

立法會
Legislative Council

LC Paper No. CB(1)661/15-16
(These minutes have been seen
by the Administration)

Ref : CB1/BC/10/14/2

**Bills Committee on Promotion of Recycling and Proper Disposal
(Product Container) (Amendment) Bill 2015**

**Minutes of fifth meeting
held on Tuesday, 2 February 2016, at 10:45 am
in Conference Room 3 of the Legislative Council Complex**

Members present : Ir Dr Hon LO Wai-kwok, SBS, MH, JP (Chairman)
Hon Tommy CHEUNG Yu-yan, GBS, JP
Hon Andrew LEUNG Kwan-yuen, GBS, JP
Hon Cyd HO Sau-lan, JP
Hon WU Chi-wai, MH
Hon Gary FAN Kwok-wai
Hon CHAN Chi-chuen
Dr Hon Kenneth CHAN Ka-lok
Hon KWOK Wai-keung
Hon Tony TSE Wai-chuen, BBS

Members absent : Hon Vincent FANG Kang, SBS, JP
Hon WONG Ting-kwong, SBS, JP
Hon CHAN Hak-kan, JP
Hon Christopher CHUNG Shu-kun, BBS, MH, JP

Public Officers attending : **For item II**

Mr Donald NG
Deputy Director of Environmental Protection (4)
Environmental Protection Department

Mr Samson LAI
Assistant Director of Environmental Protection (Waste
Management Policy)
Environmental Protection Department

Dr Alain LAM
Principal Environmental Protection Officer (Waste
Management Policy)
Environmental Protection Department

Mr Gilbert MO
Deputy Law Draftsman (Bilingual Drafting and
Administration)
Department of Justice

Miss Elaine NG
Senior Government Counsel
Department of Justice

Clerk in Attendance : Ms Angel SHEK
Chief Council Secretary (1)1

Staff in attendance : Miss Evelyn LEE
Assistant Legal Adviser 10

Ms Doris LO
Senior Council Secretary (1)1

Action

I. Confirmation of minutes

(LC Paper No. CB(1)506/15-16 — Minutes of the meeting held on
15 December 2015)

The minutes of the meeting held on 15 December 2015 were confirmed.

Action

II. Meeting with the Administration

Matters arising from previous meeting

(LC Paper No. CB(1)510/15-16(01) — List of follow-up actions arising from the meeting on 11 January 2016

LC Paper No. CB(1)510/15-16(02) — Administration's response to the issues raised at the meeting on 11 January 2016 and draft Committee Stage amendments proposed by the Administration)

Clause-by-clause examination of the Bill

(LC Paper No. CB(1)79/15-16(01) — Marked-up copy of the Bill prepared by the Legal Service Division (Restricted to Members)

LC Paper No. CB(3)829/14-15 — The Bill

File Ref: EP CR 9/150/35 Pt.4 — Legislative Council Brief

LC Paper No. LS86/14-15 — Legal Service Division Report

LC Paper No. CB(1)79/15-16(05) — Background brief prepared by the Legislative Council Secretariat

LC Paper No. CB(1)79/15-16(02) — Assistant Legal Adviser's letter dated 14 September 2015 to the Administration

LC Paper No. CB(1)79/15-16(03) — Administration's reply to Assistant Legal Adviser's letter dated 14 September 2015

Action

LC Paper No. CB(1)79/15-16(04) — Assistant Legal Adviser's letter dated 23 October 2015 to the Administration

LC Paper No. CB(1)196/15-16(02) — Administration's reply to Assistant Legal Adviser's letter dated 23 October 2015)

Discussion

2. The Bills Committee deliberated (index of proceedings attached at the **Annex**) and completed clause-by-clause examination of the Promotion of Recycling and Proper Disposal (Product Container) (Amendment) Bill 2015 ("the Bill") and examination of the draft Committee Stage amendments ("CSAs") proposed by the Administration to the Bill, as set out in Annex B to the Administration's paper (LC Paper No. CB(1)510/15-16(02)).

Follow-up actions to be taken by the Administration

- Admin 3. The Administration was requested to –
- (a) provide a full set of the updated draft CSAs to be proposed by the Administration to the Bill, which had incorporated the proposed CSA to the definition of "beverage";
 - (b) in connection with the granting of exemptions for registered suppliers with container waste reduction plans under the proposed section 40 of the Product Eco-responsibility Ordinance (Cap. 603), address the Council at the resumption of the Second Reading debate on the Bill regarding –
 - (i) the Administration's policy stance and measures towards encouraging and facilitating the reuse of glass beverage containers by registered suppliers; and
 - (ii) the approach of granting exemptions, including how the Administration might flexibly consider whether a registered supplier could demonstrate an environmentally sound and practicable reuse/recycling plan for its glass beverage containers (e.g. whether a phased approach would be allowed to achieve the required number of times of reusing glass beverage containers under the plan).

Action

(*Post-meeting note:* The Administration's response was circulated to members vide LC Paper No. CB(1)612/15-16(02) on 2 March 2016.)

Legislative timetable

4. As agreed at the meeting, the Administration would provide a paper on issues arising from the meeting and a full set of its proposed CSAs, which would be circulated to members when ready. Subject to any views members and the Legal Adviser to the Bills Committee might have on the Administration's paper and proposed CSAs, the Chairman would decide whether a further meeting was necessary.

5. Members also agreed that if no further meeting would be held, the Bills Committee would complete scrutiny of the Bill.

III. Any other business

6. There being no other business, the meeting ended at 12:11 pm.

Council Business Division 1
Legislative Council Secretariat
8 March 2016

**Bills Committee on Promotion of Recycling and Proper Disposal
(Product Container) (Amendment) Bill 2015**

**Proceedings of the fifth meeting
on Tuesday, 2 February 2016, at 10:45 am
in Conference Room 3 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
<i>Agenda Item I – Confirmation of minutes</i>			
000145 – 000404	Chairman	The minutes of the meeting held on 15 December 2015 (LC Paper No. CB(1)506/15-16) were confirmed.	
<i>Agenda Item II - Meeting with the Administration</i>			
000405 – 002734	Chairman Administration Ms Cyd HO Mr CHAN Chi-chuen	<p>The Administration briefed members on its response to the issues raised at the meeting of the Bills Committee held on 11 January 2016 (LC Paper No. CB(1)510/15-16(02)).</p> <p>Members noted that the Administration had, in response to members' views expressed at previous meetings, proposed to amend the definition of "beverage" under the Promotion of Recycling and Proper Disposal (Product Container) (Amendment) Bill 2015 ("the Bill"), as set out in paragraph 2 of the abovementioned Administration's response.</p> <p>Discussion on whether certain products (e.g. honey citrus fruit tea, honey, barbecue honey, fruit jam and fruit vinegar) would fall under the proposed revised definition of "beverage" and hence be subject to the mandatory producer responsibility scheme on product containers which initially covered glass beverage containers ("the mandatory PRS").</p> <p>In gist, the Administration stated its stance that –</p> <p>(a) a beverage should be liquid-based if it was to be covered by the regulation;</p> <p>(b) there were food products which existed in non-liquid form (say, jelly, powder or solid) and might be consumed as beverages after being dissolved in water. The Administration considered it inappropriate to regard such products as beverages for the</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>purpose of the mandatory PRS because doing so might cast the net unnecessarily wide and as such products might be consumed as non-beverages in actual practice. On the other hand, if the concentrates were liquids or consisted of liquid, they would be covered by the regulation; and</p> <p>(c) products which might consist of liquid but were not commonly served as drinks after being diluted would not be regarded as "beverage".</p> <p>In view that glass containers holding concentrates in jelly form might, if not properly rinsed before disposal, incur higher treatment costs, Ms Cyd HO suggested hiring grassroot workers to cleanse such glass containers for proper treatment by glass management contractors.</p>	
002735 - 003537	Chairman Mr WU Chi-wai Administration	<p>Expressing concern that the proposed revised definition of "beverage" might in effect widen the regulatory scope unwarrantedly and complicate the enforcement regime, Mr WU Chi-wai urged the Administration to reconsider simply including common beverages that were customarily taken as drinks at the initial stage of the mandatory PRS.</p> <p>The Chairman enquired about how the Administration would handle cases of ambiguity as to whether a product should fall under the proposed revised definition.</p> <p>The Administration responded that –</p> <p>(a) the revised definition of "beverage" were proposed in response to the request of the Bills Committee for a clearer definition and setting out more clearly the scope of regulation, striking a balance between adopting a generic and a prescriptive approach; and</p> <p>(b) it would maintain close liaison with the trade as it formulated the operational guidelines under the mandatory PRS with a view to clearing up any ambiguities in determining which product was deemed as beverage.</p>	

Time marker	Speaker	Subject(s)	Action required
003538 - 004110	Chairman Mr KWOK Wai-keung Administration	<p>Mr KWOK Wai-keung enquired about –</p> <p>(a) whether the proposed revised definition would in effect expand the scope of products to be covered under the mandatory PRS, and thus increase the number of waste glass containers to be recovered by the mandatory PRS, as well as the pressure on downstream treatment; and</p> <p>(b) how it would ensure that the returns submitted under the proposed section 36 of the Product Eco-responsibility Ordinance (Cap. 603) by registered suppliers were complete and accurate, given the possible variance between the Administration and registered suppliers on determining whether a product was a "beverage".</p> <p>The Administration responded that –</p> <p>(a) it was envisaged that the proposed revised definition would not significantly expand the regulatory scope or increase the number of waste glass containers to be recovered; and</p> <p>(b) the Administration would issue guidelines for reference by registered suppliers in submitting their returns, which should be subject to audits, and would put in place a checking and monitoring mechanism to ensure compliance.</p>	
004111 - 005559	Chairman Administration Mr CHAN Chi-chuen Mr Tommy CHEUNG Assistant Legal Adviser 10 ("ALA10")	<p>On ALA's enquiry, the Administration responded that the proposed revised definition of "beverage" sought to address the concern that some products (e.g. honey and vinegar) might serve multiple purposes including consumption as non-beverages in certain circumstances.</p> <p>Further discussion on whether certain products, including black sweet vinegar with pig trotters and ginger, and ready-to-serve drinks containing food (e.g. juices with fruit flesh), should be regarded as "beverage" under the proposed revised definition.</p> <p>Mr Tommy CHEUNG expressed reservation about the proposed revised definition as it</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>might lead to inconsistencies and ambiguities when put to practice. For example, fruit vinegar drink was regarded as "beverage" while "black sweet vinegar" was not, despite both products were liquids and edible.</p>	
<p>Clause-by-clause examination of the Bill (The Bill [LC Paper No. CB(3)829/15-16] and draft CSAs proposed by the Administration [Annex B to LC Paper No. CB(1)510/15-16(02)])</p>			
<p>005600 - 010449</p>	<p>Chairman Administration ALA10</p>	<p><u>Clauses 1 to 7</u> (revisited)</p> <p>In the light of the CSAs proposed by the Administration set out at Annex B to LC Paper No. CB(1)510/15-16(02), the Bills Committee revisited clauses 1 to 7 together with the relevant proposed CSAs.</p> <p>ALA10 sought confirmation regarding whether it was the legislative intent to require a registered supplier to pay the recycling levy if the supplier "consumed" a regulated article in such a manner as stipulated in the proposed CSAs to the definition of "consume". The Administration replied in the affirmative.</p>	
<p>010450 – 011309</p>	<p>Chairman Administration ALA10</p>	<p>The Bills Committee examined the remaining clauses side by side with the relevant CSAs proposed by the Administration.</p> <p><u>Clause 8 – Schedule 6 added</u></p> <p><u>Schedule 6 – Regulated Articles to which this Ordinance Applies</u></p> <p>Part 3 – Amendments to Waste Disposal Ordinance</p> <p><u>Clause 9 –Waste Disposal Ordinance amended</u></p> <p><u>Clause 10 – Section 2 amended (interpretation)</u></p> <p><u>Clause 11 – Section 16 amended (prohibition of unauthorized disposal of waste)</u></p> <p>In the light of the amendments proposed by the Promotion of Recycling and Proper Disposal (Electrical Equipment and Electronic Equipment) (Amendment) Bill 2015 ("the EE Bill") to section 20G of the Waste Disposal Ordinance (Cap. 354) so that a person who was</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>accused of having contravened section 16 (prohibition of unauthorized disposal of waste) or section 20E (offences under this part) of Cap. 354 might have a defence by establishing that the item of regulated electrical/electronic equipment ("REE") that had become waste ("e-waste") did not satisfy the technical definitions of REE, ALA10 asked if similar amendments to section 20G would be needed under the current Bill.</p> <p>The Administration replied that the amendment to section 20G of Cap. 354 was necessary under the EE Bill in view that at the waste stream, there would be practical difficulties in establishing that an item of e-waste satisfied the technical definitions of REE. However, it was not necessary to provide for such defence under the current Bill as there were no similar technical definitions for the regulated articles (consisting of glass beverage containers) in this context.</p>	
011310 - 012023	Chairman Administration ALA10	<p><u>Clause 12 – Section 20A amended (permit required for the import of waste into Hong Kong)</u></p> <p><u>Clause 13 – Section 20B amended (permit required for the export of waste from Hong Kong)</u></p> <p><u>Clause 14 – Section 21A substituted</u></p> <p><u>21A. Circumstances under which waste disposal licence for chemical waste, clinical waste or container waste is to be granted</u></p> <p>Members raised no queries.</p> <p>The Bills Committee completed clause-by-clause examination of the Bill and the Administration's proposed CSAs.</p> <p>The Administration was requested to provide a full set of the updated draft CSAs to be proposed by the Administration to the Bill, which would incorporate the proposed CSA to the definition of "beverage".</p> <p>ALA10 drew members' attention on the possible need to further review the</p>	Admin (paragraph 3(a) of the minutes refers)

Time marker	Speaker	Subject(s)	Action required
		cross-referencing to Cap. 603 and Cap. 354, as well as other corresponding CSAs, subject to the passage of the EE Bill.	
012024 - 012710	Chairman Administration Mr Andrew LEUNG	<p>At the request of Mr Andrew LEUNG, the Administration undertook to address the Council at the resumption of the Second Reading debate on the Bill regarding –</p> <p>(a) the Administration's policy stance and measures towards encouraging and facilitating the reuse of glass beverage containers by registered suppliers; and</p> <p>(b) the approach of granting exemptions, including how the Administration might flexibly consider whether a registered supplier could demonstrate an environmentally sound and practicable reuse/recycling plan for its glass beverage containers.</p>	Admin (paragraph 3(b) of the minutes refers)
<i>Agenda Item III – Any other business</i>			
012711 - 012806	Chairman Administration	Legislative timetable	