

立法會
Legislative Council

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**Subcommittee on Technical Memorandum for
Allocation of Emission Allowances in Respect of Specified Licences**

**Minutes of first meeting
held on Tuesday, 25 November 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 KAM Nai-wai, MH
Hon Cyd HO Sau-lan
Hon CHAN Hak-kan
- Public officers attending** : Environmental Protection Department

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

Mr W C MOK
Acting Assistant Director (Air Policy)

Mr S W PANG
Principal Environmental Protection Officer (Air Policy)
- Clerk in attendance** : Miss Becky YU
Chief Council Secretary (1)1
- Staff in attendance** : Ms Clara TAM
Assistant Legal Adviser 9

Mrs Mary TANG
Senior Council Secretary (1)2
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I. Election of Chairman

Nominated by Ms Cyd HO and seconded by Mr KAM Nai-wai, Ms Audrey EU was elected Chairman of the Subcommittee.

2. The Chairman informed and members noted the withdrawal of membership of Miss Tanya CHAN from the Subcommittee.

II. Meeting with the Administration

3. The Administration was requested to -

(a) advise the feasibility and legality of including an expiry date for the first Technical Memorandum (TM); and

(b) relay to the Secretary for the Environment members' request for his written confirmation that a review of TM would be conducted within two years after the coming into operation of the first TM.

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

III. Any other business

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

**Proceedings of the meeting of the
Subcommittee on Technical Memorandum for
Allocation of Emission Allowances in Respect of Specified Licences
on Tuesday, 25 November 2008 at 8:30 am
in Conference Room B of the Legislative Council Building**

Time Marker	Speaker	Subject(s)	Action required
000000 - 000100	Ms Audrey EU Ms Cyd HO Mr KAM Nai-wai	Election of Chairman Ms Audrey EU was elected Chairman of the Subcommittee	
000101 - 000120	Chairman	The Subcommittee noted the withdrawal of membership of Miss Tanya CHAN from the Subcommittee	
000121 - 000306	Chairman Ms Cyd HO Mr KAM Nai-wai	Discussion on the legislative time table and the need to invite views from deputations	
000307 - 000551	Chairman Ms Cyd HO Mr KAM Nai-wai	Members' support for invitation of views from deputations	
000552 - 001442	Administration	Briefing on the Technical Memorandum for Allocation of Emission Allowances in Respect of Specified Licences (TM)	
001443 - 001641	Chairman Mr CHAN Hak-kan Mr KAM Nai-wai	Scheduling of next meeting on 4 December 2008 at 10:45 am to receive public views, and extension of the scrutiny period for the TM to 7 January 2009 The Administration explained that it aimed at bringing the TM into operation before the end of 2008 to facilitate the coming renewal of licence for the Lamma Power Station (LPS). The proposed extension of scrutiny period would have the effect of non-application of the TM to the new licence for LPS which would commence on 1 January 2009 upon renewal	
001642 - 002800	Mr KAM Nai-wai Administration	Mr KAM Nai-wai's concerns - (a) insufficient time for scrutiny of TM if extension to 7 January 2009 was not possible;	

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		<p>(b) whether the emission allowances as set out in the TM were in line with the 2010 emission reduction targets agreed with the Guangdong Provincial Government (GPG) in 2002; and</p> <p>(c) emission reduction targets beyond 2010</p> <p>Administration's response -</p> <p>(a) the TM had been discussed by the Bills Committee set up to study the Air Pollution Control (Amendment) Bill 2008 (the Bills Committee);</p> <p>(b) effort had been made to brief the Panel on Environmental Affairs (EA Panel) on the TM at its first regular meeting on 27 October 2008 since enactment of the Air Pollution Control (Amendment) Bill 2008;</p> <p>(c) emission allowances set out in the TM were worked out to reflect the 2010 emission reduction targets for the three specified pollutants, namely, sulphur dioxide, nitrogen oxides and respirable suspended particulates. These had already been relayed to the two power companies back in 2005;</p> <p>(d) Hong Kong and Guangdong would work together on the post-2010 emission reduction arrangements;</p> <p>(e) outcome of the review of Air Quality Objectives in Hong Kong would have to be taken into consideration in any future amendments to the allocation of emission allowances to local power plants; and</p> <p>(f) advance notification of no less than four years would be given to the power companies before any changes to the allocation of emission allowances arising from regular updating to take effect.</p>	

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002801 - 003125	Chairman Administration Mr KAM Nai-wai	Chairman's grave concern that the Subcommittee was not able to extend the scrutiny period to allow sufficient time to discuss the TM, which had to take effect on 1 January 2009	
003126 - 003602	Ms Cyd HO Administration Chairman	<p>Ms Cyd HO's enquiry on -</p> <p>(a) whether the arrangements as set out in the TM had been agreed by the Bills Committee; and</p> <p>(b) whether further amendments could be made to the TM; and</p> <p>(c) LegCo's role in monitoring the TM</p> <p>Administration's explanation -</p> <p>(a) the TM had been examined by the Bills Committee in detail; and</p> <p>(b) consultation would need to be carried out with the power companies, EA Panel and relevant parties in the event of changes to the TM</p>	
003603 - 003726	Ms Cyd HO Administration	<p>Ms Cyd HO's enquiry on need for invitation of views from deputations on the arrangements under the TM</p> <p>Chairman's advice that the Bills Committee had invited views from power plants and green groups when examining the Air Pollution Control(Amendment) Bill 2008 (the Bill)</p>	
003727 - 004117	Ms Cyd HO Administration	<p>Ms Cyd HO's query on the need for giving four-year advance notification to the power companies before any changes to the allocation of emission allowances to take effect</p> <p>Administration's explanation that sufficient lead time was required for power companies to adjust their operation (e.g. installation of additional emission abatement facilities and adjustment of fuel strategy etc)</p>	

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004118 - 004755	Mr KAM Nai-wai Administration	<p>Mr KAM Nai-wai's views -</p> <ul style="list-style-type: none"> (a) support control of emissions from power plants to meet public aspiration for cleaner air; (b) did not accept the proposed emission allowances as there should be room for further improvement; and (c) views should be sought from deputations on measures to reduce emissions <p>Administration's explanation -</p> <ul style="list-style-type: none"> (a) the proposed emission allowances for the power sector had been agreed with the power companies and discussed by both the Bills Committee and EA Panel; and (b) power companies had already made strenuous efforts to meet the emission allowances through installation of emission abatement facilities and changes in fuel strategy. Further tightening of the quantities of emission allowances at this stage might pose compliance difficulties on the part of power companies 	
004756 - 005133	Mr CHAN Hak-kan Administration	<p>Mr CHAN Hak-kan's enquiries on -</p> <ul style="list-style-type: none"> (a) the consequences if the TM could not come into operation as scheduled; and (b) whether carbon dioxide (CO₂) emission could be included under the TM <p>Administration's explanation -</p> <ul style="list-style-type: none"> (a) the principal Ordinance rather than the TM would need to be amended if CO₂ emission were to be regulated; (b) there was no mature and commercially viable technology in the world that could reduce, capture and store CO₂ discharged from the burning of fossil fuels from power generation; and 	

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		<p>(c) to effectively reduce CO₂ emission from power generation, there was a need to change the fuel mix and develop renewable energy</p> <p>Chairman's advice that the Bills Committee's amendment to include regulation of CO₂ in the Bill had been ruled out of scope by the President of LegCo</p>	
005134 - 010237	<p>Chairman Administration Ms Cyd HO Mr KAM Nai-wai Mr CHAN Hak-kan</p>	<p>Discussion on the legislative timetable and extension of scrutiny period for the TM</p> <p>Administration's explanation -</p> <p>(a) section 15(4) of Air Pollution Control Ordinance (APCO) provided that a specified licence should be valid for a reasonable period of not less than two years. These licences would be issued/renewed at the beginning of each year, i.e. 1 January to tie in with the emission year;</p> <p>(b) the emission allowances set for an emission year were meant for the whole calendar year starting 1 January, and there was no retrospective arrangement if the licence was issued at a later date;</p> <p>(c) the replacement of the existing licence control by the new mechanism to control emissions of specified pollutants from power plants through allocation of emission allowances would hinge on the coming into effect of the TM;</p> <p>(d) if the TM could not come into effect on 1 January 2009, the existing licence conditions for LPS, except for the emission cap which would expire on 31 December 2008, would continue to apply. In other words, there would be a vacuum within which the LPS could operate without any emission cap. This would have impact on Hong Kong's ability to meet the 2010 emission reduction targets</p>	

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010238 - 010505	Mr KAM Nai-wai	<p>Mr KAM Nai-wai expressed dissatisfaction that -</p> <p>(a) the Subcommittee would have no choice but not to extend the scrutiny period under such circumstances;</p> <p>(b) the proposed emission allowances would fail to meet public aspiration for cleaner air; and</p> <p>(c) no further efforts were made to regulate CO₂ emission</p>	
010506 - 010714	Chairman	Chairman's recap on the historical background on the 2010 emission reduction targets which had led to the control of emission of specified pollutants from power generation	
010715 - 010945	Administration	Administration's explanation on the efforts taken by power companies to meet the emission reduction targets, and their difficulties in meeting the emission allowances if these were further tightened at this stage	
010946 - 011229	Chairman Assistant Legal Adviser 9 (ALA9)	<p>Clause-by-clause examination of the TM</p> <p>ALA9's explanation on section 37C of APCO</p>	
011230 - 012702	Ms Cyd HO Administration Mr KAM Nai-wai ALA9 Chairman	<p>Ms Cyd HO's enquiry on -</p> <p>(a) whether there was an expiry date for the TM; and</p> <p>(b) whether LegCo could initiate amendments or introduce a new TM</p> <p>Administration's explanation -</p> <p>(a) there was no expiry date for the TM; and</p> <p>(b) the TM as proposed would be in force until another new TM was introduced, and the latter would be subject to the scrutiny of LegCo</p>	The Administration and ALA9 to advise the feasibility and legality of including an expiry date for the first TM

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		<p>ALA9's explanation that under section 26G of APCO, only the Secretary for the Environment (SEN) was empowered to issue the TM.</p> <p>Chairman's remarks that as an advance notification of four years was required for any changes in the allocation of emission allowances to take effect; there might be a need to review the TM within the next two years</p> <p>Mr KAM Nai-wai pointed out that the non-provision of an expiry date for the TM in APCO would not mean that such could not be included in the TM itself</p> <p>Chairman's remark that members might consider moving amendments to the TM, the deadline for notice of amendment was 3 December 2008</p>	
012703 - 014245	Chairman Administration Ms Cyd HO ALA9	<p>Continuation of clause-by-clause examination of the TM</p> <p>Sections 1 to 2 and Annex 1 to 3</p>	
014246 - 015212	Chairman Mr KAM Nai-wai Ms Cyd HO Mr CHAN Hak-kan	<p>Discussion on the need to invite deputations to present views</p> <p>Members noted that as the Chairman would have to make a verbal report on the Subcommittee's deliberations to the House Committee on 28 November 2008, any meeting for deputations to present their views would have to be held within the week.</p> <p>Ms Cyd HO and Mr CHAN Hak-kan's views that -</p> <p>(a) deputations' views at this stage might not be necessary since they had already been invited to give views on the Bill in June 2008. Besides, the room for amendment was very limited; and</p> <p>(b) SEN should be requested to make an undertaking on the time-frame for review of the TM</p>	

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015213 - 015228	Administration Chairman Ms Cyd HO Clerk	Discussion on whether an adjournment debate should be moved to allow Members to speak on the TM, or whether a written confirmation from SEN on the time-frame for the review of the TM would suffice	
015229 - 020615	Chairman Administration Mr KAM Nai-wai Ms Cyd HO	<p>The majority of members agreed that -</p> <p>(a) SEN should be requested to provide a written confirmation by noon, 27 November 2008, that a review of TM would be conducted within two years after the coming into operation of the first TM;</p> <p>(b) if SEN failed to provide the written confirmation, consideration would be given to introducing an expiry date for the TM;</p> <p>(c) a decision would be made upon receipt of SEN's confirmation such that the Chairman could make a verbal report to the House Committee on 28 November 2008</p> <p>Mr KAM Nai-wai's reiteration that deputations should be invited to present their views to the Subcommittee</p> <p>Ms Cyd HO's support for inviting views from deputations, but such a meeting could not have been arranged before 28 November 2008. As an alternative, deputations could be invited to present their views on measures to improve air quality when the subject was discussed by the Subcommittee on Improving Air Quality which had just been set up under the EA Panel</p>	The Administration to relay to SEN members' request for his written confirmation that a review of TM would be conducted within two years after the coming into operation of the first TM