

LS/B/6/07-08

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By Fax (2511 3658) and By Post

3 March 2008

Mr Alfred Lee
Assistant Director (Waste Management Policy)
Environmental Protection Department
46/F, Revenue Tower
5 Gloucester Road
Wan Chai
Hong Kong

Dear Mr Lee,

Product Eco-responsibility Bill

You may recall that at the meeting of the LegCo Panel on Environmental Affairs ("EA Panel") held on 24 April 2006, members of the EA Panel expressed various concerns about the "umbrella legislation" approach in the proposed "producer responsibility schemes" ("PRS").

Administration's response to members' concerns raised at the meeting (LC Paper No. CB(1)1482/05-06 (minutes of the meeting))

1. Some members were concerned about the limited time available for scrutiny of subsidiary legislation. Permanent Secretary for the Environment, Transport and Works (Environment), who attended the meeting, assured that "[t]o allow sufficient time for the scrutiny of PRS regulations, consideration would be given to using a positive vetting procedure" (para. 12 of the minutes of the meeting).
2. He further said that "[t]he Administration would agree to provide the draft regulations for members' scrutiny before these were introduced into the Legislature under the positive vetting procedure" (para. 14 of the minutes of the meeting).

3. A member suggested that –
- (i) at least one PRS regulation should be submitted together with the Bill to facilitate understanding on the proposed regulatory control; and
 - (ii) a triggering mechanism for new PRS regulations should be included in the Bill as in the case of the Environment Impact Assessment Ordinance (Cap. 499) which spelt out the criteria for EIA process or new designated projects.
4. Permanent Secretary for the Environment, Transport and Works (Environment) took note of the member's suggestions "which the Administration would take into account in drafting the Bill". He also added that the enabling legislation would empower the Chief Executive in Council to introduce PRS regulations for specific products after thorough public consultation (para. 15 of the minutes of the meeting).

Questions

- (a) I wonder if the Administration could advise the Bills Committee the manner in which the above assurances given by the Administration at the Panel meeting are incorporated in the Bill.
- (b) In particular, please identify –
 - (i) the specific clauses in the Bill under which positive vetting procedure by way of a Legislative Council resolution are provided in the making of a subsidiary legislation;
 - (ii) the provisions of the Bill which have the effect of the triggering mechanism of the Environment Impact Assessment Ordinance; and
 - (iii) the provisions of the Bill (enabling legislation) which empower Chief Executive in Council to introduce PRS regulations for specific products.
- (c) Please advise the Bills Committee when the first subsidiary legislation, which was meant to be submitted together with the Bill to facilitate members' understanding on the proposed regulatory control, will be produced for the consideration of the Bills Committee.

- (d) You may also recall that at the EA Panel meeting held on 16 July 2007, the Administration, at members' request, "undertook to provide the timetable for introducing the Product-responsibility Bill and its subsidiary legislation" (LC Paper No. CB(1)2411/06-07 (minutes of meeting of 16 July 2007), at para. 34). Please advise the Bills Committee of the said timetable for the introduction of subsidiary legislation.

I would be most grateful if you could let me have your reply in bilingual form before 10 March 2008.

Yours sincerely,

Kitty Cheng
Assistant Legal Adviser

cc. Legal Adviser
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