr Hon KWOK Ka-ki
Hon Patrick LAU Sau-shing, SBS, JP

**Public officers
attending** : **For item IV**

Environmental Protection Department

Mr Eric CHAN
Acting Deputy Director of Environmental Protection (3)

Agriculture, Fisheries and Conservation Department

Dr F Y WONG
Assistant Director (Country and Marine Parks)

Mr Edward WONG
Senior Marine Park Officer

For item V

Environmental Protection Department

Mr Eric CHAN
Acting Deputy Director of Environmental Protection (3)

Agriculture, Fisheries and Conservation Department

Mr C C LAY
Assistant Director (Conservation)

Dr So Ping-man
Senior Conservation Officer (Biodiversity)

For item VI

Environment, Transport and Works Bureau

Mr K K KWOK
Permanent Secretary for the Environment, Transport and
Works (Environment)

Environmental Protection Department

Mr Raymond FAN
Deputy Director of Environmental Protection (2)

Dr Malcolm BROOM
Assistant Director of Environmental Protection
(Water Policy)

Drainage Services Department

Mr W W CHUI
Chief Engineer/Harbour Area Treatment Scheme

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

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

Miss Mandy POON
Legislative Assistant (1)4

Action

I. Confirmation of minutes

(LC Paper No. CB(1) 1314/04-05 — Minutes of the meeting held on 24 March 2005)

The minutes of the meeting held on 24 March 2005 were confirmed.

II. Information paper issued since last meeting

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

LC Paper No. CB(1) 1186/04-05 — Submission from the WWF Hong Kong (English version only) regarding the proposed legislative amendments to the Fisheries Protection Ordinance (Cap. 171)

LC Paper No. CB(1) 1223/04-05 — Submission from a group of third year medical students of the University of Hong Kong (English version only) regarding the need to review the Hong Kong Air Quality Objectives

III. Items for discussion at the next meeting

(LC Paper No. CB(1) 1316/04-05(01) — List of follow-up actions

LC Paper No. CB(1) 1316/04-05(02) — List of outstanding items for discussion)

3. Members agreed to devote the next regular meeting scheduled for Monday, 23 May 2005, at 2:30 pm to discuss the “Management of municipal solid waste in Hong Kong”. An invitation would be uploaded onto the Legislative Council website to invite interested parties to forward their submissions and/or attend the meeting to express their views.

4. The Chairman reminded members that it had been a practice for the Panel to meet with the Advisory Council on the Environment (ACE) to exchange views on environmental issues of mutual concern. This year, the informal meeting with ACE had been scheduled for Thursday, 19 May 2005 at 10:45 am. As some members were not available on that day, it was agreed that meeting be re-scheduled to facilitate members’ participation.

(Post-meeting note: The informal meeting with ACE was subsequently advanced to 10 May 2005, at 10:45 am.)

Action

IV. Legislative amendments to facilitate the management of Marine Parks and Marine Reserve

(LC Paper No. CB(1) 1316/04-05(03) — Background brief on management of marine parks
LC Paper No. CB(1) 1316/04-05(04) — Paper provided by the Administration)

5. The Acting Deputy Director of Environmental Protection (3) (Atg DDEP(3)) briefed members on the proposed legislative amendments to the Marine Parks and Marine Reserves Regulation (the Regulation) to facilitate the effective management of marine parks and marine reserves in Hong Kong.

Composition of the Country and Marine Parks Board

6. While supporting more effective management of marine parks and marine reserves in Hong Kong, Mr WONG Yung-kan noted that the fishing trade had grave concern about the composition of the Country and Marine Parks Board (CMPB), which was the advisory body on matters relating to the management of marine parks and marine reserves. Given that the number of representatives from green groups in CMPB had outnumbered the two representatives from the fishing trade, the latter's views and concerns could not be properly reflected and addressed. He therefore considered it necessary for the Administration to review the composition of CMPB. Atg DDEP(3) said that CMPB was broadly represented to ensure a balance of views and its membership comprised representatives from green groups, academics and the fishing trade. Apart from CMPB, the Administration would also consult the fishing trade and other interested parties, including green groups, separately on major legislative proposals before finalizing the details.

Strengthen control of access and activities of vessels

7. Ms Miriam LAU noted that new provisions would be introduced in the Regulation to empower the Agriculture, Fisheries and Conservation Department (AFCD) to regulate the operation of certain types of vessels in marine parks. She however pointed out that the Administration failed to specify the types of vessels to be regulated. In reply, Atg DDEP(3) said that initially, the Administration only intended to control glass-bottomed vessels through a permit system so that the public would be able to view the corals without adversely affecting their ecology. He assured members that the proposed permit system would set out clearly the types of vessels that would be subject to control and the conditions for issue of permits, such as routing, speed and manoeuvring of the vessels. Ms LAU then enquired about the applicability of the permit system to other vessels, such as yachts and launches which were not equipped with glass bottoms. She also urged AFCD to step up patrol for effective management of marine parks and marine reserves. Her views were shared by Mr Albert CHAN. The Senior Marine Park Officer (SMPO) explained that under the proposed permit system, any glass-bottomed coral viewing vessels would be required to apply for permits to enter the marine parks and marine reserves. As corals were found in shallow waters which could be viewed through glass-bottomed vessels, the

Action

imposition of a permit system to regulate these vessels would provide the necessary protection for the corals. Yachts and launches not equipped with glass bottoms would unlikely have the incentive to operate at shallow waters, thereby not subjecting to the permit control.

8. Ms Emily LAU opined that coral viewing activities, particularly the use of glass-bottomed pleasure crafts, should be controlled for the protection of corals. She enquired whether consideration would be given to imposing a daily entry quota for glass-bottomed coral viewing vessels and the fee level for the proposed permit. In response, SMPO emphasized the need to strike a balance between protection of corals and the importance of allowing the public to appreciate the marine resources. Apart from coral viewing by glass-bottomed vessels, snorkelling and scuba diving at marine parks were also permitted so long as these activities did not cause destruction to the corals. Publicity materials on proper diving practices and protection of precious marine lives were made available to the public. Enforcement actions would be taken against divers caught for damaging corals and other marine resources. He added that there might not be a need for a daily quota for glass-bottomed vessels given the limited number of such vessels registered in Hong Kong. As regards the fee for the permit, SMPO said that it was still under computation and would be on a cost recovery basis similar to other permits. Ms LAU recalled that green groups had earlier requested that glass-bottomed coral viewing vessels should be run by electricity rather than petrol or diesel to avoid pollution. SMPO said that the Administration would have to consult the Marine Department which was responsible for licensing of vessels.

Power to revoke permits

9. Mr Albert CHAN enquired about the penalty to be imposed on coral viewing vessels which had contravened permit conditions. Atg DDEP(3) said that permits would be revoked if permit conditions were not complied with. Under the Regulation, the maximum penalty for fishing, hunting or collecting marine animals and plants was a fine of \$25,000 and imprisonment of 12 months but the actual level of penalty would have to be decided by courts. As to whether operators of coral viewing vessels would be held responsible for any destructive activities done by its passengers, the Assistant Director of Agriculture, Fisheries and Conservation (Country and Marine Parks) (ADAF(CMP)) explained that this would depend on the extent of involvement of the operators and the adequacy of evidence. There were provisions governing the protection of marine resources and enforcement actions would be taken as appropriate. Mr CHAN considered the penalty too light as compared to other overseas countries such as New Zealand and Canada where seizure of vessels and/or equipment were imposed against destruction of marine resources. He held the view that similar penalty should apply in Hong Kong to achieve a greater deterrent effect. Atg DDEP(3) agreed to take members' views into consideration when formulating the proposed amendments.

10. Mr WONG Yung-kan expressed concern about the impact of AFCD's power to revoke permits on the fishing trade. Ms Emily LAU was also concerned that the relevant trade and other affected parties which would be affected by the proposed

Action

amendments might not have been adequately consulted. SMPO said that the Administration had conducted initial consultation with the affected trades and there were no strong views against the introduction of a permit system for coral viewing vessels. Some tour companies had enquired in the past on whether a permit was required for operating glass-bottomed vessels in marine parks. It seemed that the proposed permit system would likely be accepted by the trade.

Unauthorized fishing

11. Given the increased public concern about unauthorized fishing in marine parks by Mainland fishermen, Mr CHEUNG Man-kwong enquired about the extent of the problem and the enforcement actions taken against such illegal activities. Atg DDEP(3) said that in the past, Mainland fishermen caught fishing illegally in the marine parks were usually only escorted out of Hong Kong waters. Since March 2004, AFCD and the Marine Police had implemented a new strategy on enforcement against unauthorized fishing in marine parks by Mainland fishermen. Under the new arrangement, AFCD staff would conduct patrol along marine parks and marine reserves and intercept any illegal fishing activities conducted by the Mainland fishermen. The Marine Police would then jointly process the case with AFCD staff. Prosecution would be taken against the Mainland fishermen concerned in Hong Kong courts and their vessels would be detained and later handed over to the Mainland authorities by the Marine Police. During the period from November 2004 to March 2005, prosecution had been taken against four cases of unauthorized fishing in marine parks and the fines imposed ranged from \$300 to \$1,000. One of the Mainland fishermen concerned was sent to jail for seven days for failure to settle the fines while another received a suspended sentence.

12. Ms Audrey EU was concerned that Mainland fishing vessels caught fishing illegally in Hong Kong were released soon after payment of fines and were allowed to re-enter Hong Kong within hours of arrest. She enquired about the applicability of the laws of Hong Kong to Mainland vessels involved in illegal activities in Hong Kong. ADAFC(CMP) said that under MPO, persons caught fishing illegally in Hong Kong would be subject to a maximum penalty of \$25,000 and imprisonment for 12 months. The same would apply to Mainland fishermen who were so caught by the Marine Police and brought before the courts in Hong Kong. After serving the sentence, the Mainland fishermen would be repatriated back to the Mainland while their detained vessels would be handed over to the Mainland authorities. Details of prosecution would be passed to the relevant Enforcement Unit of the Guangdong Provincial Bureau of Oceans and Fisheries. Publicity on the consequences of unauthorized fishing in Hong Kong was being launched in the Mainland. As a result of these arrangements, the number of Mainland fishermen fishing illegally in Hong Kong had been significantly reduced. Ms EU asked if there were existing legal provisions governing the detention of vessels caught in illegal activities as otherwise such detention would be merely an administrative arrangement with no legal back up. Atg DDEP(3) confirmed that under MPO, authorized officers could seize equipment that could be used as evidence of the commission of the offence.

Action

13. Despite the maximum penalty for unauthorized fishing under MPO, Mr CHEUNG Man-kwong noted with concern that the courts only imposed fines of a few hundred dollars which could neither reflect the seriousness of the problem nor achieve a deterrent effect. Given that the Administration would amend the Regulation to facilitate more effective management of marine parks, he considered that opportunity should also be taken to amend MPO to enhance the enforcement and penalty provisions against unauthorized fishing. Mr WONG Yung-kan echoed that the Marine Police had not been effective in enforcing patrol against unauthorized fishing by Mainland fishermen and as a result, these activities were still rampant at the marine parks, particularly around the Tung Ping Chau area. To enhance the deterrent effect, consideration should be given to seizing and detaining the Mainland vessels used for illegal fishing in Hong Kong so that the fishermen concerned would not be able to continue with the illegal activities. The Chairman supported seizing and detaining of the vessels used for illegal fishing for a period of six to 12 months.

14. Atg DDEP(3) said that the situation had improved since the new arrangement of prosecuting fishermen concerned and detaining their vessels was implemented in March 2004. Enforcement actions, including detention of vessels pending prosecution proceedings, were taken against those who caught fishing illegally in marine parks, irrespective of whether they were local or Mainland fishermen. The Administration would monitor the situation and where necessary, consider introducing additional measures to enhance the deterrent effect. ADAF(CMP) said that the Marine Police had been frequently patrolling the marine parks and marine reserves. In fact, a patrol launch had been stationed at Tung Ping Chau to guard against illegal fishing activities. Close liaison had been maintained with the Guangdong authorities on the arrest of Mainland fishermen fishing illegally in Hong Kong waters. The Administration would be pleased to arrange a joint inspection at Tung Ping Chau as suggested by Mr WONG Yung-kan.

15. Ms Emily LAU shared members' concern about the need for more effective enforcement against unauthorized fishing. To facilitate members to ascertain the efficacy of the existing measures against unauthorized fishing, she requested that the Administration should provide a progress report on the enforcement actions by the end of the year. In concluding, the Chairman said that members were of the view that the existing penalty provisions for unauthorized fishing were too lenient to achieve a deterrent effect. The Administration was called upon to consider amending MPO taking into account members' views.

Admin

V. Proposed legislation for implementation of the Cartagena Protocol on Biosafety

(LC Paper No. CB(1) 1316/04-05(05) — Background brief on application of the Convention on Biological Diversity and the Cartagena Protocol on Biosafety to Hong Kong

Action

LC Paper No. CB(1) 1316/04-05(06) — Paper provided by the Administration)

16. Atg DDEP(3) briefed members on the Administration's proposal to enact a new legislation for the implementation of the Cartagena Protocol on Biosafety ("the Protocol") in Hong Kong for better protection of biological diversity in Hong Kong by controlling the trans-boundary movement of living modified organisms (LMOs) and their intentional introduction into the environment.

17. Ms Audrey EU considered the term "LMOs" too technical and requested the Administration to explain it in more layman terms. Atg DDEP(3) explained that LMOs referred to any living organism that possessed a novel combination of genetic material obtained through the use of modern biotechnology, but did not include processed food products. ADAF(C)(Conservation) (ADAF(C)) added that examples of common LMOs would include soybeans, rape seeds and corn with genetic materials being altered through modern biotechnology. The enactment of a new legislation for the implementation of the Protocol in Hong Kong would ensure better protection of local biological diversity from possible adverse impacts of imported LMOs.

18. In reply to Ms EU's further question on the impact of the new legislation on importers, Atg DDEP(3) said that if the imported LMOs were intended for direct use as food or feed or for processing, the importer would only need to fulfil some documentation requirements such as making a declaration that the shipment "may contain" LMOs, and that these were not intended for introduction into the environment. If LMOs were imported for intentional introduction into the environment, the importer would have to apply for a licence from AFCD in advance of the first shipment and detailed written information, including contact details of the exporters and importers, identity and relevant traits and characteristics of the LMOs, their risk assessment reports and suggested methods for the safe handling, storage, transport and use of the LMOs, would have to be submitted. The importer had to obtain AFCD's explicit prior consent on the importation before the shipment. Given that the importation of LMOs for agricultural purposes was rare, the implementation of the Protocol would unlikely have any significant impact on importers in Hong Kong. Dr KWOK Ka-ki however pointed out that the Administration's paper was not well presented as it failed to provide details of implementation, impact of the proposed control on the affected trades, financial implications and penalties for non-compliance. In the absence of such information, members would find it difficult to support the proposal. The Chairman said that the Administration should include such information when tabling the draft bill to the Legislative Council but she expressed concern that no reference had been made to the availability of expertise in conducting risk assessment on the import and export of LMOs.

19. Noting that a number of food produce like tomatoes and corn had been genetically modified for various reasons, Ms Miriam LAU expressed concern that importers of these produce might not be aware of the import requirements on LMOs under the new legislation. AD/AF(C) said that as many of Hong Kong's trading

Action

partners were already parties to the Protocol, they were familiar with the requirement of the Protocol and should have no difficulties in complying with the control regime on LMOs in Hong Kong. Ms LAU remained of the view that details of the control regime should be made known to the affected trades so that they would know exactly what was required of them.

20. Given that the implementation of the Protocol was meant to better protect biodiversity in Hong Kong, Mr Albert CHAN asked whether the felling of large number of trees and the replanting of certain types of trees/plants on a large scale in Hong Kong would violate the Protocol. AD/AFC(C) explained that the Protocol aimed to regulate trans-boundary movement of LMOs to ensure the safe transfer, handling and use of LMOs that might have adverse effects on the conservation and sustainable use of biological diversity. He added that trees and plants which were not genetically altered would not be subject to control under the Protocol. Mr CHAN however pointed out that it would be difficult to ascertain whether these trees and plants were genetically altered, particularly when these were largely imported from the Mainland. AD/AFC(C) said that the trees and plants imported from the Mainland every day would unlikely fall under the control regime on LMOs. The Senior Conservation Officer (Biodiversity) added that as LMOs only referred to living organism that possessed a novel combination of genetic material obtained through the use of modern biotechnology, these could easily be identified through the presence of “promoter” and “terminator” genes inserted during the process.

21. Mr Martin LEE enquired about the constitutional arrangements on the extension of the Protocol to Hong Kong. In reply, Atg DDEP(3) made reference to Article 153 of the Basic Law which read “The application to HKSAR of international agreements to which the People’s Republic of China is or becomes a party shall be decided by the Central People’s Government, in accordance with the circumstances and needs of the Region, and after seeking the views of the government of the region.” As the Mainland had signed the Protocol and would become a Party to it upon completion of the ratification procedure, and in-principle agreement of the Central People’s Government had been obtained to extend the Protocol to HKSAR, a new legislation would be required to effect its implementation.

22. While supporting the extension of the Protocol to Hong Kong, the Chairman held the view the proposed control regime on LMOs would not contribute much to the protection of local biodiversity given that trans-boundary movements of LMOs for intentional introduction into the environment was rare in Hong Kong. She considered that more should be done to protect biodiversity from destructive activities such as felling of trees and illegal dumping. The control over such activities would be more effective in protecting the biodiversity in Hong Kong.

Action

VI. The implementation programme for the Harbour Area Treatment Scheme Stage 2

(LC Paper No. CB(1) 2215/03-04(05) — Background brief prepared by the Legislative Council Secretariat (issued for the meeting on 28 June 2004)

Ref: EP(CR)9/35/13(III) — Legislative Council Brief provided by the Environmental Protection Department)

23. The Deputy Director of Environmental Protection (2) (DDEP(2)) gave a power-point presentation on the implementation programme for the Harbour Area Treatment Scheme (HATS) Stage 2.

24. Mr CHEUNG Man-kwong recalled that in an earlier interview with the press, the Permanent Secretary for the Environment, Transport and Works (Environment) (PSETW(E)) had indicated that the environmental charges payable by an average four-person household in 10 years' time would be as high as \$700 per month. If this was the case, he was concerned that the public might not support the implementation of environmental protection measures which were beyond their affordability. He therefore urged the Administration to take into account public affordability in determining the sewage charges under HATS Stage 2. Comprehensive analysis on the cumulative effect of new environmental charges, such as levy on plastic bags, increase in electricity charges resulting from the use of more environmentally friendly fuel and charges for disposal of municipal waste, should be conducted.

25. In reply, PSETW(E) took the opportunity to clarify that he had not indicated to the press that the environmental charges could be as high as \$700 per month. What he did say was that the sewage charges upon the completion of HATS Stage 2A in 2013 would be around \$26 per month for the average household based on full recovery of operating cost according to the polluter-pays principle. The charges would be increased to about \$32 per month upon completion of HATS Stage 2B in 2020. He added that sewage charges for the average Hong Kong household were among the lowest of those observed in any developed economy. He assured members that the Administration would take into account public affordability in determining the sewage charges, and that the public would be fully consulted before the introduction of any new environmental charge.

26. Given the substantial costs involved in taking forward HATS Stage 2, Mr Albert CHAN and Dr KWOK Ka-ki opined that the Administration should ensure that HATS Stage 2 was imperative, that the proposed treatment option was the most cost effective one, and that public money was well spent. PSETW(E) advised that as sewage generated from the most densely populated parts of the Hong Kong Island was only subject to preliminary screening before discharge into the harbour, there was an urgent need to proceed with HATS Stage 2 for the treatment of sewage from the remaining catchment of the harbour area in good time. During the five-month public consultation exercise on HATS Stage 2 from June to November 2004, the

Action

Administration had received views and feedbacks from a wide cross-section of the community. The response had been quite positive and about 70% of the key stakeholders who expressed views had indicated their support for the two-phase implementation strategy. As regard the treatment option, PSETW(E) said that the Chemically Enhanced Primary Treatment adopted in HATS Stage 1 was highly effective in reducing organic pollutants and suspended solids. The technology was highly acclaimed and as a result the Stonecutters Island Sewage Treatment Works (SCISTW) had been regarded as one of the most efficient chemical treatment plants in the world.

27. Noting that SCISTW was treating 1.4 million cubic metres of sewage per day which was way below its design capacity of 1.7 million cubic metres per day, the Chairman queried the justification for further expansion of SCISTW's sewage treatment capacity to 2.8 million cubic metres per day under HATS Stage 2, given that the population of the Hong Kong Island would unlikely increase significantly in the coming years. PSETW(E) said that the provision of sewage facilities under HATS Stage 2 was meant to meet the growing demand for sewage services in the long term. The planning for such provision had taken into account new developments such as the South East Kowloon Development.

28. Mr LEE Wing-tat opined that HATS Stage 2 might not be required if the Administration had done enough to conserve water and minimize generation of sewage. He pointed out that Hong Kong had lagged far behind other overseas cities/countries in this respect. By way of illustration, public toilets in Hong Kong were not suitably equipped to reduce the use of flushing water. In the absence of a total water management strategy, the public would find it hard to accept increases in sewage charges. He then enquired about the measures which the Administration would take to conserve water and reduce sewage pollution. PSETW(E) said that while efforts, such as stepping up of publicity, had been made to encourage the public to conserve water as far as possible, the use of water and the generation of sewage could not be avoided. With the anticipated growth in population and economic activities in the harbour area, there was a need to proceed with HATS Stage 2 to secure early improvement in water quality of the harbour. The Assistant Director of Environmental Protection (Water Policy) added that the Administration was pursuing the concept of total water management. Two pilot schemes were being undertaken at the Ngong Ping Sewage Treatment Works and the Shek Wu Hui Sewage Treatment Works where the feasibility of treating effluent to a high standard for re-use was being explored. Meanwhile, the Water Supplies Department was pursuing the more active promotion of water conservation.

29. Mr Martin LEE enquired about whether and when public aspiration for an annual cross-harbour swimming event could be met. PSETW(E) said that with the interception and treatment of sewage from the remaining catchment of the harbour area, coupled with disinfection under HATS Stage 2 upon its commissioning in 2013, it was expected that the annual cross-harbour swimming event could be resumed by then.

Action

30. The Chairman said that a further meeting would be convened to discuss the implementation programme for HATS Stage 2 and interested parties would be invited to express their views.

VII. Any other business

31. There being no other business, the meeting ended at 4:35 pm.

Council Business Division 1
Legislative Council Secretariat
19 May 2005