

立法會
Legislative Council

LC Paper No. CB(1) 92/09-10
(These minutes have been seen
by the Administration)

Ref : CB1/SS/10/08/1

**Subcommittee on
Ozone Layer Protection (Products Containing Scheduled Substances)
(Import Banning) (Amendment) Regulation 2009**

**Minutes of second meeting
held on Monday, 5 October 2009, at 2:30 pm
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 WONG Ting-kwong, BBS, JP
Hon Cyd HO Sau-lan
Hon Tanya CHAN

Member absent : Hon KAM Nai-wai, MH

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

Environmental Protection Department

Mr PANG Sik-wing
Assistant Director (Air Policy)(Acting)

Mr TSUI Wing-sing
Senior Environmental Protection Officer (Air Policy)3

Department of Justice

Miss Elaine NG
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

Mr Franco KWONG
Council Secretary (1)1

I. Confirmation of minutes

(LC Paper No. CB(1) 2457/08-09 — Minutes of the meeting held on 10 July 2009

The minutes of the meeting held on 10 July 2009 were confirmed.

II. Meeting with the Administration

(LC Paper No. CB(1) 2671/08-09(01) — Background brief on Ozone Layer Protection (Products Containing Scheduled Substances) (Import Banning) (Amendment) Regulation 2009

LC Paper No. CB(1) 2671/08-09(02) — Marked-up copy of the Regulation

LC Paper No. CB(1) 2679/08-09 — Information note on "Montreal Protocol on Substances that Deplete the Ozone Layer" prepared by the Research and Library Services Division (IN23/08-09))

Background information on the Regulation

Ref: EP 351/04/34 — The Legislative Council Brief
(issued by the Environmental Protection Department on 17 June 2009)

LC Paper No. LS 95/08-09 — Legal Service Division Report
(issued on 23 June 2009)

2. The Subcommittee deliberated (Index of proceedings attached at **Annex**).
3. The Administration was requested to -
 - (a) advise the plan and actions being contemplated by the Administration to recycle chlorodifluoromethane upon disposal of air-conditioners containing such chemical; and

- (b) explain the rationale for not extending the banning control to include products in the course of transshipment or are imported solely for export. To also advise the major destinations of transshipment/re-export over the past few years.

4. Members agreed to the following schedule of future meetings -

- (a) Monday, 2 November 2009, at 8:30 am;
- (b) Thursday, 12 November 2009, at 10:45 am;
- (c) Monday, 16 November 2009, at 8:30 am; and
- (d) Thursday, 19 November 2009, at 2:30 pm.

III. Any other business

5. There being no other business, the meeting ended at 3:50 pm.

Council Business Division 1
Legislative Council Secretariat
20 October 2009

**Subcommittee on
Ozone Layer Protection (Products Containing Scheduled Substances)
(Import Banning) (Amendment) Regulation 2009**

**Proceedings of the meeting
on Monday, 5 October 2009, at 2:30 pm
in Conference Room B of the Legislative Council Building**

| Time marker | Speaker | Subject(s) | Action required |
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| <i>Agenda Item I - Confirmation of minutes</i> | | | |
| 000001 - 000204 | Chairman | The minutes of meeting held on 10 July 2009 (LC Paper No. CB(1) 2457/08-09) were confirmed. | |
| <i>Agenda Item II - Meeting with the Administration</i> | | | |
| 000205 - 001752 | Administration Chairman | The Administration briefed members on the Ozone Layer Protection (Products Containing Scheduled Substances) (Import Banning) (Amendment) Regulation 2009. | |
| 001753 - 002822 | Mr Vincent FANG Administration | <p>Mr Vincent FANG's enquiries -</p> <ul style="list-style-type: none"> (a) the availability of alternatives for chlorodifluoromethane (HCFC-22); (b) the different time frames for banning of split type and window type room air-conditioners; and (c) suppliers might not have enough time to exhaust their stock before the deadlines. <p>Administration's response -</p> <ul style="list-style-type: none"> (a) alternatives for HCFC-22, such as R410A, were readily available in the market; (b) unlike most overseas countries where split type air-conditioners were used, households in Hong Kong had to rely on window type air-conditioners due to space constraints. As a result, new production lines would need to be set up to provide Hong Kong with | |

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| | | <p>sufficient supply of HCFC-free window type air-conditioners, thereby a longer phase-out period was required for window type air-conditioners; and</p> <p>(c) the proposed Regulation aimed to ban the import of new HCFC-containing products, not the existing stock.</p> <p>Mr Vincent FANG's concern about the maintenance of conventional air-conditioners if the import of refrigerants containing HCFC-22 were banned.</p> <p>Administration's response that according to the phasing out schedule, the import of HCFC-22 would not be banned before 2020.</p> | |
| 002823 - 004254 | Ms Cyd HO Chairman Administration | <p>Ms Cyd HO's views and enquiries -</p> <p>(a) the Administration should ensure that all stakeholders were consulted;</p> <p>(b) plan to recycle HCFC-22 upon disposal of air-conditioners containing such chemical; and</p> <p>(c) the rationale for not extending the banning control to include products in the course of transshipment or are imported solely for export.</p> <p>Chairman's remark that deputations were invited to attend the Subcommittee meeting on 13 October 2009 to express their views.</p> <p>Administration's response -</p> <p>(a) while it was not a requirement under the Montreal Protocol on Substances that Deplete the Ozone Layer (Montreal Protocol) to recycle HCFC-22, the</p> | <p>The Administration to advise the plan and actions being contemplated to recycle HCFC-22 upon disposal of air-conditioners containing such chemical, explain the rationale for not extending the banning control to include products in the course of transshipment or are imported solely for export and also advise the major destinations of transshipment / re-export over the past few years.</p> |

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| | | <p>Administration would encourage the trades to recycle HCFC-22. Codes of practice would be issued to facilitate compliance;</p> <p>(b) as developing countries under Article 5 of the Montreal Protocol were entitled to a longer phase-out period, there was a need to make clear that the banning control did not include those products in the course of transshipment or were imported solely for export to these countries; and</p> <p>(c) in 2008, about a million air-conditioners were transshipped from or imported solely for exported from Hong Kong to other countries.</p> <p>Ms Cyd HO's view that the Administration should also ban transshipment/re-export to demonstrate its commitment to protecting the ozone layer and addressing global warming.</p> <p>Chairman's request for more information on the plan to recycle HCFC-22 and locations of transshipment/re-export of air-conditioners over the past few years.</p> | |
| 004255 - 005835 | Mr WONG Ting-kwong Administration | <p>While supporting the proposed Regulation, Mr WONG Ting-kwong considered that the Administration should -</p> <p>(a) consult all the concerned trades, including importers, retailers and maintenance contractors of air-conditioners;</p> <p>(b) clarify that the current proposal was to ban the import of air-conditioners and not refrigerants to alleviate the concerns of maintenance contractors; and</p> | |

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| | | <p>(c) ensure proper disposal of air-conditioners containing HCFC-22.</p> <p>Administration's response -</p> <p>(a) as the proposed Regulation aimed to ban the import of scheduled products, only importers and exporters were consulted; and</p> <p>(b) the proposed import banning would ensure sufficient HCFC for the existing maintenance contractors to service the existing equipment and hence there would not be any impact on their business. More publicity efforts would be made to alleviate their unwarranted worries and to address any other concerns they might have.</p> | |
| 005836 - 010310 | Miss Tanya CHAN Administration | <p>Miss Tanya CHAN's enquiry on the views of consultees as set out in the Legislative Council Brief (EP 351/O4/34).</p> <p>Administration's response -</p> <p>(a) consultees did not object to the proposal, including the level of penalty; and</p> <p>(b) the views of consultees had been taken into account in drawing up the proposal. By way of illustration, the banning of import of products containing dichlorotrifluoroethane had been deferred to January 2020 having regard to its low ozone depleting and global warming potential.</p> | |
| 010311 - 011100 | Mr Vincent FANG Mr WONG Ting-kwong Chairman | <p>Mr Vincent FANG's views -</p> <p>(a) sufficient time should be allowed for importers to facilitate compliance with the proposed Regulation; and</p> | |

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| | | <p>(b) Administration's input was essential in the recycling of HCFC-22 which required technological know-how.</p> <p>Mr WONG Ting-kwong's view that the proposed Regulation should include the part on recycling.</p> | |
| 011101 - 011226 | Chairman Administration | <p>Chairman's enquiry on the price difference between conventional and HCFC-free air-conditioners.</p> <p>Administration's response that in the past, the prices of HCFC-free air-conditioners were about 10 to 25% higher than those conventional ones. The price difference had been narrowed down to 2 to 10% recently.</p> | |
| 011227 - 011350 | Ms Cyd HO Administration | <p>Ms Cyd HO's enquiry on whether proposed section 3(3)(2B) as drafted was in line with other existing legislation.</p> <p>Administration's response -</p> <p>(a) the phrase "in the absence of evidence to the contrary" was commonly adopted as in the case of the Air Pollution Control (Volatile Organic Compounds) (Amendment) Regulation 2009; and</p> <p>(b) the onus of proof still rested with the prosecution.</p> | |
| 011351 - 011700 | Chairman Mr WONG Ting-kwong Ms Cyd HO | Members agreed to the schedule of future meetings. | |