

立法會
Legislative Council

LC Paper No. CB(1) 2214/07-08
(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 sixth meeting
held on Monday, 26 May 2008, at 1:00 pm
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 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 Mrs Anson CHAN, GBM, JP
- Members absent** : Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon WONG Ting-kwong, BBS
- Public officers attending** : **For item II**
Environmental Protection Department

Mr Carlson K S CHAN
Deputy Director of Environmental Protection (3)

Mr Benny WONG
Assistant Director of Environmental Protection (Air Policy)

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

Mr Gordon LEUNG
Environmental Protection Officer (Cross-Boundary & International)31

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

Mrs Mary TANG
Senior Council Secretary (1)2

I Confirmation of minutes

(LC Paper No. CB(1) 1613/07-08 -- Minutes of the meeting held on
6 May 2008)

The minutes of the meeting held on 6 May 2008 were confirmed.

II Meeting with the Administration

(LC Paper No. CB(1) 1643/07-08(01) -- List of follow-up actions
arising from the discussion on
19 May 2008

LC Paper No. CB(1) 1643/07-08(02) -- Administration's response of
LC Paper No CB(1)
1643/07-08(01))

Clause-by-clause examination of the Bill

(LC Paper No. CB(3) 373/07-08 -- The Bill
Ref: EP CR 9/150/21 -- The Legislative Council Brief
LC Paper No. CB(1) 1208/07-08(03) -- Marked-up copy of the Bill

LC Paper No. CB(1) 1521/07-08(03) -- Summary of deputations' views
(issued for the meeting on on individual subjects/clauses of
15 May 2008) the Bill

LC Paper No. CB(1) 1554/07-08(01) -- Submission from
(issued through Lotus Notes mail on Mr David RENTON of Baker
16 May 2008) Botts L.L.P. (English version
only)

2. The Committee deliberated (Index of proceedings attached at **Annex A**).

3. The Administration was requested to -
- (a) consider whether the allocated allowances under proposed 26K(2)(a)(i) should also be subject to charges and the levels of charges;
 - (b) consider adding a new subsection (d) under proposed section 26K(2) to include remedial/mitigation measures to be taken by the applicant;
 - (c) consider specifying a timeframe within which the relevant circumstances should be reported to the Authority;
 - (d) consider specifying in proposed section 26K(5) the circumstances which could be classified as “special events”;
 - (e) advise how the allocated allowances could be transferred among individual power plants of the same power company, given that all the specified licences of these power plants were held under the name of the power company;
 - (f) advise the consequences which a specified licence holder would face if he failed to deliver/transfer the agreed quantity of allocated allowances for a specified pollutant to another licence holder;
 - (g) provide a list of amendments to be made to the specified licence pursuant to the Bill; and
 - (h) review the drafting of proposed section 26L(3)(b) to make it clear whether the notification of acquisition of allocated allowances should reach the Authority within five working days after the acquisition or not later than 31 March in the year immediately following the emission year.
4. Members agreed to cancel the two meetings originally scheduled for Thursday, 29 May 2008, at 8:30 am and 10:45 am to avoid clashing with the Council meeting on the same day. They also agreed to schedule three additional meetings as follows to continue with the scrutiny of the Bill -
- (a) Tuesday, 3 June 2008 from 1:00 pm to 2:30 pm;
 - (b) Thursday, 5 June 2008, at 8:30 am; and
 - (c) Friday, 6 June 2008, from 1:00 pm to 2:30 pm

III Any other business

5. There being no other business, the meeting ended at 2:30 pm.

**Proceedings of the
Bills Committee on Air Pollution Control (Amendment) Bill 2008
Meeting on Monday, 26 May 2008, at 1:00 pm
in Conference Room A of the Legislative Council Building**

Time Marker	Speaker	Subject(s)	Action Required
000000 - 000553	Chairman	Meeting arrangements	
000554 - 000616	Chairman	Confirmation of minutes of the meeting on 6 May 2008 (LC Paper CB(1) 1643/07-08)	
000617 - 001312	Chairman Administration	<p>Discussion on the Administration's response to the list of follow-up actions arising from the discussion at the meeting on 19 May 2008 (LC Paper No. CB(1)1643/07-08(02))</p> <p>Members' agreement to the proposed Committee Stage amendments to the Chinese rendition of section 26G(5) under clause 5, as set out in Annex 2 to LC Paper No. CB(1)1643/07-08(02)</p>	
001313 -002111	Chairman Administration Mrs Anson CHAN	<p>Continuation of clause-by-clause examination of the Bill</p> <p>Clause 5, section 26K - Increase to quantity of allocated allowances upon occurrence of special event</p> <p>Discussion on "special events"</p> <p>Administration's explanation -</p> <p>(a) "special events" referred to force majeure or cases which were beyond control, such as natural disasters or strike; and</p> <p>(b) "special events" would be specified in the relevant specified licences with reference to the specific operational requirements of each power plant.</p>	
002112 - 003112	Mr SIN Chung-kai Administration Miss CHOY So-yuk Chairman	Mr SIN Chung-kai's proposal to provide a generic definition on "special events" to be set out in the Bill. The proposal was supported by Miss CHOY So-yuk	The Administration to consider specifying in proposed section 26K(5) the circumstances which could be classified as "special events"

Time Marker	Speaker	Subject(s)	Action Required
003113 - 003005	Mr SIN Chung-kai Chairman Administration	Members' request for inclusion of a new subsection (d) under proposed section 26K(2) to include remedial/mitigation measures to be taken by the applicant	The Administration to consider adding a new subsection (d) under proposed section 26K(2) to include remedial/mitigation measures to be taken by the applicant
003006 - 003735	Miss CHOY So-yuk Administration Chairman	<p>Miss CHOY So-yuk's enquiry on whether the increase in quantity of allocated allowances upon occurrence of special events under proposed section 26K(2) would be provided free of charge</p> <p>Administration's explanation -</p> <p>(a) applications for increase of allocated allowances under proposed section 26K(2)(a)(i) as a result of occurrence of special events would not be subject to charges; and</p> <p>(b) applications for increase of emission credits under proposed section 26K(2)(a)(ii) as a result of non-delivery of such credits in an emission trading agreement with power plants in the Mainland would be subject to a charge of \$20,000 for each emission allowance sought to be increased in accordance with Schedule 2B</p>	The Administration to consider whether the allocated allowances under proposed section 26K(2)(a)(i) should also be subject to charges and the levels of charges.
003736 - 004253	Chairman Administration	<p>Chairman's concern about the need to specify a timeframe for reporting of special events</p> <p>Administration's explanation-</p> <p>(a) as part of the conditions of the specified licence, the applicant was required to notify the Authority immediately upon the occurrence of special events and to provide a written notification within three days; and</p>	The Administration to consider specifying a timeframe within which the relevant circumstances should be reported to the Authority.

Time Marker	Speaker	Subject(s)	Action Required
		(b) an application for an increase in quantity of allocated allowances under proposed section 26K(1) could be made during the period commencing 1 January and ending on 1 March in the year immediately following the emission year	
004254 - 005949	Miss CHOY So-yuk Administration Chairman	Miss CHOY So-yuk's request that the conditions to be set out in the specified licence should be provided for members' reference Administration's explanation - (a) the licence conditions would be set with reference to the specific operational requirements of each power plant; and (b) consideration would be given to specifying in the licence the time frame within which the relevant circumstances should be reported pursuant to members' request	The Administration to provide a list of amendments to be made to the specified licence pursuant to the Bill.
005950 -010205	Administration Chairman Ms Emily LAU	Discussion on the time frame within which application for an increase in allowances under proposed section 26K(1) should be submitted Administration's explanation that an increase in allocated allowances might not be necessary even if a special event occurred. The applicant would decide whether an application under section 26K(1) should be submitted during the period commencing 1 January and ending on 1 March in the year immediately following the emission year	
010206 -010823	Chairman Administration Miss CHOY So-yuk Ms Emily LAU	Proposed section 26L - Increase or reduction in quantity of allocated allowances further to their acquisition or transfer	
010824 -011530	Chairman Administration Ms Emily LAU	Chairman's concerns about - (a) how the transfer of allocated allowances under proposed section	The Administration to advise how the allocated allowances could be transferred

Time Marker	Speaker	Subject(s)	Action Required
		<p>26L(1) could be effected among specified licence holders, particularly if they were all from the same power company;</p> <p>(b) the long time allowed for the transfer to take place under proposed section 26L(3)(a)</p> <p>Administration's explanation that a longer lead time would be required for the licence holders to assess the emission performance and the amount of allowances to be transferred</p>	<p>among individual power plants of the same power company, given that all the specified licences of these power plants were held under the name of the power company.</p>
011531 -012054	<p>Chairman Administration Miss CHOY So-yuk</p>	<p>Chairman's concern about the consequences which a specified licence holder would face if he failed to deliver/transfer the agreed quantity of allocated allowances for a specified pollutant to another licence holder.</p> <p>Administration's explanation that under Schedule 2A, the specified licence holder should ensure that the actual emission of a type of specified pollutant from the licensed premises in an emission year was not greater than the allowed emission as applicable to the specified licence in respect of the emission year, failing which would be subject to penalties under proposed section 30A.</p>	<p>The Administration to advise the consequences which a specified licence holder would face if he failed to deliver/transfer the agreed quantity of allocated allowances for a specified pollutant to another licence holder.</p>
012055 - 012233	<p>Mr Howard YOUNG Administration</p>	<p>Mr Howard YOUNG's enquiry on the trading mechanism of allocated allowances under proposed section 26L</p> <p>Administration's explanation that proposed section 26L would be applicable to transfer of allocated allowances between specified licence holders in Hong Kong</p>	
012234 -013008	<p>Ms Emily LAU Administration Chairman Miss CHOY So-yuk</p>	<p>Discussion on the timeframe for acquisition/transfer of allocated allowances under proposed sections 26L(3)(a) and (b)</p>	<p>The Administration to review the drafting of proposed section 26L(3)(b) to make it clear whether the notification of acquisition of</p>

Time Marker	Speaker	Subject(s)	Action Required
			allocated allowances should reach the Authority within five working days after the acquisition or not later than 31 March in the year immediately following the emission year
013009 - 013105	Ms Emily LAU Chairman	Date of next meeting and cancellation of meetings on 29 May 2008 to avoid clashing with the Council meeting on the same day	