

立法會
Legislative Council

LC Paper No. CB(1) 2263/07-08
(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 twelfth meeting
held on Friday, 13 June 2008, at 8:30 am
in Conference Room B 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 CHOY So-yuk, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon WONG Ting-kwong, BBS
- Members absent** : Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Hon Emily LAU Wai-hing, JP
Hon LEE Wing-tat
Hon Alan LEONG Kah-kit, SC
Hon Mrs Anson CHAN, GBM, JP
- Public officers attending** : 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

Environment Bureau

Mr Frankie LAM
Principal Assistant Secretary for the Environment
(Financial Monitoring)

Ms Clara LI
Senior Treasury Accountant (Financial Monitoring)

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 Meeting with the Administration

- (LC Paper No. CB(1) 1789/07-08(01) -- List of follow-up actions arising from the discussion on 3 June 2008
- LC Paper No. CB(1) 1873/07-08(01) -- List of follow-up actions arising from the discussion on 5 June 2008
- LC Paper No. CB(1) 1873/07-08(02) -- List of follow-up actions arising from the discussion on 6 June 2008
- LC Paper No. CB(1) 1873/07-08(03) -- Administration's response to of LC Paper Nos. CB(1) 1789/07-08(01), CB(1) 1873/07-08(01) and (02))

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

2. The Administration was requested to -

- (a) refine both the Chinese and English renditions of 26K(2)(d) in consultation with the Legal Adviser to the Bills Committee;
- (b) advise the basis upon which the fine of \$30,000 per tonne of excessive emission under section 30B(1)(a) was arrived at. To also consider increasing the fine for second or subsequent conviction under proposed section 30B(1)(b) from \$30,000 per tonne to \$60,000 per tonne;

- (c) consider including a separate penalty arrangement for provision of false, incorrect and misleading information in respect of emissions of the specified pollutants with reference to the Product Eco-responsibility Bill; and
 - (d) include in the speech to be delivered by the Secretary for the Environment at the resumption of Second Reading debate of the Bill that the consultation with the Advisory Council on the Environment (ACE) under clause 26M(4B) in respect of an application for acquisition of emission credits would be conducted in accordance with the established procedure of ACE under which all relevant papers would be made available for public inspection, and that the Panel on Environmental Affairs would also be consulted accordingly.
3. Members agreed to continue discussion at the next meeting scheduled for Monday, 16 June 2008, at 8:30 am.

II Any other business

4. There being no other business, the meeting ended at 10:40 am.

Council Business Division 1
Legislative Council Secretariat
15 August 2008

**Proceedings of the
Bills Committee on Air Pollution Control (Amendment) Bill 2008
Meeting on Friday, 13 June 2008, at 8:30 am
in Conference Room B of the Legislative Council Building**

Time Marker	Speaker	Subject(s)	Action Required
000000 - 001357	Chairman Administration	Discussion on the Administration's response to the list of follow-up actions arising from the discussion at the meetings on 3, 5 and 6 June 2008 (LC Paper No. CB(1)1873/07-08(03))	
001358 - 001859	Mr Martin LEE Administration Chairman Mr SIN Chung-kai	Administration's explanation on the proposed new Schedule 2C, which specified the percentage of emission credits to be acquired/transferred under proposed section 26M(4A) - (a) the amount of emission credits to be acquired under a recognized ETS would be capped at 15% of the total quantity of allocated allowance of a power plant; and (b) amendment to Schedule 2C would be subject to negative vetting by LegCo Mr Martin LEE and Mr SIN Chung-kai's in principle support for the 15% cap	
001900 - 003129	Chairman Administration Mr Martin LEE Mr WONG Ting-kwong Mr Howard YOUNG	Mr Martin LEE's query why the fine for the first conviction for excessive emissions was the same as that for the second or subsequent conviction under proposed section 30B(1)(b) Administration's explanation - (a) the fine on a per tonne basis was meant to provide for a level of penalty in accordance with the amount of excessive emissions; (b) an additional penalty of imprisonment for six months had been imposed on the second and subsequent conviction under section 30B(1)(b); (c) the level of penalty was set with reference to overseas practice; and	The Administration to advise the basis upon which the fine of \$30,000 per tonne of excessive emission under section 30B(1)(a) was arrived at

Time Marker	Speaker	Subject(s)	Action Required
		(d) contravention of terms and conditions of specified licence for excessive emissions would result in decrease in the rate of return of the power company	
003130 - 005300	Chairman Administration ALA7	Examination of Committee Stage amendments (CSAs) to be moved by the Administration (as at 12 June 2008) (LC Paper No. CB(1)1873/07-08(01)) Discussion on "special events" and drafting of proposed section 26K(2)(d)	The Administration to refine both the Chinese and English renditions of proposed section 26K(2)(d) in consultation with the Legal Adviser to the Bills Committee
005301- 005957	Chairman Administration	Chairman's concern about the need for proper consultation with the Advisory Council on the Environment (ACE), which should be conducted in accordance with the established procedure under which all relevant papers would be made available for public inspection, as well as the Panel on Environmental Affairs (EA Panel)	The Administration to include in the speech to be delivered by the Secretary for the Environment at the resumption of Second Reading debate of the Bill that the consultation with ACE under clause 26M(4B) in respect of an application for acquisition of emission credits would be conducted in accordance with the established procedure of ACE under which all relevant papers would be made available for public inspection, and that the EA Panel would also be consulted accordingly
005957 - 010935	Miss CHOY So-yuk Chairman Administration	Miss CHOY So-yuk's views on emission trading schemes (ETS) - (a) the increase in allocated allowances by local power companies through acquisition of emission credits under	

Time Marker	Speaker	Subject(s)	Action Required
		<p>ETS from power plants in the Pearl River Delta (PRD) Region should only be allowed on a short-term basis, rather than a total solution for local power plants to meet their emission caps;</p> <p>(b) the proposed amendment would allow power plants to increase their allocated allowances each year by 15% through ETS; and</p> <p>(c) it was unacceptable that local power plants were allowed to use the emission credits in respect of a ETS project to meet the emission caps for an indefinite period</p> <p>Administration's explanation that as the emission limits for power plants in the PRD Region would be tightened progressively, it was unlikely that projects under the recognized ETS could be able to yield emission credits for an indefinite period</p>	
010936 - 011507	<p>Mr WONG Ting-kwong Administration Chairman Miss CHOY So-yuk</p>	<p>Discussion on the emission reduction targets for the PRD Region and the recognized ETS</p>	
011508 - 011847	<p>Mr SIN Chung-kai Chairman</p>	<p>Continuation of examination of CSAs (LC Paper No. CB(1) 1873/07-08(01))</p> <p>Proposed section 30B</p> <p>Mr SIN Chung-kai's request to increase the fine for second or subsequent conviction under proposed section 30B(1)(b) from \$30,000 per tonne to \$60,000 per tonne to increase the deterrent effect</p>	<p>The Administration to consider increasing the fine for second or subsequent conviction under proposed section 30B(1)(b) from \$30,000 per tonne to \$60,000 per tonne</p>
011848 - 012933	<p>Miss CHOY So-yuk Chairman Administration Mr WONG Ting-kwong</p>	<p>Miss CHOY So-yuk's view on the need to include a separate penalty arrangement for provision of false, incorrect and misleading information in respect of emissions of the specified pollutants with reference to the Product Eco-responsibility Bill</p>	<p>The Administration to consider including a separate penalty arrangement for provision of false, incorrect and misleading information in</p>

Time Marker	Speaker	Subject(s)	Action Required
		<p>Administration's explanation -</p> <p>(a) there was an effective monitoring mechanism on the emissions from local power plants;</p> <p>(b) section 30A had already provided for penalties for contravention of terms and conditions of specified process licence; and</p> <p>(c) section 27 had also provided for penalties for failure to provide information as requested by the Authority</p> <p>Mr WONG Ting-kwong's views that contravention of licence conditions and provision of false, incorrect and misleading information in respect of emissions of the specified pollutants were different offences which would require separate penalty arrangements</p>	<p>respect of emissions of the specified pollutants with reference to the Product Eco-responsibility Bill</p>
012934 - 014834	<p>Mr SIN Chung-kai Chairman Administration Miss CHOY So-yuk Mr WONG Ting-kwong ALA7 Mr Howard YOUNG</p>	<p>Discussion on penalties under sections 27 and 30A, and the need for separate penalty arrangements for provision of false, incorrect and misleading information in respect of emissions of the specified pollutants</p>	
015543 - 020553	<p>Mr SIN Chung-kai Administration Chairman</p>	<p>Discussion on CSAs provided by the Administration on 13 June 2008 (LC Paper No. CB(1)1895/07-08(02))</p> <p>Proposed new section 30B(2) and(3)</p> <p>Mr SIN Chung-kai's view that it would be simpler and more straight forward to set out in proposed new section 30B(2) and (3) that the fine for non-compliance with emission caps would be deducted from the permitted return rather than the operating cost, as the latter would require separate definition for operating cost and reference to scheme of control agreements (SCA)</p>	

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		<p>Administration's explanation -</p> <p>(a) there was a separate account for the power companies' operating cost allowed under SCA, which would be taken into account in the annual review of electricity tariff. The present drafting, which made it clear the fine would not be taken as part of the operating cost, would ensure that the fine would not be transferred to electricity consumers; and</p> <p>(b) the suggestion of deducting the fine from the permitted return would require amendments to SCA</p>	
020554 - 020954	Mr WONG Ting-kwong Administration Chairman	Mr WONG Ting-kwong's remark that fines could not form part of the operating cost of limited companies as these had to be borne by shareholders	
020955 - 021233	Chairman	<p>Continuation of clause-by-clause arrangement</p> <p>Clauses 12 to 14</p>	
021234 - 021316	Chairman	Date of next meeting	