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Panel on Environmental Affairs

Special meeting on 11 April 2008

Background brief on fly-tipping and land filling activities on private land

Introduction

To discourage indiscriminate disposal of construction waste at landfills, the Legislature passed the Waste Disposal (Amendment) (No. 2) Bill in July 2004 to provide a legal framework for the implementation of the construction waste charging scheme. The Waste Disposal (Designated Waste Disposal Facility (Amendment) Regulation 2004 and the Waste Disposal (Charges for Disposal of Construction Waste) Regulation, which set out details of the charging scheme, were enacted in January 2005. The charging scheme later came into operation on 20 January 2006. In gist, construction waste disposed of at landfills, sorting facilities and public fill reception facilities will be charged at \$125, \$100 and \$27 per tonnes respectively. The introduction of the charging scheme aims to provide an economic incentive for waste producers to reduce waste and to carry out sorting to facilitate reuse/recycling of waste, thereby helping to slow down the depletion of limited landfill capacity.

Issues raised during scrutiny of the Bill and Regulations

2. There had been concern that the implementation of the charging scheme might not be able to curb the problem of illegal disposal of construction waste on agricultural land by unscrupulous developers/contractors. The problem would be further aggravated if some landowners allowed the disposal of construction waste on their agricultural land for profiteering. Given the lack of measures to prevent land filling activities on private land, many parts of the New Territories had become dumping grounds for construction waste. This had caused unacceptable impact on the surrounding.

3. According to the Administration, it had been examining the control and regulatory regimes under the relevant ordinances in an attempt to identify a valid basis for enforcement against the land filling activity. However, there was so far no sufficient evidence to instigate prosecution under the relevant ordinances. Notwithstanding, the Administration agreed that there was a need to regulate the activity to prevent it from causing unacceptable environmental impacts. To this end, the then Housing, Planning and Lands Bureau would explore with the Town Planning Board (TPB) the feasibility of a clean record system from which TPB could make

reference to in considering planning applications. Consideration was also being given to including in the second stage amendments to the Town Planning Ordinance (Cap 131) deeming provisions to control the scale and duration of land filling activities. From the environmental protection perspective, a possible option was to subject major land filling activities for any purposes to the control of the Environmental Impact Assessment Ordinance (Cap 499) (EIAO). Under the possible option, land filling areas of not less than two hectares in size and with a depth of filling of not less than 1.2 metres would be regarded as designated project under EIAO. Project proponents of such designated projects would be required to apply for an environmental permit from the Director of Environmental Protection before the construction or operation of the designated projects could start, and non-compliance would be liable to prosecution. The proposal would help ensure that only land filling activities not causing unacceptable environmental impacts would be allowed. It would also help identify the potential impact of major land filling activities in the early planning stage such that avoidance, and if necessary, mitigation could be considered at the earliest possible opportunity before the operation began.

4. As the proposed option was a step forward, the Administration was urged to timely complete the relevant legislative amendments to tie in with the coming into operation of the Bill and the two Regulations so that they could be complementary to each other.

Discussion by Panel

5. The subject of fly-tipping was discussed by the Panel on Environmental Affairs (the Panel) in the context of the progress report on the management of construction and demolition materials on 24 January 2005, 24 April 2006 and 26 March 2007. Members noted with concern that the Administration was not able to take any enforcement action against fly-tipping if the landowners claimed that the construction waste disposed of on their land was used for land filling as in the case of the She Shan Tsuen, Tai Po. Despite that nine government departments, including the Buildings Department, the Planning Department, the Civil Engineering and Development Department, the Environmental Protection Department (EPD), the Food and Environmental Hygiene Department, the Agriculture, Fisheries and Conservation Department, had visited the She Shan Tsuen, none of them had taken up the matter as this fell outside their individual purviews. In view of the increasing number of complaints against fly-tipping since the implementation of the charging scheme and the low prosecution figures by EPD, members considered it necessary for the Administration to set out clear guidelines to differentiate between land filling and fly-tipping activities in order to plug the loophole.

6. According to the Administration, the scale and type of land filling activity on private land was governed by planning legislation. Besides, there were difficulties in taking prosecution against illegal dumping because the culprits had to be caught red-handed. In this connection, the Administration intended to launch a pilot construction waste fly-tipping spotter scheme. Details of the pilot scheme had yet to be worked out and consultation at district level would need to be held before implementation of the scheme in mid 2007. In gist, the spotters recruited under the pilot scheme would be targeting only at construction waste. They would be volunteers,

probably members from green groups and district councils and members from the community who were well aware of the need to protect the environment. The spotters would have to submit details on the fly-tipping activities and to act as witnesses in the course of prosecution. Training would be provided to them. Districts with high number of fly-tipping complaints would be selected for the trial.

Relevant papers

House Committee Report of the Bills Committee on Waste Disposal (Amendment) (No. 2) Bill 2003 on 18 June 2004

<http://www.legco.gov.hk/yr03-04/english/hc/papers/hc0618cb1-2107e.pdf>

Information paper provided by the Administration for the Bills Committee on Waste Disposal (Amendment) (No. 2) Bill 2003 meeting on 3 June 2004

<http://www.legco.gov.hk/yr03-04/english/bc/bc04/papers/bc040603cb1-2019-2-e.pdf>

House Committee Report of the Subcommittee on Waste Disposal (Designated Waste Disposal Facility) (Amendment) Regulation 2004 and Waste Disposal (Charges for Disposal of Construction Waste) Regulation on 17 December 2004

<http://www.legco.gov.hk/yr04-05/english/hc/papers/hc1217cb1-511e.pdf>

Information paper provided by the Administration for the Environmental Affairs Panel meeting on 24 January 2005

<http://www.legco.gov.hk/yr04-05/english/panels/ea/papers/ea0124cb1-735-4-e.pdf>

Minutes of the Environmental Affairs Panel meeting on 24 January 2005

<http://www.legco.gov.hk/yr04-05/english/panels/ea/minutes/ea050124.pdf>

Information paper provided by the Administration for the Environmental Affairs Panel meeting on 24 April 2006

<http://www.legco.gov.hk/yr05-06/english/panels/ea/papers/ea0424cb1-1300-6-e.pdf>

Minutes of the Environmental Affairs Panel meeting on 24 April 2006

<http://www.legco.gov.hk/yr05-06/english/panels/ea/minutes/ea060424.pdf>

Information paper provided by the Administration for the Environmental Affairs Panel meeting on 26 March 2007

<http://www.legco.gov.hk/yr06-07/english/panels/ea/papers/ea0326cb1-1182-4-e.pdf>

Supplementary information paper provided by the Administration for the Environmental Affairs Panel meeting on 26 March 2007

<http://www.legco.gov.hk/yr06-07/english/panels/ea/papers/ea0326cb1-1964-1-e.pdf>

Minutes of the Environmental Affairs Panel meeting on 26 March 2007

<http://www.legco.gov.hk/yr06-07/english/panels/ea/minutes/ea070326.pdf>