

立法會
Legislative Council

LC Paper No. CB(1) 458/09-10
(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 the Fourth meeting
held on Monday, 2 November 2009, at 8:30 am
in Conference Room A of the Legislative Council Building**

Members present : Hon Audrey EU Yuet-mee, SC, JP (Chairman)
Hon Vincent FANG Kang, SBS, JP
Hon KAM Nai-wai, MH
Hon Tanya CHAN

Members absent : Hon WONG Ting-kwong, BBS, JP
Hon Cyd HO Sau-lan

**Public officers
attending** : **For Item II**

Environmental Protection Department

Mr MOK Wai-chuen
Assistant Director (Air Policy)

Mr PANG Sik-wing
Principal Environmental Protection Officer (Air Policy)

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) 92/09-10 - Minutes of the meeting held on 5 October 2009
LC Paper No. CB(1) 198/09-10 - Minutes of the meeting held on 13 October 2009)

The minutes of the meetings held on 5 and 13 October 2009 were confirmed.

II. Meeting with the Administration

- (LC Paper No. CB(1) 2755/08-09(08) - List of follow-up actions arising from the discussion at the meeting on 5 October 2009
LC Paper No. CB(1) 139/09-10(01) - Administration's response to CB(1) 2755/08-09(08)
LC Paper No. CB(1) 139/09-10(02) - List of follow-up actions arising from the discussion at the meeting on 13 October 2009
LC Paper No. CB(1) 139/09-10(03) - Administration's response to CB(1) 139/09-10(02)
LC Paper No. CB(1) 139/09-10(04) - Consumer Council's response regarding criteria for assessing market readiness)

Relevant papers

- (Ref: EP 351/04/34
LC Paper No. LS 95/08-09
LC Paper No. CB(1) 2671/08-09(01) - The Legislative Council Brief
- Legal Service Division Report
- 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

2. The Subcommittee deliberated (Index of proceedings attached at **Annex**).
3. As the Subcommittee had completed scrutiny of the Amendment Regulation, the Chairman said that a report on the deliberations of the Subcommittee would be submitted for consideration by the House Committee at its meeting on 13 November 2009.

III. Any other business

4. There being no other business, the meeting ended at 9:15 am.

Council Business Division 1
Legislative Council Secretariat
24 November 2009

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

**Proceedings of the Fourth meeting
on Monday, 2 November 2009, at 8:30 am
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
<i>Agenda Item I - Confirmation of minutes</i>			
000001 - 000100	Chairman	The minutes of meetings held on 5 and 13 October 2009 (LC Paper Nos. CB(1) 92/09-10 and CB(1) 198/09-10 respectively) were confirmed.	
<i>Agenda Item II - Meeting with the Administration</i>			
000101 - 000415	Administration	Administration's elaboration on its response to concerns raised by members at the meeting on 5 October 2009 (LC Paper No. CB(1) 139/09-10(01)).	
000416 - 000705	Chairman Administration	<p>Chairman's enquiries on -</p> <p>(a) the scope of the code of good practice; and</p> <p>(b) whether the code was meant to promote recycling of chlorodifluoromethane (HCFC-22) by the trade.</p> <p>Administration's response -</p> <p>(a) subject to the outcome of public consultation on the producer responsibility scheme (PRS) on waste electrical and electronic equipment (WEEE), the Administration would consider whether the proposed PRS scheme should cover air-conditioners; and</p> <p>(b) the code of good practice would provide technical guidance to the trade on avoidance of release of HCFC-22 to the atmosphere during recycling of air conditioners.</p> <p>Chairman's further enquiry on PRS on waste air-conditioners</p> <p>Administration's response -</p> <p>(a) details had yet to be worked out subject to the</p>	

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		<p>outcome of public consultation on PRS on WEEE; and</p> <p>(b) preliminary plan was to recover waste air-conditioners through local agents of manufacturers.</p>	
000706 - 001050	Miss Tanya CHAN Chairman Administration	<p>Miss Tanya CHAN's enquiries on whether the trade had been consulted on the code of good practice and if not, whether a public consultation would be conducted and the time-table for consultation.</p> <p>Administration's confirmation that consultation on the technical aspect of the code had been conducted, and that there was general support for the code.</p> <p>Chairman's enquiry on whether the consultation involved both academics and the trade.</p> <p>The Administration's response that distributors of air-conditioners, professional bodies and the trade were consulted.</p> <p>Miss Tanya CHAN's further enquiries -</p> <p>(a) whether the trade's views had been taken into account when formulating the code of good practice; and</p> <p>(b) whether the Administration would maintain regular communication with the trade on the operation of the code.</p> <p>Administration's response -</p> <p>(a) the trade's views had been included in finalizing the code of good practice; and</p> <p>(b) it would maintain close liaison with the trade to keep them informed of the latest development.</p>	
001051 - 001218	Miss Tanya CHAN Administration	Miss Tanya CHAN's concern about possible release of HCFC-22 to the atmosphere if waste air-conditioners were handled by non-professional recyclers.	

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		<p>Administration's response -</p> <p>(a) efforts would be made to promote the code of good practice to the trade; and</p> <p>(b) assistance would be rendered to facilitate compliance with the code by the trade.</p>	
001219 - 001335	Chairman Administration	<p>Chairman's enquiry on the number of used air-conditioners which were re-exported to other developing countries.</p> <p>Administration's response that it did not keep such statistics.</p>	
001336 - 001930	Mr KAM Nai-wai Administration Chairman	<p>Mr KAM Nai-wai's enquiries on -</p> <p>(a) time-table for introducing PRS on WEEE; and</p> <p>(b) additional cost to be borne by consumers as a result of implementation of PRS on WEEE;</p> <p>(c) disposal of air-conditioners existed before the introduction of PRS on WEEE.</p> <p>Administration's response -</p> <p>(a) the proposed PRS on WEEE would be ready for public consultation by the end of this year;</p> <p>(b) the additional cost incurred was probably insignificant, given that used air-conditioners would still have residue value; and</p> <p>(c) details of the proposed PRS on WEEE had yet to be worked out subject to the outcome of public consultation.</p> <p>Mr KAM Nai-wai's views -</p> <p>(a) consumers might need to pay more under the PRS on WEEE; and</p> <p>(b) there was a need to establish a licensing system for recyclers.</p> <p>Chairman's agreement to the need for a licensing system.</p>	

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001931 - 002248	Mr Vincent FANG Administration	Mr Vincent FANG's views that there was a need to put in place a comprehensive plan to recycle used air-conditioners, including recovery of spent HCFC-22.	
002249 - 002425	Chairman Administration	Administration's elaboration on its response to concerns raised at the meeting on 13 October 2009 (LC Paper No. CB(1) 139/09-10(03)).	
002426 - 002440	Mr Vincent FANG Administration	Mr Vincent FANG's enquiry on the number of room air-conditioners with a rated cooling capacity exceeding 7.5 kilowatts. Administration's response that it did not keep such information.	
002441 - 002620	Chairman Administration	Continuation of clause-by-clause examination of the Amendment Regulation. <u>Interpretation</u> Discussion on the definitions of "cooling only type" and "reverse cycle type" room air-conditioner.	
002621 - 002720	Chairman Administration	Discussion on the definition of "ceiling-mounted type" room air-conditioner.	
002721 - 002755	Chairman Administration	Discussion on the definition of "floor standing type" room air-conditioner.	
002756 - 002910	Chairman Administration	Discussion on the definition of "approved code of practice".	
002911 - 003125	Chairman Administration	Chairman's enquiry on whether proposed section 2A would be deleted starting from 1 July 2012 according to the phased approach. Administration's confirmation that since the import of all types of room air-conditioners containing HCFC would be banned starting 1 July 2012, the definition of "room air-conditioner" would no longer be required.	
003126 - 003240	Chairman Administration	Discussion on extending the ban to import of controlled products from countries not being a Party to the Montreal Protocol on Substances that Deplete the Ozone Layer.	

Time marker	Speaker	Subject(s)	Action required
003241 - 003350	Chairman Administration	<p>Chairman's enquiry on the rationale for increasing the level of fine from \$200,000 to \$1,000,000 and imprisonment from six months to two years.</p> <p>Administration's response -</p> <p>(a) the proposed increase would bring the penalty provisions in line with that for import of HCFC without licence under the principal Ordinance; and</p> <p>(b) reference to other countries, such as the United States and Canada, had also been made.</p>	
003351 - 003525	Chairman Administration	<p>Chairman's enquiry on whether the phrase "in the absence of evidence to the contrary" in proposed section 3(2B) was in line with the Basic Law and other existing legislation.</p> <p>Administration's response -</p> <p>(a) the phrase would not contravene the Basic Law and the Bill of Rights in accordance with legal advice. It 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>	
003526 - 003855	Chairman	Clause-by-clause examination of the Chinese version of the Amendment Regulation.	
003856 - 004245	Mr Vincent FANG Administration	<p>Mr Vincent FANG's view and enquiry -</p> <p>(a) reference to overseas countries might not be appropriate in determining the level of penalty given the different situations in different places; and</p> <p>(b) the extent of problem of illegal import of controlled products in Hong Kong.</p> <p>Administration's response that the trade had been consulted on the proposed increase in penalty level. There was generally support for the increase as this would help deter the smuggling of non-compliant products in Hong Kong.</p>	

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		Mr Vincent FANG's enquiry on the number of prosecutions for illegal import of controlled products. Administration's response that from 2004 to 2009, there was a total of nine prosecutions, of which one offender was sentenced to one-month imprisonment with conditional release.	
004246 -004550	Chairman	Legislative timetable.	

Council Business Division 1
Legislative Council Secretariat
24 November 2009