

立法會
Legislative Council

LC Paper No. CB(1) 2146/07-08
(These minutes have been seen
by the Administration)

Ref : CB1/BC/4/07/2

Bills Committee on Product Eco-responsibility Bill

Minutes of the eighth meeting
held on Tuesday, 27 May 2008, at 8:30 am
in Conference Room A of the Legislative Council Building

- Members present** : Hon CHOY So-yuk, JP (Chairman)
Hon CHAN Yuen-han, SBS, JP
Hon SIN Chung-kai, SBS, JP
Hon Miriam LAU Kin-ye, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon Vincent FANG Kang, JP
Hon Andrew LEUNG Kwan-yuen, SBS, JP
- Members absent** : Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon LEE Wing-tat
Hon WONG Ting-kwong, BBS
- Public officers attending** : **For item II**
Environmental Protection Department
Mr Albert LAM, JP
Deputy Director of Environmental Protection
Mr Alfred LEE
Assistant Director (Waste Management Policy)
Mr TE Chi-wang
Senior Administrative Officer (Waste Management Policy Division)
Mr Patrick LIU
Senior Environmental Protection Officer (Regional South)

Department of Justice

Miss Shandy LIU
Senior Government Counsel
Law Drafting Division

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

Staff in attendance : Miss Kitty CHENG
Assistant Legal Adviser 5

Mrs Mary TANG
Senior Council Secretary (1)2

I Confirmation of minutes

(LC Paper No. CB(1) 1620/07-08 -- Minutes of the meeting held on
29 April 2008)

The minutes of the meeting held on 29 April 2008 were confirmed.

II Meeting with the Administration

(LC Paper No. CB(1) 1655/07-08(01) -- List of follow-up actions arising
from the discussion on
13 May 2008

LC Paper No. CB(1) 1655/07-08(02) -- Administration's response of LC
Paper No. CB(1) 1655/07-08(01)

LC Paper No. CB(1) 657/07-08(02) -- Assistant Legal Adviser's letter
dated 15 January 2008 to the
Administration

LC Paper No. CB(1) 657/07-08(03) -- Administration's response to
CB(1) 657/07-08(02)

LC Paper No. CB(1) 1032/07-08(01) -- Assistant Legal Adviser's letter
dated 3 March 2008 to the
Administration

LC Paper No. CB(1) 1032/07-08(02) -- Administration's response to
CB(1) 1032/07-08(01)

LC Paper No. CB(1) 1032/07-08(03) -- Summary of deputations' views
on individual clauses of the Bill

LC Paper No. CB(1) 1117/07-08(03) -- Assistant Legal Adviser's letter
dated 17 March 2008 to the
Administration

- LC Paper No. CB(1) 1223/07-08(01) -- Administration's response to LC Paper No. CB(1) 1117/07-08(03)
- LC Paper No. CB(1) 1254/07-08(01) -- Assistant Legal Adviser's letter dated 11 April 2008 to the Administration
- LC Paper No. CB(1) 1254/07-08(02) -- Administration's response to LC Paper No. CB(1) 1254/07-08(01)
- LC Paper No. CB(1) 1489/07-08(04) -- Examples of overseas legislative provisions prepared by the Legal Service Division for reference of the Bills Committee)

2. The Bills Committee deliberated (Index of proceedings attached at **Annex A**).
3. The Administration was requested to -
 - (a) advise whether "not in possession" could be accepted as a reasonable excuse under clause 10 for non-compliance with clause 7(2). If so, might need to refine the drafting of clause 7(2) with reference to other ordinances;
 - (b) clearly define the difference between "entry and search" under clause 8 and "routine inspection" if the Administration intended to include a new provision on the latter in the Bill;
 - (c) apprise and consult the affected trades regarding the implementation/operational details of the environmental levy on plastic shopping bags as set out in the proposed Product Eco-responsibility (Plastic Shopping Bags) Regulation (the Regulation);
 - (d) consider applying the positive vetting procedure to future amendments to Schedules 1, 2 and 3 of the Bill;
 - (e) refine the Chinese rendition of clause 8(3)(b)(iii);
 - (f) specify in the Regulation the types of material particulars required under clause 9; and
 - (g) advise whether the penalty under clause 9(1) was in line with that for similar offences in other legislation, including non-environmental legislation. To also refine the Chinese rendition of clause 9(4)
4. Members agreed to continue discussion on the Bill at the next meeting scheduled for Thursday, 29 May 2008, from 1:00 pm to 2:30 pm. They also agreed to the following schedule of meetings -

<u>Date</u>	<u>Time</u>
Friday, 30 May 2008	1:00 pm to 2:30 pm;
Thursday, 5 June 2008	1:00 pm to 2:30 pm;
Tuesday, 10 June 2008	1:00 pm to 2:30 pm;
Tuesday, 10 June 2008	4:30 pm to 6:30 pm; and
Thursday, 12 June 2008	2:30 pm to 6:30 pm

III Any other business

5. There being no other business, the meeting ended at 10:35 am.

Council Business Division 1
Legislative Council Secretariat
10 July 2008

**Proceedings of the
Bills Committee on Product Eco-responsibility Bill
Meeting on Tuesday, 27 May 2008, at 8:30 am
in Conference Room A of the Legislative Council Building**

Time Marker	Speaker	Subject(s)	Action Required
000000 - 000049	Chairman	Confirmation of minutes of the meeting held on 29 April 2008 (LC Paper No. CB(1) 1620/07-08)	
000050 - 000452	Chairman	Chairman's report on her meeting with the Secretary for the Environment on the umbrella approach of the Bill	
000453 - 000901	Ms Miriam LAU Chairman Administration	Ms Miriam LAU's enquiry on whether reference was made to overseas legislation on producer responsibility schemes (PRS) Administration's explanation that information on overseas legislation on PRS was provided to members vide LC Paper Nos. CB(1)657/07-08(03) and 1489/07-08(03)	
000902 -001945	Chairman Administration Ms Audrey EU	Discussion on the Administration's response to the list of follow-up actions arising from the discussion at the meeting on 13 May 2008 (LC Paper No. CB(1)1655/07-08(02))	
001946 - 003005	Ms Miriam LAU Administration Chairman	Ms Miriam LAU's enquiry on clause 7(2) which stipulated that if an authorized officer reasonably believed that information relating to any levy or fee imposed under the Ordinance was possessed by a person, the officer might require the person to provide the information, failing which might constitute an offence under clause 10	The Administration to advise whether "not in possession" could be accepted as a reasonable excuse under clause 10 for non-compliance with clause 7(2). If so, might need to refine the drafting of clause 7(2) with reference to other ordinances
003006 -003830	Chairman Administration	Discussion on the power for authorized officers to carry out routine inspection at non-domestic premises Administration's explanation - (a) the power was needed to ensure compliance of registered retailers with the regulatory requirements under the levy scheme on plastic shopping bags (PSBs); and	

Time Marker	Speaker	Subject(s)	Action Required
		(b) routine inspection would be conducted in a manner that would minimize the interference with the normal operation of registered retailers.	
003831 - 004906	Ms Audrey EU Chairman Administration Mr Vincent FANG	Discussion on the Administration's proposal to require a warrant for entry and search of domestic and non-domestic premises	The Administration to clearly define the difference between “entry and search” under clause 8 and “routine inspection” if the Administration intended to include a new provision on the latter in the Bill
004907 -010549	Mr Vincent FANG Administration Chairman Ms Emily LAU ALA5	Discussion on the operation of the levy scheme, including the assessment mechanism to ascertain the amount of levy collected and the appeal mechanism	
010550 -12437	Mr Vincent FANG Administration Chairman Ms Miriam LAU	<p>Mr Vincent FANG's concerns about -</p> <ul style="list-style-type: none"> (a) the need for the affected trades to be consulted on the implementation/operational details of the levy scheme; (b) the time frame for the introduction of the proposed Product Eco-responsibility (Plastic Shopping Bags) Regulation (the Regulation); and (c) the need for a trial run on the levy scheme <p>Administration's explanation -</p> <ul style="list-style-type: none"> (a) the levy scheme was developed in consultation with the affected trades and regular dialogues would continue; (b) the affected trades would be further consulted regarding the implementation/operational details of the environmental levy on PSBs, which would be set out in the Regulation to be made under clause 27; and 	The Administration to apprise and consult the affected trades regarding the implementation/operational details of the environmental levy on plastic shopping bags as set out in the Regulation

Time Marker	Speaker	Subject(s)	Action Required
		(c) members' proposal of carrying out a trial run before the actual implementation would be considered in consultation with the affected trades.	
012438 - 012638	Ms Emily LAU Administration	Ms Emily LAU's enquiry on the time frame for the implementation of the levy scheme Administration's response that the levy scheme was expected to be implemented by mid 2009 if the Bill could be passed by LegCo within this legislative session.	
012639 -013031	Mr Vincent FANG Chairman Ms Miriam LAU Ms Emily LAU	Mr Vincent FANG's request that reference should be made to the levy scheme on PSBs to be implemented in the Mainland on 1 June 2008, so that changes could be made as appropriate, particularly in drafting the Regulation Ms Emily LAU's concern that it might not be practical to make major changes to the Bill at this stage	
013032 - 014445	Ms Miriam LAU Chairman Administration	Discussion on the vetting of amendments to Schedules and Regulation Ms Miriam LAU's concern that there would not be sufficient time for scrutiny of amendments to Schedules 1, 2 and 3 of the Bill if these were subject to the negative vetting procedure	The Administration to consider applying the positive vetting procedure to future amendments to Schedules 1, 2 and 3 of the Bill
014446 - 014636	Chairman	Continuation with the clause-by-clause examination of the Bill Clause 8 - Power of entry and search Chairman's request for refining the Chinese rendition of clause 8(3)(b)(iii)	The Administration to refine the Chinese rendition of clause 8(3)(b)(iii)
014637 - 014818	Chairman Administration	Clause 9 - Providing false information, etc Mr Vincent FANG's concern about the penalty of a fine of \$200,000 and imprisonment for 6 months under clause 9(1) Administration's explanation that the level of penalty was generally in line with other environmental legislation, including the Waste Disposal Ordinance (Cap. 354)	The Administration to advise whether the penalty under clause 9(1) was in line with that for similar offences in other legislation, including non-environmental legislation

Time Marker	Speaker	Subject(s)	Action Required
014819 - 014901	Chairman Administration	Chairman's request for refining the Chinese rendition of clause 9(4)	The Administration to refine the Chinese rendition of clause 9(4)
014902 -020404	Chairman ALA5 Administration Mr Vincent FANG Ms Miriam LAU	Discussion on the concern of the Hong Kong Retail Management Association on clause 9(3) regarding the offence for the omission of material particulars (LC Paper No. CB(1)1032/07-08(03))	The Administration to specify in the Regulation the types of material particulars required under clause 9
020405 - 020505	Chairman	Date of next meeting	

Council Business Division 1
Legislative Council Secretariat
10 July 2008