

立法會
Legislative Council

LC Paper No. CB(1) 1539/08-09
(These minutes have been seen
by the Administration)

Ref : CB1/SS/4/08/1

**Subcommittee on
Product Eco-responsibility (Plastic Shopping Bags) Regulation**

**Minutes of fourth meeting
held on Friday, 13 March 2009, at 8:30 am
in Conference Room B of the Legislative Council Building**

Members present : Hon Audrey EU Yuet-mee, SC, JP (Chairman)
Hon Vincent FANG Kang, SBS, JP
Hon LEE Wing-tat
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon WONG Ting-kwong, BBS
Hon KAM Nai-wai, MH
Hon CHAN Hak-kan

Members absent : Hon Albert CHAN Wai-yip
Hon Tanya CHAN

**Public officers
attending** : **For item II**

Environmental Protection Department

Mr Albert LAM, JP
Deputy Director of Environmental Protection

Mr Alfred LEE
Assistant Director (Waste Management Policy)

Mr Kenneth CHAN
Principal Environmental Protection Officer (Territorial
Control)

Mr TE Chi-wang
Senior Administrative Officer (Waste Management Policy
Division)

Department of Justice

Miss Shandy LIU
Senior Government Counsel
Law Drafting Division

Clerk in attendance : Miss Becky YU
Chief Council Secretary (1)1

Staff in attendance : Miss Kitty CHENG
Assistant Legal Adviser 5

Mrs Mary TANG
Senior Council Secretary (1)2

I. Confirmation of minutes

(LC Paper No. CB(1) 1016/08-09 — Minutes of the meeting held on
19 February 2009)

The minutes of the meeting held on 19 February 2009 were confirmed.

II. Meeting with the Administration

(LC Paper No. CB(1) 966/08-09(20) — Assistant Legal Adviser's letter
dated 25 February 2009 to the
Administration

LC Paper No. CB(1) 966/08-09(21) — Assistant Legal Adviser's letter
dated 27 February 2009 to the
Administration

LC Paper No. CB(1) 1002/08-09(01) — Administration's response to
CB(1) 966/08-09(20) and (21)

LC Paper No. CB(1) 1002/08-09(02) — List of follow-up actions arising
from the discussion at the meeting
on 5 March 2009

LC Paper No. CB(1) 1026/08-09(01) — List of follow-up actions arising
from the discussion at the meeting
on 11 March 2009)

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

3. The Administration was requested to -
- (a) include in the speech to be delivered by the Secretary for Environment at the moving of the resolution on the Regulation the performance pledge in respect of applications for registration of registered retailers/retail outlets;
 - (b) advise how the Administration could address the plight of prescribed retailers who were not allowed to provide plastic shopping bags (PSB) to customers during the interim pending approval of their applications for registration,
 - (c) reconsider accepting certified true copy of the business registration, of consignor in the case of a consignment counter, as proof of third party operation. To also consider dispensing with the need for the proof if the third party only operated in the host retailer for a very short period of time; and
 - (d) provide details on how the dedicated survey on the sources of PSB was conducted in 2005, including the manpower involved in counting the number of PSB, sorting methodology adopted, and the number of PSB from different sources etc.

III. Any other business

4. There being no other business, the meeting ended at 10:35 am.

**Subcommittee on
Product Eco-responsibility (Plastic Shopping Bags) Regulation**

**Proceedings of the meeting
on Friday, 13 March 2009, at 8:30 am
in Conference Room B of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000124 - 000143	Chairman	Opening remarks	
<i>Agenda Item II – Meeting with the Administration</i>			
000144 - 000614	Chairman Mr Andrew LEUNG Administration	Mr Andrew LEUNG's reference to the minutes of meeting of the Bills Committee on Product Eco-responsibility Bill on 10 June 2008 regarding exemptions to be granted to multi-floor department stores where specified goods were only sold at certain floors Administration's explanation - (a) department stores selling the three types of specified goods would be subject to the environmental levy scheme; and (b) areas not selling the three types of specified goods could be eligible for exemption subject to the meeting of criteria set out in the Regulation	
000615 - 001250	Chairman Administration	Administration's explanation on its response to follow-up actions arising from the meeting on 11 March 2009 (LC Paper No. CB(1) 1036/08-09(03))	
001251 - 001946	Chairman Mr KAM Nai-wai Administration	Mr KAM Nai-wai's enquiries - (a) whether retailers were prepared to accept the requirement for "branch registration certificate" as proof of third party operation since they had counter-proposed that a certified true copy of business registration certificate (BRC) of the headquarters should suffice; and	

Time marker	Speaker	Subject(s)	Action required
		<p>(b) there should be a time frame within which the Director should determine whether an application for registration was properly made</p> <p>Administration's response -</p> <p>(a) a meeting with the retail trade would be held on 16 March 2009 to go through the registration procedure and requirements, including the proposed requirement for branch registration certificate;</p> <p>(b) the inclusion of a fixed time frame for the Director to make decision would undermine flexibility to cater for special needs of the trade; and</p> <p>(c) a performance pledge had been made that new applications for registration would be processed within 21 working days, while applications for registration of a new outlet under a registered retailer within 10 working days</p>	
001947 - 004155	<p>Chairman Mr WONG Ting-kwong Mr Vincent FANG Mr Andrew LEUNG ALA5 Administration Mr KAM Nai-wai Mr CHAN Hak-kan</p>	<p>Discussion on the need for setting a time frame within which the Director should respond to applications under the levy scheme</p> <p>ALA5's explanation that some legislation had set out specific timeframes for the Administration to respond</p> <p>Mr Vincent FANG's concern about the plight of prescribed retailers who were not allowed to provide plastic shopping bags (PSB) to customers during the interim pending approval of their applications for registration,</p> <p>Administration's explanation -</p> <p>(a) the inclusion of a fixed time frame in the Regulation would undermine flexibility to cater for the special needs of the trade; and</p>	<p>The Administration to -</p> <p>(a) include in the speech to be delivered by the Secretary for Environment at the moving of the resolution on the Regulation the performance pledge in respect of applications for registration of registered retailers/retail outlets; and</p> <p>(b) advise how it could address</p>

Time marker	Speaker	Subject(s)	Action required
		<p>(b) the provision of a performance pledge as an administrative measure was a common practice</p> <p>Mr WONG Ting-kwong, Mr Vincent FANG, Mr Andrew LEUNG and Mr CHAN Hak-kan did not agree to the setting of fixed time frames for the Director's determination. The provision of performance pledges would suffice</p> <p>Mr KAM Nai-wai's support for setting fixed time frames within which the Director should respond to applications under the levy scheme</p>	<p>the plight of prescribed retailers who were not allowed to provide PSB to customers during the interim pending approval of their applications for registration,</p>
004156 - 004317	Chairman Mr WONG Ting-kwong Administration	<p>Mr WONG Ting-kwong's request for proper signage to be placed at registered retail outlets to alert customers on the need for levy for PSB</p> <p>Administration's response -</p> <p>(a) registered retail outlets were encouraged to display proper signage for the collection of levy on PSB; and</p> <p>(b) exempted third party operators operating in registered retail outlets should also have signage on the exemption</p>	
004318 - 004455	Chairman Mr Vincent FANG Administration	<p>Mr Vincent FANG's disagreement to paragraph 8 of LC Paper No. CB(1) 1036/08-09(03) which stated that "the trade is agreeable to the proposed time frame"</p> <p>Administration's explanation that the affected retailers, including the Hong Kong Retail Management Association (HKRMA), had been consulted and were agreeable to the proposed time frame</p>	
004456 - 004601	Chairman Mr KAM Nai-wai	<p>Mr KAM Nai-wai indicated that he might consider amending the Regulation to include a time frame within which the Director should</p>	

Time marker	Speaker	Subject(s)	Action required
		respond to applications under the levy scheme	
004602 - 13917	Chairman Mr Vincent FANG Administration Mr KAM Nai-wai Mr WONG Ting-kwong Mr Andrew LEUNG	<p>Discussion on the need for branch registration certificates as proof of third party operation</p> <p>Mr Vincent FANG's queries/concerns -</p> <p>(a) whether there was a need for branch registration certificate as proof of third party operation when a certified true copy of BRC of headquarters (setting out the location of the operator) should suffice, particularly when the third party operator would operate in host retailers for a very short period of time;</p> <p>(b) apart from branch registration certificate, a third operator had to satisfy other conditions as set out in the specified forms in order to be eligible for the exemption; and</p> <p>(c) apart from HKRMA, the Administration should consult other retail associations, many of which were opposed to the proposed arrangements</p> <p>Mr WONG Ting-kwong's request for dispensing with the need for proof if the third party only operated in the host retailer for a very short period of time. Consideration should also be given to allowing third party operator to display only the copy of branch registration certificate for the sake of safety</p> <p>Mr Andrew LEUNG's request for the Director to exercise more flexibility which was conducive for a better business environment for retailers amid the financial crisis</p> <p>Chairman's concern about the need to display branch registration certificates by third party operators</p>	<p>The Administration to reconsider accepting certified true copy of the business registration, of consignor in the case of a consignment counter, as proof of third party operation. To also consider dispensing with the need for the proof if the third party only operated in the host retailer for a very short period of time</p>

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		<p>Mr KAM Nai-wai's enquiry on the rationale for the Administration's insistence on the provision of branch registration certificates when there were other proofs to substantiate third party operation</p> <p>Administration's response -</p> <p>(a) a separate business or branch registration certificate would help clearly establish third party operation;</p> <p>(b) a certified true copy of BRC of headquarters might not help establish the fact that the area occupied by a third party operation within a registered retail outlet was indeed not a part of that outlet;</p> <p>(c) the objective of the levy scheme could be undermined if a registered retailer allowed any third parties, as long as they showed their brand names and stationed their own staff, to distribute PSB for free; and</p> <p>(d) would meet with retail trades (as per list tabled at meeting) with a view to resolving the practical difficulties associated with the compliance of the levy scheme</p>	
013918 - 014900	Chairman Mr Vincent FANG Administration	<p>Discussion on the statistics on disposal of PSB and other types of bags (as set out in the Administration's response to follow-up actions arising from the meeting on 5 March 2009 under LC Paper No. CB(1)1036/08-09(01))</p> <p>Mr Vincent FANG's queries on the methodology and manpower involved in the dedicated survey on PSB</p> <p>Administration's response that it would conduct a dedicated survey on the disposal of PSB before the commencement of the scheme and</p>	The Administration to provide details on how the dedicated survey on the sources of PSB was conducted in 2005, including the manpower involved in counting the number of PSB, sorting methodology adopted, and the number of PSB from different sources etc

Time marker	Speaker	Subject(s)	Action required
		annually thereafter	
014901- 015152	Mr Vincent FANG Administration	Mr Vincent FANG's concerns that most of the consultees on the list provided by the Administration were HKRMA members Administration's response that it had consulted other retail associations apart from HKRMA	
015152 - 015826	Chairman Administration	Continuation of clause-by-clause examination of the Regulation Section 8 - Application for exemption of part of the area of registered retail outlets or variation of exemption Section 9 - Determination of application for exemption or variation of exemption	
015827 - 020415	Chairman Mr WONG Ting-kwong Administration Mr Vincent FANG	Mr WONG Ting-kwong's concern - (a) the confusion arising from the distribution of free PSB at exempted counters and the collection of levy on PSB at non-exempted counters, if these counters were located at the same floor; and (b) the disputes arising from the determination in "the number of bags so provided is not more than necessary for carrying those goods" under section 9(5)(ii)	