

**立法會**  
**Legislative Council**

LC Paper No. CB(1)2169/07-08  
(These minutes have been seen  
by the Administration)

Ref : CB1/SS/10/07

**Subcommittee on Sewage Services (Trade Effluent Surcharge)  
(Amendment) Regulation 2008**

**Minutes of second meeting on  
Monday, 2 June 2008, at 10:45 am  
in Conference Room A of the Legislative Council Building**

- Members present** : Hon Audrey EU Yuet-mee, SC, JP (Chairman)  
Dr Hon LUI Ming-wah, SBS, JP  
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP  
Hon SIN Chung-kai, SBS, JP  
Hon Emily LAU Wai-hing, JP  
Hon CHOY So-yuk, JP  
Hon Tommy CHEUNG Yu-yan, SBS, JP  
Hon WONG Ting-kwong, BBS
- Public Officers attending** : Mr Albert LAM  
Deputy Director of Environmental Protection  
Environmental Protection Department
- Mr CHUI Wing-wah  
Assistant Director of Drainage Services (Sewage Services)  
Drainage Services Department
- Ms Grace LEUNG  
Senior Government Counsel  
Department of Justice
- Mr Eric K LEE  
Senior Administrative Officer (Water Policy Division)  
Environmental Protection Department

**Attendance by invitation**

: Hong Kong Catering Industry Association

Mr Thomas WOO  
Vice President

Factory Canteen Chamber of Commerce

Mr HUI Chin-pang  
Vice Chairman

Association of Restaurant Managers

Mr WOO Lun  
Vice Chairman

Chinese Cuisine Management Association

Mr Danny NGAN  
Chairman

Hong Kong Federation of Restaurants and Related Trades

Mr LOCK Kwok-on  
Vice Chairman

The Association for Hong Kong Catering Services Management Ltd

Mr YEUNG Wai-sing  
Chairman

**Clerk in attendance :** Ms Debbie YAU  
Senior Council Secretary (1)1

**Staff in attendance :** Mr Kelvin LEE  
Assistant Legal Adviser 1

Mr Justin TAM  
Council Secretary (1)3

Ms Michelle NIEN  
Legislative Assistant (1)9

## **I Meeting with deputations and the Administration**

### Submission from deputations

(LC Paper No. CB(1)1760/07-08(01) -- Submission from Hong Kong Catering Industry Association (Chinese version only)

### Meeting with the Administration

LC Paper No. CB(1)1707/07-08(01) -- List of follow-up actions arising from the discussion on 26 May 2008 prepared by the Legislative Council Secretariat

LC Paper No. CB(1)1707/07-08(02) -- Hon Tommy CHEUNG Yu-yan's letter to the Chairman dated 27 May 2008 (Chinese version only)

LC Paper No. CB(1)1707/07-08(03) -- Administration's response to LC Paper Nos. CB(1)1707/07-08(01) and (02))

The Subcommittee deliberated (Index of proceedings attached at **Appendix**).

### Follow-up actions to be taken by the Administration

2. The Administration was requested to provide written information on the following:

- (a) regarding the effluent survey conducted for the restaurant trade in August and September 2005, the median COD values among the 384 samples (or among the 374 samples lying within two standard deviations from the mean) collected, and the respective trade effluent surcharge (TES) rates payable by the restaurant operators;
- (b) the number of applications for reassessment of TES rates received from the restaurant trade since the reduction in the sampling period from three days to two days took effect, as well as the number of applications for reassessment of TES rates raised by the trade for the same period in 2005-2006 and 2006-2007;
- (c) whether an amendment moved by the Subcommittee or by a Member to delete "at his own expense" in section 4(1) of the Sewage Services (Trade Effluent Surcharge) Regulation, or to introduce amendments to the effect that the costs of an applicant to vary the TES rates, would have any charging effect on Government revenue; and

- (d) in addressing the concerns raised by deputations, whether consideration would be given to streamlining the reassessment procedures and to extend the validity period of the reassessed COD values/TES rates from two years to three years.

3. Members noted that the next meeting of the Subcommittee would be held on 3 June 2008, at 10:45 am.

## **II Any other business**

4. There being no other business, the meeting ended at 12:30 pm.

Council Business Division 1  
Legislative Council Secretariat  
14 July 2008

**Proceedings of the second meeting of  
the Subcommittee on Sewage Services (Trade Effluent Surcharge)  
(Amendment) Regulation 2008  
on Monday, 2 June 2008, at 10:45 am  
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000737 – 001003	Chairman	Welcoming remarks by the Chairman	
001004 – 001348	Chairman Hong Kong Catering Industry Association (HKCIA)	<u>Meeting with deputations</u> Presentation of views (LC Paper No. CB(1)1760/07-08(01))	
001349 – 001709	Chairman Factory Canteen Chamber of Commerce	Presentation of views - (a) Most of the small restaurant operators were reluctant to seek reassessment because the reassessment cost, which was about \$15,000 for three sampling days, could be higher than the Trade Effluent Surcharge (TES) payable by them.  (b) If the Government agreed to refund the reassessment cost to the successful applicants, a lot of operators would seek reassessment. It would also provide incentives for restaurant operators to improve effluent quality.	
001710 – 002024	Chairman Association of Restaurant Managers	Presentation of views – (a) For the period between March 2007 and February 2008, the mean Chemical Oxygen Demand (COD) value for reassessment cases for restaurant trade was 867 grammes cubic metre (g/m <sup>3</sup> ), which was much lower than the proposed mean COD of 1 630 g/m <sup>3</sup> based on the survey result. It showed that most restaurant operators were overcharged.  (b) The Administration should reduce the TES rates further to reflect the efforts made by the restaurant trades to improve the effluent quality.	
002025 – 002510	Chairman Chinese Cuisine Management Association	Presentation of views that as the reassessment involved the submission of a number of documents and required manpower assistance during sampling, only operators of large establishments could afford going through the cumbersome and costly procedures. The Administration should further streamline the reassessment procedures, extend the validity of a reassessed COD value from two years to	

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		three years, and refund the reassessment cost to the successful applicants.	
002511 – 002719	Chairman Hong Kong Federation of Restaurants and Related Trades	Presentation of views –  (a) The survey of effluents from the restaurant trade in August and September 2005 was not scientific as it only collected 384 samples from some 14 000 restaurant operators of different sizes and modes of operation.  (b) As part of the water used by the trade was for cooking and drinking, and only about 60% to 70% of water was discharged as effluents, the discharge factor for the restaurant trade should be lowered.	
002720 – 003120	Chairman The Association for Hong Kong Catering Services Management Ltd (AHKCSM)	Presentation of views that if the Government agreed to refund the reassessment cost to the successful applicants, many restaurant operators who were reluctant to seek reassessment on grounds of cost would do so.	
003121 – 004108	Chairman Administration	<u>Briefing by the Administration</u> (LC Paper No. CB(1)1707/07-08(03))  (a) The Administration was discussing with the restaurant trade to see how the reassessment procedures could be further streamlined without affecting the reliability of the mechanism.  (b) According to the laboratories which conducted sampling tests for more than half of the COD reassessment, the cost of reassessment ranged from \$3,000 to \$3,500 per sampling day. The cost of \$15,000 for three sampling days as reflected by the restaurant trade might include not only the costs of engaging the laboratories to undertake sampling and testing work but also consultants or cleaning companies to improve the restaurants' effluent quality.  (c) As the number of sampling days for operators with small COD discharge loads had been reduced from three days to two days and the validity of a reassessed COD value had been extended from one year to two years, the reassessment cost for operators with small discharge loads had been reduced by two-third. Since the measures took effect, about 30% of the reassessment cases from restaurant trade had required only two sampling days, showing that it had provided incentives for small	

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		restaurant operators to seek reassessment.	
004109 – 005939	Chairman Mr Tommy CHEUNG Administration	<p>Mr Tommy CHEUNG's views and concerns –</p> <p>(a) 384 samples taken from among 14 000 restaurants were not representative of the trade and most operators were overcharged, as evidenced by the fact that the COD values of 263 samples as well as the mean COD value (i.e. about 850 g/m<sup>3</sup>) for successful reassessment cases in the past five years were below the proposed generic mean of 1 630 g/m<sup>3</sup> which was worked out after discounting 10 outlying samples.</p> <p>(b) As the reassessment usually took three sampling days and cost about \$15,000, about 77% restaurant operators who were required to pay TES at a rate below \$15,000 would thus be reluctant to seek reassessment. This accounted for the small number of reassessment cases.</p> <p>(c) The Administration should adopt the median COD value for computing the TES rates so that at least half of the restaurant operators would not need to seek reassessment. The Administration should also refund the reassessment cost to the successful applicants.</p> <p>(d) Prosecutions should be brought against restaurant operators with exceptionally high COD value, such as 77 500 g/m<sup>3</sup>.</p> <p>Chairman's concern that among the 374 samples, the COD values of 263 samples was below the proposed generic mean, reflecting that probably two-third of the restaurant operators were being overcharged. Moreover, as the basic cost of reassessment (i.e. \$15,000) for about 77% of restaurant operators was higher than the TES they had to pay, they might not have the incentive to improve the effluent quality on grounds of cost.</p> <p>The Administration's advice that more than half of the small restaurants required only two sampling days if they applied for reassessment. Generally speaking, they could benefit from a reduced TES rate after discounting the reassessment cost because the cost of reassessment was now one-third following the reduction of sampling days from 3 to 2 days and the extension of the validity of the reassessed COD value to two years. All larger restaurants could also benefit from such extension of the validity period.</p>	

Time marker	Speaker	Subject(s)	Action required
005940 – 010911	Chairman Mr Tommy CHEUNG	Mr Tommy CHEUNG's concern that under the existing mechanism, restaurant operators with small COD discharge loads were in fact subsidizing those with high pollution loads and this had deviated from the polluter-pays principle. As such, it would be fairer to adopt the mean COD value (i.e. about 850 g/m <sup>3</sup> ) for successful reassessment cases in the past five years as the generic mean for the trade.	The Administration to provide information as requested in paragraph 2(b) of the minutes.
010912 – 011945	Chairman Miss CHOY So-yuk Administration	<p>Chairman's enquiry about the COD values of the 10 outliers.</p> <p>Miss CHOY So-yuk's query about the corresponding TES rates when the median COD value was used for the restaurant trade and her repeated request for the Administration to refund the reassessment cost to the successful applicants, as in the case of courts which would award the cost of appeal to the successful appellants.</p> <p>The Administration's clarification and responses –</p> <p>(a) To avoid distortion, 10 samples which had the highest COD values were discarded, and the resultant COD values ranged from 32 g/m<sup>3</sup> to 14 900 g/m<sup>3</sup>.</p> <p>(b) The use of any other statistical figure, such as the median, would necessitate the restructuring of the entire scheme to apply the same measure to all TES trades. The Administration would also need to recalculate all TES rates applicable to the TES trades on the premise of the polluter-pays principle and the target of full recovery of the relevant cost.</p> <p>(c) The Administration was not aware of examples of legislative provisions by which the Government was obliged to refund to a successful applicant the cost incurred by the applicant pertinent to conducting a reassessment of certain fees and charges.</p>	
011946 – 013219	Chairman Ms Emily LAU Administration HKCIA AHKCSM	<p>Ms Emily LAU 's advice and concerns –</p> <p>(a) The Business Facilitation Advisory Committee had agreed to follow up with the concern about the TES assessment mechanism raised by the restaurant trade.</p> <p>(b) Given that the number of convictions for the restaurant trade under the Water Pollution Control Ordinance (Cap. 358) had decreased from 14 to 9 and 7 in the past 3 years, it reflected that the trade had greatly improved</p>	



Time marker	Speaker	Subject(s)	Action required
		<p>the effluent quality and thus the TES rates should be further adjusted downward.</p> <p>HKCIA's views –</p> <p>(a) The rate of TES for the restaurant trade should be reduced by 50% to 60%.</p> <p>(b) The restaurant trade had been overcharged for more than ten years. The Administration should review the assessment mechanism and consider applying the median COD value for computing the TES rates.</p> <p>AHKCSM's view that consideration could be given to use the mean COD value for successful reassessment cases lodged by the trade in the past five years as the generic COD value for the trade.</p> <p>The Administration's responses –</p> <p>(a) The decreased in number of convictions reflected the efforts made by the trade to control water pollution.</p> <p>(b) The survey methodology was scientifically sound and reliable and it was appropriate to apply the proposed value of 1 630 g/m<sup>3</sup> as the generic value for the trade.</p> <p>(c) The Administration would continue to discuss with the restaurant trade to streamline the reassessment procedures.</p>	
013200 – 013527	Chairman Mrs Selina CHOW Administration	<p>Mrs Selina CHOW's concerns –</p> <p>(a) The Administration should consider the views and concerns expressed by the restaurant trade.</p> <p>(b) The assessment mechanism was unfair to the trade and the Administration should justify the proposed reduction of the TES rates by only 19%.</p> <p>(c) The Administration should refund the reassessment cost to the successful applicants.</p>	
013528 – 013759	Chairman Miss CHOY So-yuk Administration	<p>Miss CHOY So-yuk's support for the Administration to refund the reassessment cost to successful applicants and to extend the validity of a reassessed COD value from two years to three years. While the Administration could encourage the trades to improve the effluent quality, it should not seek to recover from the trades the full costs of treating the effluents.</p>	<p>The Administration to provide information as requested in paragraph 2(d) of the minutes.</p>

Time marker	Speaker	Subject(s)	Action required
013800 – 014303	Chairman Mr Tommy CHEUNG Administration	<p>Mr Tommy CHEUNG's reiteration of his requests that the Administration should apply the median COD value for computing the TES or used the mean COD values of the reassessment cases lodged successfully by the restaurant trade in the past five years as the generic mean.</p> <p>The Administration's reiteration that if the median COD value was to be applied to the restaurant trade, it would necessitate the restructuring of the entire scheme to apply the same measure to all TES trades.</p>	The Administration to provide information as requested in paragraph 2(a) of the minutes.
014304 – 014610	Chairman Assistant Legal Adviser (ALA) Mr Tommy CHEUNG Ms Emily LAU	On the proposed amendment requiring the Administration to refund the reassessment cost to successful applicants, ALA's explanation that the proposed amendment might have a "charging effect" as the existing legislation had provided that the reassessment should be conducted by the applicant at his own expenses. The President would take into account the Administration's comments on the possible impact of the amendment on government revenue.	
014611 – 014819	Chairman Ms Emily LAU	<p>The Chairman's request for the Administration to provide further information on whether an amendment moved by the Subcommittee or by a Member to delete "at his own expense" in section 4(1) of the Sewage Services (Trade Effluent Surcharge) Regulation, to introduce amendments to the effect that the costs of an applicant to vary the TES rates, or to revise the proposed mean COD values would have any charging effect on government revenue.</p> <p>Ms Emily LAU's urge for the Administration to consider moving the proposed amendments given the strong calls from the restaurant trade and members.</p>	The Administration to provide information as requested in paragraph 2(c) of the minutes.