

立法會
Legislative Council

LC Paper No. CB(1) 859/06-07
(These minutes have been seen
by the Administration)

Ref : CB1/SS/2/06/1

**Subcommittee on
Air Pollution Control (Volatile Organic Compounds) Regulation**

**Minutes of second meeting
held on Thursday, 4 January 2007, at 8:30 am
in Conference Room A of the Legislative Council Building**

Members present : Hon Audrey EU Yuet-mee, SC, JP (Chairman
Hon Martin LEE Chu-ming, SC, JP
Hon CHAN Yuen-han, JP
Hon SIN Chung-kai, JP
Hon Howard YOUNG, SBS, JP
Hon Vincent FANG Kang, JP

Members absent : Hon Emily LAU Wai-hing, JP
Hon CHOY So-yuk, JP

Public officers attending : Environmental Protection Department

Mr TSE Chin-wan
Assistant Director (Air Policy)

Mr PANG Sik-wing
Principal Environmental Protection Officer
(Air Policy)

Mr SHIU Lik-king
Senior Administrative Officer
(Air Policy Division)

Department of Justice

Mr Vidy CHEUNG Chi-wai
Senior Government Counsel

**Attendance by
Invitation**

: Consumer Council

Ms Rosa WONG Wan-ming
Head, Research and Trade Practices Division

Clear The Air

Ms Annelise CONNELL
Chairperson

The Cosmetic and Perfumery Association of Hong Kong Ltd

Mr Joseph HO
Chairman

Hong Kong Retail Management Association

Mr Peter JOHNSTON
Representative

Hong Kong Suppliers Association

Mr Albert TANG
Chairman, Government Policy Committee

Hong Kong Architectural Coating Association

Mr Alex YU
Chairman

Federation of Beauty Industry (Hong Kong)

Ms Juliana YEUNG
Vice-Chairman

Green Council

Ms BHANJA CHEUNG Kit-yi, Suzanne
Project Manager

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

Staff in attendance : Mr Stephen LAM
Assistant Legal Adviser 4

Mrs Mary TANG
Senior Council Secretary (1)2

I Confirmation of minutes

(LC Paper No. CB(1) 614/06-07 -- Minutes of the meeting held on 15 December 2006)

The minutes of the meeting held on 15 December 2006 were confirmed.

II Meeting with deputations and the Administration

Meeting with deputations

- (a) Consumer Council
LC Paper No. CB(1) 616/06-07(01)
- (b) Clear The Air
LC Paper No. CB(1) 616/06-07(02)
- (c) The Cosmetic & Perfumery Association of Hong Kong Ltd
LC Paper No. CB(1) 616/06-07(03)
- (d) Hong Kong Retail Management Association
LC Paper No. CB(1) 616/06-07(04) (English version only)
- (e) Hong Kong Suppliers Association
LC Paper No. CB(1) 616/06-07(05) (English version only)
- (f) Hong Kong Architectural Coating Association
- (g) Federation of Beauty Industry (H.K.)
- (h) Green Council
LC Paper No. CB(1) 616/06-07(06) (English version only)

Submission from deputation not attending the meeting

LC Paper No. CB(1) 616/06-07(07) -- Submission from the Hong Kong Association for Testing, Inspection and Certification Ltd (English version only)

Meeting with the Administration

LC Paper No. CB(1) 616/06-07(08) -- Assistant Legal Adviser's further letter dated 22 December 2006 responding to the Administration's reply (LC Paper No. CB(1) 532/06-07(01))

2. The Committee deliberated (Index of proceedings attached at **Annex A**).
3. The Administration was requested to -
 - (a) Review the definitions of “manufacture” and “manufacturer” under section 2 of the Regulation in relation to the activity of adding colourants to the tint base of paints; and
 - (b) Consider whether in addition to manufacturers and importers, liability should also be imposed on retailers in the regulation of VOC-containing products.
4. As the Administration had yet to consider the views put forward by the members in relation to the technical aspect of the Regulation, it was unlikely for the Subcommittee to complete examination of the Regulation within the scrutiny period which had already been extended to 17 January 2007. The Chairman requested the Administration to consider repealing the Regulation.

(Post-meeting note: In its letter dated 4 January 2007, the Administration agreed to repeal the Regulation to allow for more time to scrutinize the Regulation. A notice to this effect was given by the Administration on 10 January 2007 and the Subcommittee was subsequently dissolved upon submission of its report to the House Committee. At the meeting of the House Committee on 12 January 2007, members agreed to set up a new Subcommittee to study issues relating to the Regulation so that it could be re-introduced as soon as possible for implementing on 1 April 2007. The first meeting of the Subcommittee was scheduled for Thursday, 18 January 2007, at 8:30 am.)

III. Any other business

5. There being no other business, the meeting ended at 10:46 am.

**Proceedings of the second meeting of the
Subcommittee on Air Pollution Control (Volatile Organic Compounds) Regulation
on Thursday, 4 January 2007 at 8:30 am
in Conference Room A of the Legislative Council Building**

Time Marker	Speaker	Subject(s)	Action required
000000 - 000155	Chairman	Confirmation of minutes of meeting on 15 December 2006 (LC Paper No. CB(1) 614/06-07)	
000156 - 000508	Ms Rosa WONG, Consumer Council	Expression of views (LC Paper No. CB(1) 616/06-07(01))	
000509 - 000916	Ms Annelise CONNELL, Clear The Air	Expression of views (LC Paper No. CB(1) 616/06-07(02))	
000917 - 00147	Mr Joseph HO, the Cosmetic and Perfumery Association of Hong Kong Ltd	Expression of views (LC Paper No. CB(1) 616/06-07(03))	
001428 - 001603	Mr Peter JOHNSTON, Hong Kong Retail Management Association	Expression of views (LC Paper No. CB(1) 616/06-07(04))	
001604 - 002110	Mr Albert TANG, Hong Kong Suppliers Association	Expression of views (LC Paper No. CB(1) 616/06-07(05))	
002111 - 002334	Mr Alex YU, Hong Kong Architectural Coating Association	Expression of views (LC Paper No. CB(1) 633/06-07(01))	
002335 - 002520	Ms Juliana YEUNG, Federation of Beauty Industry (Hong Kong)	Expression of views	
002521 - 002842	Ms BHANJA CHEUNG Kit-yi, Suzanne, Council Chairman Green	Expression of views (LC Paper No. CB(1) 616/06-07(06))	
002843 - 003039	Chairman Administration	Administration's response to deputations' views	

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003040 - 004205	<p>Mr Martin LEE Consumer Council Clear The Air Administration Hong Kong Suppliers Association Hong Kong Retail Management Association The Cosmetic and Perfumery Association of Hong Kong Ltd</p>	<p>Discussion on the need for a mandatory labeling requirement for volatile organic compounds (VOCs)</p> <p>Trades' views -</p> <p>(a) There were practical difficulties in complying with the labeling requirement;</p> <p>(b) The labeling requirement would have cost implications which would be transferred to consumers; and</p> <p>(c) Regulatory control coupled with education and publicity would be more effective in the control of VOCs</p> <p>Administration views -</p> <p>The imposition of VOC limits was more direct and effective than the labeling requirement in controlling VOCs. Notwithstanding this, the Administration would step up education and publicity after implementation of the proposed control regime</p>	
004206 - 004729	<p>Mr Martin LEE Administration</p>	<p>Discussion on overseas experience on labeling requirements</p> <p>Administration's explanation -</p> <p>(a) labeling requirement was dispensed with taking into account the technical difficulties in implementation, especially because Hong Kong was only a small market for overseas suppliers ; and</p> <p>(b) The control regime in the State of California also did not include a labeling requirement</p>	
004730 - 005343	<p>Mr Vincent FANG Administration</p>	<p>Mr Vincent FANG's enquiry on -</p> <p>(a) Grace periods provided in the Regulation; and</p> <p>(b) Cooperation with the Mainland on control of VOC emissions</p>	

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		<p>Administration's response -</p> <ul style="list-style-type: none"> (a) Regulated products that were already in the market by the time the Regulation came into force would be exempted; (b) Different grace periods would apply to different products; and (c) While the Mainland had banned the use of xylene, a regulatory regime on VOC-containing consumer products was still under consideration 	
005344 - 005807	Mr Martin LEE Administration	<p>Mr Martin LEE's concerns -</p> <ul style="list-style-type: none"> (a) Regulated VOC-containing products imported before enactment of the Regulation might remain unsold for years; and (b) Need to strengthen liaison with the Mainland in controlling VOC emissions <p>Administration's explanation -</p> <ul style="list-style-type: none"> (a) Retailers would unlikely import large amount of products which were not popular. Since VOC-containing products did not pose immediate threat to safety nor health, there might not be a need to recall these products after the grace periods; (b) The Hong Kong/Guangdong Joint Working Group on Sustainable Development and Environmental Protection was set up to oversee cross-border environmental issues and a mid-term review of emission reduction measures would be conducted; and (c) Six-monthly reports on progress of measures to improve air quality would be provided to the Panel on Environmental Affairs 	

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005908 - 010312	Ms CHAN Yuen-han Administration	Discussion on cooperation with the Mainland on measures to improve air quality	
010313 - 010654	Mr Howard YOUNG Administration	Discussion on VOC control in California and the adoption of Californian standards in Hong Kong	
010655 - 011249	Chairman Mr SIN Chung-kai Mr Howard YOUNG Ms CHAN Yuen-han Mr Martin LEE Administration	Section-by-section examination Proposed sections 1 and 2	
011250 - 012002	ALA4 Ms CHAN Yuen-han Chairman Administration	Definitions of “manufacturer” and “manufacture” ALA4 pointed out that - While the definition of “manufacturer” provided for the exclusion of persons whose business only involved adding colourant to the tint base of a regulated product, a similar exclusion on the activity of adding colourant was not provided in the definition of “manufacture” Administration’s explanation - (a) Retailers who mixed paints for over-the-counter sale should not be regarded as manufacturers for the purposes of the Regulation; and (b) Adding of colourant was a part of the manufacturing process and should not be excluded in the definition of “manufacture”	
012003 - 014051	Mr Martin LEE Chairman Administration Mr Vincent FANG	Reference to section 3 on prohibition of manufacture and import of regulated paints Members’ concern - (a) As section 3 would prohibit the “manufacture” of regulated paints, which included, among others, the adding of colourant, retailers involved in such activity would be	The Administration to review the definitions of “manufacture” and “manufacturer” under proposed section 2 of draft

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		<p>unnecessarily caught and held liable to penalties under section 17 (regardless of whether the activity would affect the VOC content); and</p> <p>(b) Consideration should be given to including a proviso for the exclusion of the process of adding colourant to the tint base of paints in proposed section 3</p> <p>Administration's explanation -</p> <p>(a) Section 3 aimed at prohibiting the manufacture and import of regulated paints and the control was targeted at wholesalers/importers and not retailers;</p> <p>(b) It was not intended that retailers involved in adding of colourant or mixing of paints should be regarded as manufacturers because such activity would not affect the VOC content of paints; and</p> <p>(c) The activity of adding of colourant should not be excluded from section 3 as this might have allowed for the indiscriminate mixing of paints, thereby affecting the VOC control regime.</p>	<p>Regulation in relation to the activity of adding colourants to the tint base of paints</p>
014052 - 015050	Mr Martin LEE	<p>Discussion on retailers' liability in the control of VOCs</p> <p>Members' concerns -</p> <p>(a) Whether retailers who sold smuggled regulated products which had exceeded the prescribed VOC limits would be caught under the Regulation; and</p> <p>(b) Whether the smuggled regulated products should be forfeited</p>	

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		<p>Administration's explanation</p> <p>(a) Importers of smuggled goods would have committed an offence;</p> <p>(b) The Regulation aimed at prohibiting the manufacture and import of regulated products which had exceeded the prescribed VOC limits. This was most cost-effective. Sale by retailers however was not prohibited given the practical difficulties in enforcement. Besides, the trades had indicated strong objection to regulate retailing during public consultation;</p> <p>(c) Retailers were required under section 27 of the Air Pollution Control Ordinance (Cap. 311) to furnish information, including the origin of products, if so requested. This would facilitate control on manufacturers/ importers; and</p> <p>(d) It would be unfair to hold retailers liable because they might not be aware that the products they sold have exceeded the prescribed VOC limits</p>	
015051 - 015756	<p>Mr Martin LEE Administration Mr SIN Chung-kai Chairman</p>	<p>Mr Martin LEE's views -</p> <p>(a) Consideration could be given to holding retailers liable if they knowingly sell regulated products which had exceeded the prescribed VOC limits; and</p> <p>(b) There might be a need to forfeit the products if found in the retail market</p> <p>Administration's explanation -</p> <p>(a) While actions would be taken against the manufacture and import of regulated products, it would be inappropriate to forfeit and dispose them at landfills, which would not be environment-friendly, and the</p>	<p>The Administration to consider whether in addition to manufacturer and importers, liability should also be imposed on retailers in the regulation of VOC - containing products</p>

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		<p>VOC contained there would be released to the atmosphere; and</p> <p>(b) Manufacturers and importers could arrange to re-export these products to other countries or return to their overseas suppliers.</p> <p>Mr SIN Chung-kai's suggestion -</p> <p>Consideration could be given to serving a notice informing retailers that the regulated products they sold had exceeded the prescribed VOC limits. Prosecution would be taken if they continued the sale</p>	
015757 - 021548	<p>Chairman Administration</p> <p>Mr SIN Chung-kai</p> <p>Mr Howard YOUNG</p> <p>Mr Martin LEE</p> <p>ALA4</p>	<p>Legislative timetable</p> <p>Mr SIN Chung-kai's views -</p> <p>Given the insufficient time to scrutinize the Regulation, consideration should be given for the Administration to repeal the Regulation first to allow enough time for members to continue examination of the Regulation</p> <p>Mr Martin LEE's views -</p> <p>Care should be exercised in scrutinizing the Regulation to ensure that all technical and legal points were adequately resolved before implementation</p> <p>Mr Howard YOUNG's views -</p> <p>(a) Repealing the Regulation at this stage might give the impression that the Subcommittee was against the introduction of VOC control; and</p> <p>(b) Further meetings could be held within the scrutiny period with a view to resolving problems relating to the technical aspects of the Regulation so that it could be implemented on 1 April 2007 according to the legislative timetable</p>	

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		<p>Administration's response -</p> <p>The Regulation as drafted would provide proper control over VOCs and its implementation on 1 April 2007 in accordance with the legislative timetable would enable the needed improvements to air quality</p> <p>It would consider the Chairman's request for repealing the Regulation to allow more time for scrutiny</p>	

Council Business Division 1
Legislative Council Secretariat
31 January 2007