

**立法會**  
**Legislative Council**

LC Paper No. CB(1) 1312/07-08  
(These minutes have been seen  
by the Administration)

Ref : CB1/BC/7/07/2

**Bills Committee on Air Pollution Control (Amendment) Bill 2008**

**Minutes of the first meeting  
held on Thursday, 10 April 2008, at 8:30 am  
in Conference Room A of the Legislative Council Building**

**Members present** : Hon Audrey EU Yuet-mee, SC, JP (Chairman)  
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP  
Hon Martin LEE Chu-ming, SC, JP  
Hon SIN Chung-kai, SBS, JP  
Hon Howard YOUNG, SBS, JP  
Hon Emily LAU Wai-hing, JP  
Hon CHOY So-yuk, JP  
Hon LEE Wing-tat  
Hon Alan LEONG Kah-kit, SC  
Hon WONG Ting-kwong, BBS  
Hon Mrs Anson CHAN, GBM, JP

**Member absent** : Hon Abraham SHEK Lai-him, SBS, JP

**Public officers attending** : **For item II**

Environmental Protection Department

Mr Benny WONG  
Acting Deputy Director of Environmental Protection (3)

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

Department of Justice

Ms Amy CHAN  
Senior Government Counsel

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

**Staff in attendance :** Miss Winnie LO  
Assistant Legal Adviser 7 (Designate)

Mrs Mary TANG  
Senior Council Secretary (1)2

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## **I. Election of Chairman**

Ms Emily LAU nominated Ms Audrey EU. The nomination was seconded by Mr LEE Wing-tat and accepted by Ms Audrey EU. There being no other nominations, Ms Audrey EU was declared Chairman of the Bills Committee.

## **II. Meeting with the Administration**

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|------------------------------------|--|
| (LC Paper No. CB(1) 1208/07-08(01) | -- Background brief on Air Pollution Control (Amendment) Bill 2008 |
| LC Paper No. CB(1) 1208/07-08(02)  | -- Submission from Greenpeace                                      |
| LC Paper No. CB(1) 1208/07-08(03)  | -- Marked-up copy of the Bill                                      |

### Background information on the Bill

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|-------------------------------|-----------------------------------|
| (LC Paper No. CB(3) 373/07-08 | -- The Bill                       |
| Ref: EP CR 9/150/21           | -- The Legislative Council Brief  |
| LC Paper No. LS45/07-08       | -- Legal Service Division Report) |

2. The Committee deliberated (Index of proceedings attached at **Annex A**).
3. The Administration was requested to -
  - (a) provide information on the air policies, including emission control, emissions trading, development of renewable energy etc, adopted by the United Kingdom and Germany over the past 20 years and their effectiveness in improving air quality;
  - (b) advise the existing mechanisms or agreements adopted by both the public and the private sectors in Hong Kong to control the emission of carbon dioxide (CO<sub>2</sub>);
  - (c) advise the feasibility of including CO<sub>2</sub> in item (a) of the long title of the Bill. To also provide a paper elaborating the difficulties and implications, particularly on electricity charges, involved in controlling CO<sub>2</sub> emission (as set out in paragraph 3 of the Administration's response to the submission from Greenpeace) with reference to overseas experience;

- (d) advise the scope, cost and expected completion date of the consultancy study on climate change;
- (e) advise the measures which had been/would be taken by the Administration to promote public awareness on energy conservation;
- (f) advise the methodology for working out and allocating the emission allowances to individual power plants and whether the methodology was in line with international practices. To also advise the legislative procedure through which the Technical Memorandum, which set out the methodology, could be amended by the Legislature;
- (g) illustrate with a case on the consequences which a power plant might face in the event of failure to meet the emission allowance. Similarly, the situation where the power plant had unspent emission allowance. To also advise the basis upon which the proposed “banking” of no more than 2% of the issued emission allowance for one year was arrived at and whether such limitation would serve as a disincentive for further reduction of emissions;
- (h) advise how the Administration could ensure the consistency of emission standards in Hong Kong and the Pearl River Delta Region so that emissions trading between the two places could be carried out on a level playing field; and
- (i) advise whether the decision of the Appeal Board was final and not subject to judicial review under the existing legal system.

4. Members agreed to the following schedule of meetings -

<u>Date</u>	<u>Time</u>
Tuesday, 22 April 2008	8:30 am
Tuesday, 6 May 2008	8:30 am
Thursday, 15 May 2008	8:30 am
Thursday, 29 May 2008	8:30 am

5. Members agreed that deputations would be invited to give views at the meeting on 22 April 2008.

### **III Any other business**

6. There being no other business, the meeting ended at 10:30 am.

**Proceedings of the  
Bills Committee on Air Pollution Control (Amendment) Bill 2008  
Meeting on Thursday, 10 April 2008, at 8:30 am  
in Conference Room A of the Legislative Council Building**

Time Marker	Speaker	Subject(s)	Action Required
000000 - 000144	Mr Martin LEE Ms Emily LAU Mr LEE Wing-tat	Election of Chairman Ms Audrey EU was elected Chairman of the Bills Committee	
000145 - 000227	Chairman	Bills Committee's acceptance of Mr Howard YOUNG's application for late membership	
000228 - 000632	Chairman	Schedule of meetings	
000633 - 001722	Administration	Briefing by the Administration on the Air Pollution Control (Amendment) Bill 2008 (the Bill)	
001723 - 002456	Mr Howard YOUNG Administration Chairman	<p>Mr Howard YOUNG's queries on -</p> <p>(a) whether there was any internationally recognized standard for emissions trading;</p> <p>(b) whether the emission cap was set at an absolute figure or a percentage; and</p> <p>(c) the accuracy of the 1997 baseline emissions</p> <p>Administration's explanation -</p> <p>(a) the use of unit price per tonne for emission credits was in line with international practice;</p> <p>(b) trading of emission credits would be coordinated in accordance with the framework set under the Emissions Trading Pilot Scheme (the Pilot Scheme) and would be confined to the power sector; and</p> <p>(c) emission allowances for local power companies were allocated on a pro-rata basis in accordance with their respective shares of the total amount of electricity generated for local consumption</p>	

Time Marker	Speaker	Subject(s)	Action Required
002457 - 003100	Mr LEE Wing-tat Chairman Administration	<p>Mr LEE Wing-tat's concern about global warming and the need to impose a cap on the emission of carbon dioxide (CO<sub>2</sub>) from power plants</p> <p>Administration's explanation -</p> <p>(a) efforts, including the signing of the Asia-Pacific Economic Cooperation (APEC) Leaders' Declaration in Sydney to reduce the energy intensity of at least 25% by 2030 with 2005 as base year, had been made to reduce greenhouse gas (GHG) emissions, including CO<sub>2</sub>;</p> <p>(b) measures to reduce CO<sub>2</sub> emission would include the use of alternative fuels, such as liquefied natural gas (LNG) and renewable energy (RE), for power generation but these would have cost implications and result in increased electricity charges; and</p> <p>(c) a consultancy study on climate change had been commissioned by the Government and measures to reduce GHG would be addressed</p>	
003101 - 003921	Miss CHOY So-yuk Administration	<p>Miss CHOY So-yuk's views -</p> <p>(a) all emissions from power generation should be controlled and charged;</p> <p>(b) the health cost associated with poor air quality would outweigh the cost implications associated with the imposition of an emission cap on CO<sub>2</sub></p> <p>(c) overspent/unspent emission allowance of power plants should be subject to control if emissions trading was allowed; and</p> <p>(d) consideration should be given to allowing grid access to encourage the development of RE which had become more affordable nowadays</p>	<p>The Administration to provide information on the air policies, including emission control, emissions trading, development of renewable energy etc, adopted by the United Kingdom and Germany over the past 20 years and their effectiveness in improving air quality</p>

Time Marker	Speaker	Subject(s)	Action Required
		<p>Administration's explanation -</p> <p>(a) for unspent emission allowances, the validity period of a maximum of 2% of the total emission allowance issued for a particular year could be extended until the end of the following year; and</p> <p>(b) there were space constraints in the development of RE in Hong Kong</p>	
003922 - 004525	Mr SIN Chung-kai Administration	<p>Mr SIN Chung-kai's view that CO<sub>2</sub>, which was a major contributor to global warming, was excluded from the emission caps for power plants because the Government had been heavily lobbied by power companies</p> <p>Administration's explanation -</p> <p>(a) the Government would make reference to the outcome of the consultancy study on climate change before deciding on the measures to be taken to reduce CO<sub>2</sub> emission;</p> <p>(b) the per capita CO<sub>2</sub> emission in Hong Kong was comparatively lower than most developed countries; and</p> <p>(c) power companies would need to make infrastructural changes to accommodate the use of alternative fuels if CO<sub>2</sub> was included in the emission caps. This would have significant cost implications and impact on electricity charges</p>	
004526 - 005334	Mr Martin LEE Administration	<p>Mr Martin LEE's concerns -</p> <p>(a) there was a lack of vision on the part of Government in resolving the problem of global warming;</p> <p>(b) the terms of the Scheme of Control Agreements were in favour of the power companies; and</p>	

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		<p>(c) the electricity market should be opened up</p> <p>Administration's explanation -</p> <p>(a) there had been a significant reduction in emission of specified pollutants from power plants over the years; and</p> <p>(b) the Bill would provide for a more timely and transparent implementation of emission caps for the power sector, which would be further tightened</p>	
005335 - 010058	Ms Emily LAU Administration Chairman	<p>Ms Emily LAU's enquiries on -</p> <p>(a) the measures which could be taken to reduce CO<sub>2</sub> emission;</p> <p>(b) the scope, cost and completion date of the consultancy study on climate change; and</p> <p>(c) whether investments on the use of cleaner fuels would result in better air quality and if so, the resultant increase in electricity charges if Hong Kong was to impose a cap on CO<sub>2</sub> emission</p> <p>Administration's explanation -</p> <p>(a) the proposed imposition of emission caps for the power sector as well as the use of cleaner fuels for power generation would be able to improve air quality in Hong Kong; and</p> <p>(b) the consultancy study on climate change would make reference to overseas experience in working out the practical means to regulate CO<sub>2</sub> emission in Hong Kong</p>	The Administration to advise the scope, cost and expected completion date of the consultancy study on climate change
010059 - 010506	Mrs Anson CHAN Administration Chairman	Mrs Anson CHAN's view on the need for more coordinated efforts in improving air quality and conserving energy	The Administration to advise the measures which

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		Administration's explanation -  (a) environmental managers were appointed in all bureaux/departments; and  (b) the Clean Air Charter was applicable to bureaux/departments	had been/would be taken by the Administration to promote public awareness on energy conservation
010507 - 010613	Chairman	Chairman's enquiry on the feasibility of including CO <sub>2</sub> in item (a) of the long title of the Bill	The Administration to advise the feasibility of including CO <sub>2</sub> in item (a) of the long title of the Bill
010614 - 011223	Mr LEE Wing-tat Administration Chairman	Mr LEE Wing-tat's enquiries on -  (a) cost implications of imposing an emission cap on CO <sub>2</sub> ; and  (b) consideration should be given to imposing "pollutant premium" to increase the deterrent effect, given that the health impact associated with the failure on the part of power plants to meet the emission caps which could not be remedied through recovery of deficit emission allowances  Administration's explanation -  (a) penalties under the provision of the Air Pollution Control Ordinance (Cap. 311) (APCO) would be imposed on power plants if they failed to meet the emission caps; and  (b) in addition to the penalties, power plants were required to recover any deficit emission allowances in the following year to achieve a greater deterrent effect	



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011224 - 012147	Mr SIN Chung-kai Administration Chairman ALA7	<p>Mr SIN Chung-kai's enquiry on the role of the Legislative Council (LegCo) given that under the Bill, the Secretary for the Environment (SEN) was the only authority empowered to specify the pollutants to be regulated and their emission caps</p> <p>Administration's explanation -</p> <p>(a) SEN would, by way of a Technical Memorandum (TM), specify the maximum annual quantity of emission of each type of specified pollutant in respect of each power plant; and</p> <p>(b) While TM was not a subsidiary legislation, it would be subject to LegCo's scrutiny and the relevant procedure would be similar to the "negative vetting" procedure. Under section 37B of APCO, LegCo might amend TM "in any manner consistent with the power to issue the technical memorandum"</p>	<p>The Administration to advise the legislative procedure through which the TM, which set out the methodology, could be amended by the Legislature</p>
012148 - 012806	Ms Emily LAU Chairman Administration	<p>Ms Emily LAU's concern on whether Hong Kong would be able to meet the pledge of the APEC Leaders' Declaration to reduce the energy intensity of at least 25% by 2030</p> <p>Administration's explanation that Hong Kong was committed to improving air quality and studies on climate change would be made</p> <p>Ms Emily LAU's request for a paper elaborating the difficulties and implications, particularly on electricity charges, involved in controlling CO<sub>2</sub> emission</p>	<p>The Administration to provide a paper elaborating the difficulties and implications, particularly on electricity charges, involved in controlling CO<sub>2</sub> emission (as set out in paragraph 3 of the Administration's response to the submission from Greenpeace) with reference to overseas experience</p>

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012807 - 013435	Mr LEE Wing-tat Administration	<p>Mr LEE Wing-tat's concerns-</p> <p>(a) whether emissions trading was feasible; and</p> <p>(b) whether the Guangdong side would be able to meet the 2010 emission reduction targets</p> <p>Administration's explanation -</p> <p>(a) emissions trading would provide power plants an alternative means to achieve the emission caps and it would be up to the power companies to decide whether they would participate in emissions trading; and</p> <p>(b) enhanced control measures would be adopted by the Guangdong Provincial Government to meet the 2010 emission reduction targets</p>	
013436 - 013816	Ms Emily LAU Administration Chairman	<p>Ms Emily LAU's enquiry on the amendments made to Appeal Board provisions</p> <p>Administration's explanation that the Bill would remove the right of the Authority under section 35 to refer a decision of Appeal Board to the Chief Executive in Council for review. In fact, such right had never been invoked in the past</p>	The Administration to advise whether the decision of the Appeal Board was final and not subject to judicial review under the existing legal system
013817 - 014632	Chairman Administration Ms Emily LAU	<p>Discussion on the methodology for allocating the emission allowances and the consequences of failure to meet emission allowances</p> <p>Administration's explanation -</p> <p>(a) penalties would be imposed in accordance with section 30A of APCO for failure to meet the emission caps as part of the conditions of the Specified Process Licences (SPLs) (a fine of \$100,000 for a first offence);</p>	<p>The Administration to</p> <p>(a) advise the methodology for working out and allocating the emission allowances to individual power plants and whether the methodology</p>

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		<p>(b) in addition to the penalties, power plants were required to recover any deficit emission allowances in the following year to achieve a greater deterrent effect; and</p> <p>(c) for unspent emission allowances, the validity period of a maximum of 2% of the total emission allowance issued for a particular year could be extended until the end of the following year</p>	<p>was in line with international practices;</p> <p>(b) illustrate with a case on the consequences which a power plant might face in the event of failure to meet the emission allowance. Similarly, the situation where the power plant had unspent emission allowance; and</p> <p>(c) advise the basis upon which the proposed “banking” of no more than 2% of the issued emission allowance for one year was arrived at and whether such limitation would serve as a disincentive for further reduction of emissions</p>
014633 - 015710	Mr WONG Ting-kwong Administration Chairman	Mr WONG Ting-kwong's concerns -  (a) local power plants might choose not to participate in emissions trading which might be more costly than the fine of \$100,000 for a first offence;	The Administration to advise how it could ensure the consistency of emission standards in Hong

Time Marker	Speaker	Subject(s)	Action Required
		<p>(b) the need to establish a mechanism for setting the price of emission credits for emissions trading; and</p> <p>(c) the need to ensure the consistency of emission standard in Hong Kong and Pearl River Delta (PRD) Region</p> <p>Administration's explanation -</p> <p>(a) directors of power companies would be held liable for contravening conditions set out in SPLs;</p> <p>(b) power plants would decide on the most cost-effective means to meet the emission caps;</p> <p>(c) trading of emission credits, the price of which would be market driven, would be conducted in accordance with the framework set under the Pilot Scheme; and</p> <p>(d) efforts would be made to ensure the consistency of emission standards in Hong Kong and the PRD Region</p>	<p>Kong and the PRD Region so that emissions trading between the two places could be carried out on a level playing field</p>
015711 -020410	Mr Alan LEONG Administration Chairman	<p>Mr Alan LEONG's requests for -</p> <p>(a) an illustration on the different scenarios involving under-spending and over-spending of emission allowances; and</p> <p>(b) advice on the existing mechanisms or agreements adopted by both the public and the private sectors in Hong Kong to control the emission of CO<sub>2</sub></p>	<p>The Administration to advise the existing mechanisms or agreements adopted by both the public and the private sectors in Hong Kong to control the emission of CO<sub>2</sub></p>