

立法會
Legislative Council

LC Paper No. CB(1)1268/16-17
(These minutes have been seen
by the Administration)

Ref : CB1/PL/EA

Panel on Environmental Affairs

Minutes of meeting
held on Monday, 27 March 2017, at 2:30 pm
in Conference Room 3 of the Legislative Council Complex

Members present : Hon Tanya CHAN (Chairman)
Dr Hon Junius HO Kwan-yiu, JP (Deputy Chairman)
Hon LEUNG Yiu-chung
Hon Tommy CHEUNG Yu-yan, GBS, JP
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon WONG Ting-kwong, SBS, JP
Hon CHAN Hak-kan, BBS, JP
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP
Hon Paul TSE Wai-chun, JP
Hon LEUNG Kwok-hung
Hon Steven HO Chun-yin, BBS
Hon Frankie YICK Chi-ming, JP
Hon WU Chi-wai, MH
Hon MA Fung-kwok, SBS, JP
Hon CHAN Chi-chuen
Hon LEUNG Che-cheung, BBS, MH, JP
Hon Kenneth LEUNG
Hon KWOK Wai-keung
Hon Dennis KWOK Wing-hang
Dr Hon Fernando CHEUNG Chiu-hung
Dr Hon Elizabeth QUAT, JP
Hon Martin LIAO Cheung-kong, SBS, JP
Ir Dr Hon LO Wai-kwok, SBS, MH, JP
Hon Andrew WAN Siu-kin

Hon CHU Hoi-dick
Hon HO Kai-ming
Hon SHIU Ka-fai
Hon HUI Chi-fung
Hon Kenneth LAU Ip-keung, MH, JP
Hon KWONG Chun-yu
Hon Nathan LAW Kwun-chung
Dr Hon YIU Chung-yim

Members attending : Dr Hon KWOK Ka-ki
Hon Christopher CHEUNG Wah-fung, SBS, JP

Member absent : Hon Charles Peter MOK, JP

Public Officers attending : **For item IV**

Mr WONG Kam-sing, GBS, JP
Secretary for the Environment

Mrs Vicki KWOK
Deputy Director of Environmental Protection (2)
Environmental Protection Department

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

Mrs Alison LAU
Assistant Director (Special Duties)
Environmental Protection Department

Mr David WONG, JP
Assistant Director (Environmental Compliance)
Environmental Protection Department

For item V

Ms Christine LOH, JP
Under Secretary for the Environment

Mrs Vicki KWOK
Deputy Director of Environmental Protection (2)
Environmental Protection Department

Mr Elvis AU, JP
Assistant Director (Nature Conservation &
Infrastructure Planning)
Environmental Protection Department

Dr SO Ping-man
Deputy Director
Agriculture, Fisheries and Conservation Department

Mr Simon CHAN
Assistant Director (Conservation)
Agriculture, Fisheries and Conservation Department

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

Staff in attendance : Miss Winnie LO
Assistant Legal Adviser 7

Ms Anki NG
Senior Council Secretary (1)1

Miss Mandy POON
Legislative Assistant (1)1

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I. Confirmation of minutes

(LC Paper No. CB(1)683/16-17 — Minutes of the policy briefing
cum meeting held on
23 January 2017)

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The minutes of the policy briefing cum meeting held on 23 January 2017 were confirmed.

II. Information papers issued since last meeting

2. Members noted that no information paper had been issued since last meeting.

III. Items for discussion at the next meeting

(LC Paper No. CB(1)705/16-17(01) — List of follow-up actions

LC Paper No. CB(1)705/16-17(02) — List of outstanding items for discussion)

3. Members agreed to discuss the following items at the next regular meeting scheduled for Monday, 24 April 2017, at 2:30 pm:

- (a) manpower arrangements for implementation of measures on waste reduction and recycling; and
- (b) construction of dry weather flow interceptors to improve water quality and reduce odour in Victoria Harbour and sewer rehabilitation in Kowloon, Shatin and Sai Kung.

IV. Implementation arrangements for municipal solid waste charging

(LC Paper No. CB(1)697/16-17(01) — Administration's paper on "Implementation arrangements for municipal solid waste charging"

LC Paper No. CB(1)705/16-17(03) — Updated background brief on "Introduction of municipal solid waste charging in Hong Kong" prepared by the Legislative Council Secretariat

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- LC Paper No. CB(1)705/16-17(04) — Submission from 盤先生 (Chinese version only)
- LC Paper No. CB(1)732/16-17(01) — Submission from Green Council (Chinese version only)
- LC Paper No. CB(1)732/16-17(02) — Submission from The Green Earth (Chinese version only)

4. Members noted 10 submissions were tabled at the meeting.

(Post-meeting note: The submissions were issued to members vide LC Paper Nos. CB(1)743/16-17(01) to (10) on 27 March 2017.)

Briefing by the Administration

5. The Secretary for the Environment ("SEN") stated that the Administration's objective was to introduce a quantity-based municipal solid waste ("MSW") charging system as a key policy tool to achieve the waste disposal reduction target of 40% by 2022 from the base year of 2011 as set out in the *Hong Kong: Blueprint for Sustainable Use of Resources 2013-2022* published in May 2013. Based on the recommendations from the Council for Sustainable Development ("SDC"), the Administration consulted the Panel on the framework proposal for the implementation of MSW charging in February 2015. Since then, the Administration had been engaging relevant stakeholders in formulating the implementation arrangements. SEN then briefed members on the modes of charging, the charging levels, enforcement, publicity and public education of MSW charging, and support provided for waste reduction and recycling.

Discussion

Commencement arrangement and enforcement

6. Mr CHAN Hak-kan, Mr LEUNG Che-cheung, Mr Kenneth LEUNG, Mr KWOK Wai-keung, Dr Elizabeth QUAT, Mr Martin LIAO, Mr Andrew WAN, Mr CHU Hoi-dick, Mr HO Kai-ming and Mr Kenneth LAU expressed support in principle for the proposed quantity-based MSW charging. The Chairman stated that Members belonging to the Civic Party supported the early implementation of MSW charging in line with the "polluter pays" principle. Mr HUI Chi-fung said that Members belonging to the Democratic

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Party also supported MSW charging.

7. Mr CHAN Hak-kan and Dr YIU Chung-yim expressed concern about potential aggravation of fly-tipping as a result of MSW charging, and the difficulties faced by property management companies ("PMCs") in tackling the problem. Mr CHAN, Dr YIU, Mr Kenneth LAU and Mr SHIU Ka-fai enquired about the measures to be taken by the Administration to complement and enforce the implementation of MSW charging, including the means to identify non-compliant waste producers, and combat fly-tipping on agricultural lands and at rural villages.

8. SEN said that intensive and strict enforcement actions across the community upfront might not be the best approach when MSW charging was newly launched. Taking into account the fact that the public needed time to adapt to the new charging scheme, the Administration intended to put in place a six-month phasing-in period after the commencement of MSW charging, during which warnings would be issued in non-compliant cases and enforcement actions would only be taken in case the nature and magnitude of the offence called for enforcement. The Deputy Director of Environmental Protection(4) ("DDEP(4)") supplemented that the Environmental Protection Department ("EPD") and the Food and Environmental Hygiene Department ("FEHD") would, based on complaints and reports on non-compliance from frontline cleansing staff, waste collection contractors, PMCs and the public, conduct surveillance and enforcement actions at different waste reception points and black-spots in private buildings. The Administration would continue to liaise with PMCs and other relevant stakeholders on the details of the arrangements in ensuring the smooth implementation of MSW charging. SEN further advised that the Administration was considering the feasibility of adopting global positioning system at construction and demolition ("C&D") waste collection vehicles to track the movement of C&D waste, among other measures, to prevent fly-tipping of such waste more effectively. As regards the problem about fly-tipping of oversized waste in rural villages raised by Mr Kenneth LAU, SEN advised that the Administration would step up enforcement actions, in particular at fly-tipping black spots, in consultation with Village Representatives as appropriate.

9. Referring to paragraph 24 of the Administration's paper (LC Paper No. CB(1)697/16-17(01)) concerning the taking of strict enforcement actions after the six months' phasing-in period, Mr Martin LIAO enquired whether the Administration would anticipate a large number of prosecutions against non-compliant cases, and whether there would be sufficient manpower resources for taking the relevant enforcement actions.

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10. DDEP(4) advised that after the phasing-in period, the frontline staff of FEHD would continue with the visual screening at waste reception points and reject waste that did not comply with the requirements (i.e. waste not properly wrapped in designated garbage bags or attached with oversized waste labels). The number of prosecutions and enforcement actions arising from MSW charging would depend on the progress of compliance facilitation and the ultimate enforcement arrangements. He added that additional manpower resources would be sought for the relevant enforcement work as necessary.

11. Dr Elizabeth QUAT opined that the Administration should adopt a carrot and stick approach by offering incentives to individual households in the form of MSW charge rebates based on the amount of waste reduced while collecting the MSW charges. This would enhance public acceptability of the charging scheme. Mr Tommy CHEUNG and Mr SHIU Ka-fai shared similar views. Referring to the practice of Seoul which tracked garbage disposal and waste recycling by individual households, and offered rebates through reductions in electricity and/or water charges for eligible households, Dr QUAT enquired whether the Administration would consider providing similar initiatives in Hong Kong.

12. SEN advised that as in the case of Taipei City and Seoul, legislation was the first step in taking forward quantity-based waste charging. The data obtained after implementation of the scheme could be used to develop further measures to encourage waste reduction by different waste producers, such as individual household, residential building/estates, and commercial and industrial ("C&I") establishments. SEN said that the Administration would adopt an open attitude to different suggestions.

13. Mr Kenneth LEUNG said that he was not convinced that there was correlation between MSW charging and waste reduction as the effectiveness of MSW charging could be affected by the cultures and customs of different nationalities and societies. SEN advised that the Environmental Levy Scheme on Plastic Shopping Bags ("PSBs") had achieved a significant reduction in the disposal of PSBs even though the charge was only set at around \$0.5 per PSB. Likewise, MSW charging was expected to drive behavioural change for the public to reduce waste and recover recyclables. Indeed, the community involvement projects funded by the Environment and Conservation Fund ("ECF"), which were being conducted to try out the implementation arrangements for MSW charging in different sectors, had already shown that such charging could reduce MSW disposal.

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Charging by designated garbage bags and gate fee

14. Mr Kenneth LAU expressed concern on whether households, particularly the elderly residents in rural villages, could buy the designated garbage bags at convenient locations. SEN advised that under the current planning, more than 4 000 sales points of designated garbage bags would be set up across the territory, including provision of vending machines in remote areas, during the initial stage of implementation. Subject to further discussion with the stakeholders concerned, vending machines might also be placed in Village Offices. The Administration would reach out to the rural areas in publicizing MSW charging including the purchase and use of designated garbage bags.

15. Mr LEUNG Chi-cheung considered that MSW charging at the household level would be more effective to incentivize individual households to reduce waste than charging based on the total weight or volume of waste disposed of by a building. SEN responded that as recommended by SDC, MSW charge should be directly related to the quantity of waste disposed of to promote waste reduction and to align with the "Waste Less, Pay Less" principle. According to the implementation framework proposed by SDC, for MSW disposal through FEHD's direct collection service, the ultimate goal was to implement charging "by household using pre-paid designated garbage bags". Residential buildings that already had the appropriate conditions might implement "by household by bag" charging from the beginning.

16. Referring to paragraph 20 of the Administration's paper (LC Paper No. CB(1)697/16-17(01)), Mr Frankie YICK pointed out that private waste collectors ("PWCs") had grave concern about the gate fee arrangement as they would have to pay the gate fee upfront for any waste disposed of at landfills or refuse transfer stations. Such arrangement would create cash flow and bad debt problems for PWCs if their clients (such as restaurants) failed to repay them in time or refused to pay the fee afterwards. Some PWCs also expressed that they had not been consulted on the hybrid system proposed by the Government, which allowed both PWCs and waste producers to register as account holders for paying the gate fee. Mr YICK enquired whether the Government would consider providing insurance for PWCs to cover their gate fee payment when their clients refused to repay them, and how PWCs should apportion the gate fee with their clients.

17. DDEP(4) advised that the gate fee arrangement was recommended by SDC and was commonly adopted in other cities where MSW charging was in place. The facility users, namely the PWCs, would need to pay for the charges. After consultation with PWCs, the Administration had proposed the hybrid system so as to provide greater flexibilities for the trade and their

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clients to discuss the payment arrangements. Mr YICK urged the Administration to take into account the operation of PWCs and address the trade's concerns about the gate fee arrangement before implementing MSW charging.

Financial assistance for the needy

18. Mr HUI Chi-fung opined that the MSW charging level should not be set too high when the scheme was newly launched so as to realize the educational rather than punitive goal of the scheme. Mr CHAN Hak-kan, Mr KWOK Wai-keung, Mr Andrew WAN, Mr HO Kai-ming and Mr Nathan LAW sought information on the Administration's measures, if any, to relieve people with financial hardship from the burden of MSW charges, such as by granting exemptions/subsidies to the low-income families, elderly persons receiving Old Age Living Allowance and recipients of Comprehensive Social Security Assistance Scheme ("CSSA"). Mr LEUNG Chi-cheung said that exempting the disadvantaged groups from the MSW charge might not be conducive to driving their behavioural change to reduce waste in the long run. He considered it more appropriate to offer incentives to these groups on the basis of waste reduced.

19. SEN advised that cities such as Seoul and Taipei City which had successfully implemented quantity-based waste charging had not provided exemptions to the needy in relation to the MSW charge. Taking into account SDC's recommendations that the needs of people with financial hardship such as CSSA recipients should be addressed, the Administration was discussing with the relevant bureaux and departments with a view to striking a balance in achieving waste reduction through MSW charging while not creating undue financial burden on the disadvantaged groups.

Offsetting of waste charge by corresponding reduction in rates

20. Mr CHAN Chi-chuen raised concern about "double charging" arising from the implementation of MSW charging since he considered that rates had already covered the waste collection services provided by the Government. Mr CHAN pointed out that in the last legislative term, the Panel had passed a motion demanding the Government to lower the rates concurrently to avoid double levy if quantity-based waste charging was to be introduced. Mr Tommy CHEUNG and Mr HO Kai-ming expressed similar concern. Mr CHEUNG recalled that the two former Municipal Councils had been using part of the revenue from rates for public expenditures on waste collection. Mr HO and Mr SHIU Ka-fai opined that consideration should be given to offsetting the MSW charge by a corresponding reduction in rates. Mr WU Chi-wai, on the other hand, considered that offsetting of the MSW

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charge by reduction in rates might give rise to unfairness as MSW charges were paid by occupiers while rates reduction would be rebated to owners.

21. SEN said that rates and the proposed waste charging were two separate issues. Rates were one of Hong Kong's indirect taxes based on the rateable value of the properties, which was unrelated to the waste quantity disposed of from the property. It should also be noted that the proposed MSW charge, which was set at a level generally acceptable to the public, could not recover the full costs of providing the waste collection and disposal services. DDEP(4) added that rates had evolved over time and now formed part of the Government's general revenue without any specific relevance to the expenditures on waste collection and disposal. In fact, owners of vacant properties not disposing of any waste were also subject to rates payment.

Promotion of source separation and recycling of waste

22. Mr CHAN Chi-chuen stated that the People Power considered mandatory waste separation at source should be taken forward in parallel with implementation of MSW charging such that only those MSW to be disposed of after source separation would need to be charged. Mr KWOK Wai-keung and Mr Andrew WAN opined that implementation of MSW charging alone might not necessarily achieve the objective of reducing waste disposal and greater efforts by both the Government and the community to reduce waste at source and recycle waste were necessary. Mr KWOK suggested the Administration enhance the outlets for recyclables, such as turning the recycled food waste into fertilizers for local use or for donation/export to countries with heavy demand for these products. Mr WAN enquired about the progress of development of food waste recycling facilities. Mr CHAN Hak-kan suggested the Administration work out suitable arrangements for the collection of food waste from households.

23. SEN advised that as food waste constituted more than 30% of MSW in Hong Kong, a comprehensive plan on food waste management was essential. Experiences in other cities showed that food waste recycling was generally not implemented at the outset of waste charging. In the meantime, the Administration would continue to encourage source separation of food waste by C&I establishments. SEN added that Phase 1 of the Organic Waste Treatment Facilities ("OWTF"), which was scheduled to commence in the second half of 2017, would have a treatment capacity of 200 tonnes per day, while Phase 2 of OWTF, which was currently under tendering arrangements, would have a treatment capacity of 300 tonnes per day. OWTF Phase 1 and Phase 2 together could help reduce food waste disposed of at landfills by some 500 tonnes per day.

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24. Mr WU Chi-wai opined that the Administration should consider ways to encourage and assist the community in separating recyclables, in particular those of lower commercial values, from non-recyclables at source, as well as facilitate the collection and transportation of such recyclables, with a view to raising their commercial values. Mr Andrew WAN considered that more assistance should be provided to Incorporated Owners or PMCs with a view to better utilizing the recycling bins ("RBs") provided at residential buildings. Mr HUI Chi-fung conveyed the views of some members of the public that recycling facilities were insufficient, in particular those for recycling of glass, electrical and electronic equipment, plastic and food waste, and it might be unfair to collect the MSW charge at this stage under such circumstances. Mr Kenneth LAU and Mr LEUNG Kwok-hung also considered that existing waste recovery and recycling facilities insufficient to support waste reduction. Mr LEUNG Kwok-hung and Mr Nathan LAW further queried whether the recyclables collected at RBs were indeed reused or recycled eventually. Mr LEUNG Yiu-chung expressed concern about the unfairness for consumers to pay MSW charges for the waste passively generated from excessive packaging of the products they purchased. Mr Nathan LAW enquired about the measures and resources to support the recycling trade whose viability was often susceptible to the market prices of recyclables. Mr CHAN Hak-kan requested the Administration to provide more assistance to the recycling trade.

25. SEN explained that implementation of MSW charging was only the first step to motivate people to recycle more and discard less. Referring to the existing initiatives on recycling of glass containers, he said that the Administration had been co-ordinating the efforts of different works departments in using recycled glass materials in public works projects, while the producer responsibility scheme ("PRS") to be implemented in respect of glass beverage containers would help collect waste glass containers on a territory-wide scale. In promoting the concept of "recycling at home and work place", EPD, through the Environmental Campaign Committee and ECF, had been providing RBs to different residential, commercial and industrial buildings. The programme currently covered over 80% of Hong Kong's population. The Community Green Stations ("CGSs") being developed in each of the 18 districts also played an important role by recovering low-value recyclables from residents at the district level. SEN further said that government mobile apps were available for use by the public to locate recycling facilities in their vicinity. In response to the enquiry of Mr Kenneth LAU, SEN said that the Administration would continue to liaise with Heung Yee Kuk with a view to enhancing the recycling facilities in village-type Refuse Collection Points ("RCPs") along with the implementation of MSW charging.

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26. SEN supplemented that the recycling trade supported early implementation of MSW charging as it would be conducive to raising the commercial values of recyclables and promoting a sustainable development of the recycling industry. The introduction of charging scheme could also provide certainty to the recycling trade for making decisions to apply for the Recycling Fund to enhance their recycling capacities.

27. SEN further pointed out that while there was good market potential for recyclables of high commercial values, the Administration had been playing a greater role in the recovery of recyclables of low commercial values, in particular through the development of PRSs. As stated by the Chief Executive in his 2017 Policy Address, a feasibility study on how to implement a PRS targeting suitable plastic containers would be commissioned to further promote their recycling.

28. Mr CHAN Hak-kan and Mr WU Chi-wai opined that the MSW charges collected should be ploughed back to an account designated for initiatives related to waste management and recycling. Sharing similar views, Dr YIU Chung-yim and Mr HO Kai-ming opined that MSW charges received from residential buildings could be used to subsidize the relevant PMCs/households which had achieved waste reduction to purchase food waste recycling machines and other recycling facilities.

Design of refuse collection facilities

29. Mr CHU Hoi-dick enquired how the design and management of refuse collection facilities, in particular RCPs, would complement the implementation of MSW charging in future, such as whether preliminary treatment facilities for source separation and clean recycling of waste would be provided at RCPs. Besides, CGSs could complement the role of RCPs to create greater synergy for the charging scheme and waste recycling initiatives. Mr CHU also observed that there were limitations under existing legislation and contractual arrangements, which prohibited the recovery of recyclables from waste collected at RCPs before delivering the waste to landfills.

30. DDEP(4) advised that as in some other cities, implementation of waste charging was usually accompanied by a reduction in the number of litter containers ("LCs") to discourage abusive use of LCs to evade MSW charges, while the RBs to LCs ratio was increased. Having reviewed the current number and distribution of RBs and LCs, the Steering Group on the Modification of Recycling and Refuse Collection Facilities in Public Places chaired by SEN had endorsed the plan to reduce the number of LCs and increase the RBs to LCs ratio to complement the implementation of MSW charging. In addition, as recommended by SDC, MSW charging mechanism

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should be built upon the existing MSW collection and disposal system so as to minimize adverse impacts on environmental hygiene. On this premise, the Administration did not consider it necessary to revamp the design and function of refuse collection facilities at this stage. As regards CGSs, they were intended to facilitate recovery and recycling of low-value recyclables, and not as complementary facilities to RCPs.

Publicity and public education

31. Mr KWOK Wai-keung and Mr SHIU Ka-fai enquired about the Administration's efforts to raise public awareness and understanding of MSW charging so that the public would not be caught inadvertently by the relevant offences, and to assist the elderly to adapt to the scheme. SEN responded that the Administration would be mounting a major publicity campaign under the theme of "Dump Less, Save More". A dedicated website on MSW charging would be launched to publicize the scheme and related arrangements. The Administration would also strengthen their outreach service to help step up its efforts in promoting waste separation and clean recycling at source.

Concluding remarks

32. The Chairman said that while quantity-based MSW charging was affirmed as the broad direction, in view of its complexities and far-reaching implications, the Administration should continue its efforts in public education and resolving operational issues of MSW charging with a view to ensuring the smooth implementation of the scheme.

33. The Chairman suggested holding a further meeting to receive views from the public on the proposed implementation arrangements for MSW charging. Members supported the suggestion. The Chairman said that she would work out with the Clerk the date of the special meeting and inform members accordingly.

(Post-meeting note: With the concurrence of the Chairman, the special meeting to receive public views on the proposed implementation arrangements for MSW charging was scheduled for Monday, 29 May 2017 from 2:30 pm to 6:30 pm. The notice of the special meeting was issued to members vide LC Paper No. CB(1)828/16-17 on 18 April 2017.)

34. The Chairman further said that the Public Accounts Committee ("PAC") had issued a referral memorandum in February 2017 recommending the Panel to follow up on issues relating to the post-implementation review of the implementation of the policy framework for the management of MSW

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(2005-2014). The Administration was requested to report to the Panel on the progress of the matter in due course.

(Post-meeting note: The Administration advised that it had followed up the matter through issuing the letter dated 23 December 2016 (LC Paper No CB(1)372/16-17(01) issued on 28 December 2016). In the letter, the Administration updated the Panel on the implementation progress of the "Hong Kong: Blueprint for Sustainable Use of Resources 2013-2022" ("2013 Blueprint") in the context that the 2013 Blueprint represents continued refinement of the action plans and the timetables of the Administration's waste management initiatives under the 2005 Policy Framework. This is in line with the Administration's progress report to PAC dated 25 May 2016, and its previous written response to PAC dated 21 December 2015.)

V. Progress of Government's efforts on nature conservation and marine conservation and legislative proposal to phase out the local trade in ivory

(LC Paper No. CB(1)705/16-17(05) — Administration's paper on "Legislative proposal to phase out the local trade in ivory and progress of Government's efforts on nature conservation and marine conservation"

LC Paper No. CB(1)705/16-17(06) — Updated background brief on "Control of local trade in elephant ivory" prepared by the Legislative Council Secretariat

LC Paper No. CB(1)705/16-17(07) — Background brief on "Nature conservation in Hong Kong" prepared by the Legislative Council Secretariat

LC Paper No. CB(1)599/16-17(01) — Submission from 香港象牙合法持牌人聯會 regarding

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the Government's legislative proposal for phasing out the local trade in elephant ivory (Chinese version only)

- LC Paper No. CB(1)680/16-17(01) — Submission from Animals Asia Foundation (English version only)
- LC Paper No. CB(1)680/16-17(02) — Submission from WildAid Hong Kong Limited
- LC Paper No. CB(1)680/16-17(03) — Submission from David Shepherd Wildlife Foundation (English version only)
- LC Paper No. CB(1)680/16-17(04) — Submission from Zoe NG (English version only)
- LC Paper No. CB(1)680/16-17(05) — Submission from Darlene GARCIA (English version only)
- LC Paper No. CB(1)680/16-17(06) — Submission from Adele REYNOLDS (English version only)
- LC Paper No. CB(1)680/16-17(07) — Submission from Birgit HAMPL (English version only)
- LC Paper No. CB(1)691/16-17(01) — Submission from Environmental Investigation Agency (UK) Limited
- LC Paper No. CB(1)691/16-17(02) — Submission from Sharon HESFORD (English version only)

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- LC Paper No. CB(1)691/16-17(03) — Submission from Annie BEAL (English version only)
- LC Paper No. CB(1)691/16-17(04) — Submission from Sauvez-les-Elephants d'Afrique (France) (English version only)
- LC Paper No. CB(1)691/16-17(05) — Submission from Eleanore DOPPENBERG (English version only)
- LC Paper No. CB(1)691/16-17(06) — Submission from Iris KOCH (English version only)
- LC Paper No. CB(1)691/16-17(07) — Submission from Bastian WOLLANDT (English version only)
- LC Paper No. CB(1)691/16-17(08) — Submission from Tanja TELZEROW (English version only)
- LC Paper No. CB(1)691/16-17(09) — Submission from Jörn SCHAEFER (English version only)
- LC Paper No. CB(1)691/16-17(10) — Submission from Mandy MEIER (English version only)
- LC Paper No. CB(1)691/16-17(11) — Submission from Anja Elisabeth SEMLING (English version only)
- LC Paper No. CB(1)691/16-17(12) — Submission from Corina BRUTSCHER (English version only)
- LC Paper No. CB(1)691/16-17(13) — Submission from Ch Oliver SCHULZ (English version only)

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- LC Paper No. CB(1)691/16-17(14) — Submission from Alexandra MACKELS (English version only)
- LC Paper No. CB(1)691/16-17(15) — Submission from Nancy N (English version only)
- LC Paper No. CB(1)691/16-17(16) — Submission from Sabine FÖLSERL (English version only)
- LC Paper No. CB(1)691/16-17(17) — Submission from Alf DROSDZIOK (English version only)
- LC Paper No. CB(1)691/16-17(18) — Submission from Maximilian HELLEN (English version only)
- LC Paper No. CB(1)691/16-17(19) — Submission from Karen GABRIEL (English version only)
- LC Paper No. CB(1)691/16-17(20) — Submission from Corinna SCHULZ (English version only)
- LC Paper No. CB(1)691/16-17(21) — Submission from Verena BORSCHKE (English version only)
- LC Paper No. CB(1)691/16-17(22) — Submission from Bodhi KOHLER (English version only)
- LC Paper No. CB(1)691/16-17(23) — Submission from Marianne SCHMID (English version only)
- LC Paper No. CB(1)691/16-17(24) — Submission from Luise Frech and Family (English version only)

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- LC Paper No. CB(1)691/16-17(25) — Submission from Ulrike WEGNER (English version only)
- LC Paper No. CB(1)691/16-17(26) — Submission from Teresa BRADFORD (English version only)
- LC Paper No. CB(1)691/16-17(27) — Submission from Christian Nikolaus HABERL (English version only)
- LC Paper No. CB(1)691/16-17(28) — Submission from Pia SBRESNY (English version only)
- LC Paper No. CB(1)691/16-17(29) — Submission from Petra MITTELBACH (English version only)
- LC Paper No. CB(1)718/16-17(01) — A sample of 156 joint submissions from Sai Kung Cattle Concern (Chinese version only)
- LC Paper No. CB(1)718/16-17(02) — A sample of 27 almost identical submissions from members of the public (English version only)
- LC Paper No. CB(1)718/16-17(03) — Submission from Kadoorie Farm & Botanic Garden Corporation (English version only)
- LC Paper No. CB(1)718/16-17(04) — Joint submission from Pro Wildlife (English version only)
- LC Paper No. CB(1)718/16-17(05) — Submission from Vega HALL-MARTIN (English version only)

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- LC Paper No. CB(1)718/16-17(06) — Submission from World Wild Fund Hong Kong
- LC Paper No. CB(1)718/16-17(07) — Submission from Rettet die Elefanten Afrikas e.V. (English version only)
- LC Paper No. CB(1)718/16-17(08) — Submission from Humane Society International
- LC Paper No. CB(1)732/16-17(03) — Submission from Federation of Hong Kong Industries (Chinese version only)
- LC Paper No. CB(1)732/16-17(04) — Submission from Save African Rhino Foundation and Nicholas Duncan (English version only)
- LC Paper No. CB(1)732/16-17(05) — Submission from The Jane Goodall Institute (Chinese version only)
- LC Paper No. CB(1)732/16-17(06) — Submission from Diane SMITH (English version only)
- LC Paper No. CB(1)732/16-17(07) — Submission from Ocean Recovery Alliance (English version only)
- LC Paper No. CB(1)732/16-17(08) — Submission from The ADM Capital Foundation Limited (English version only)
- LC Paper No. CB(1)732/16-17(09) — Submission from Hong Kong Wildlife Trade Working Group (English version only)

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- LC Paper No. CB(1)732/16-17(10) — Submission from African Elephant Coalition (English version only)
- LC Paper No. CB(1)732/16-17(11) — Submission from The American Chamber of Commerce in Hong Kong (English version only)
- LC Paper No. CB(1)732/16-17(12) — Referral memorandum from the Public Complaints Office of the Legislative Council Secretariat in relation to the policy to phase out the local trade in ivory (Chinese version only) (Restricted to Members)

35. Members noted seven submissions tabled at the meeting.

(Post-meeting note: The tabled submissions were issued to members vide LC Paper Nos. CB(1)743 /16-17(11) to (17) on 27 March 2017.)

Briefing by the Administration

Legislative proposal to phase out the local trade in ivory

36. The Under Secretary for the Environment ("USEN") said that the legislative proposal included a three-step plan to phase out the local ivory trade with a view to imposing a total ban by the end of 2021 ("proposed total ban"), and increasing the penalties under the Protection of Endangered Species of Animals and Plants Ordinance (Cap. 586). She pointed out that the Mainland would start its first phase of ivory trade ban by the end of March 2017 and impose a total ban by the end of 2017.

37. Regarding the three-step plan to phase out the local ivory trade, the Assistant Director (Conservation) of Agriculture, Fisheries and Conservation ("AD(C)/AFCD") briefed members on (a) the existing control on the local ivory trade, (b) the findings of the ivory trade survey conducted by the Agriculture, Fisheries and Conservation Department ("AFCD") in early 2016, and (c) the proposed five-year grace period to allow ivory traders to dispose of the ivory in their possession, including both pre-Convention ivory (i.e. ivory acquired before the provisions of the Convention on International

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Trade in Endangered Species of Wild Fauna and Flora ("CITES") started to apply to ivory, the international trade of which was allowed when it was accompanied by a pre-Convention certificate) and post-Convention ivory, and/or to undergo business transformation before imposing the total ban.

Discussion

General

38. Dr Junius HO, Dr Elizabeth QUAT, Mr CHU Hoi-dick and Mr HUI Chi-fung expressed support in principle for the legislative proposal to phase out the local ivory trade. The Chairman stated that Members belonging to the Civic Party supported early implementation of the proposed total ban. She considered that the Administration should step up educational and publicity efforts to raise public awareness of the importance to protect endangered species including elephants and sharks, as well as enhance their understanding of the measures under the legislative proposal.

39. Dr Elizabeth QUAT recalled that a motion was passed at the meeting of the Legislative Council ("LegCo") in December 2015 urging the Government to, inter alia, take forward a total ban on the local ivory trade. Referring to the cruel process of hacking an elephant's face in order to extract the most valuable and thickest part of its tusks, and presenting a photograph of a faceless and dying elephant after poaching for its ivory, Dr QUAT considered it necessary for Hong Kong to assert international responsibility of protecting elephants and combating smuggling of illegal ivory by banning the local ivory trade without further delay. The Chairman shared Dr QUAT's views.

Possible impacts on ivory traders and compensation issue

40. Mr SHIU Ka-fai pointed out that the proposed total ban might affect the livelihood of local ivory craftsmen and the preservation of ivory crafting as a traditional Chinese craft. These craftsmen might rely solely on their ivory crafting skills to make a living, and the ivory in question might not have involved the poaching and killing of elephants. Mr SHIU also noted that some individuals investing in or trading ivory from legal sources had already suffered financial loss arising from the diminishing values of the ivory in their possession due to slackening of the ivory trade after announcement of the proposed total ban. To minimize the impact on the trade, he suggested the Administration make reference to the practice of some members of the European Union ("EU") and consider taking stock of and registering, say, all existing pre-Convention ivory in Hong Kong with a view to allowing the local trading of such ivory to continue, instead of imposing a

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total ban. Dr Junius HO opined that the Administration should strike a balance between protection of elephants and preservation of elephant ivory crafting. Dr Elizabeth QUAT observed that some countries including France, Germany, the Netherlands, Austria and Sweden, which were EU members, did not allow trading of ivory of any age.

41. The Deputy Director of Environmental Protection (2) ("DDEP(2)") responded that from the law enforcement perspective, it would be necessary to impose a total ban on the local ivory trade. This approach would dispense with the need to determine the age and hence the legality of the ivory that would otherwise be required if the ban was only imposed on ivory of certain age (e.g. post-Convention ivory). It was also in line with the international call for closure of domestic markets for ivory. In particular, a resolution was reached at the Seventeenth Meeting of the Conference of the Parties to CITES held in September to October 2016 recommending that all Parties and non-Parties in whose jurisdiction a legal domestic market for ivory existed that was contributing to elephant poaching or illegal ivory trade, should take all necessary legislative, regulatory and enforcement measures to close their domestic markets for commercial trade in raw and worked ivory as a matter of urgency.

42. AD(C)/AFCD supplemented that "antique ivory" was exempted from the proposed total ban. Antique ivory was defined, in the context of Hong Kong, as those ivory obtained before 1 July 1925, i.e. 50 years before CITES entered into force on 1 July 1975. When setting the reference date, the Administration had made reference to overseas practices, and taken into consideration various factors including the preservation of traditional ivory crafting works and enforcement facilitation.

43. Mr SHIU Ka-fai, Dr Junius HO and Mr Frankie YICK suggested the Administration consider, on the ground of protection of private ownership, compensating the traders affected by the proposed total ban. Dr Elizabeth QUAT expressed objection to the suggestion as it might encourage further smuggling of illegal ivory into Hong Kong. Mr HUI Chi-fung said that ivory trade had led to worldwide elephant poaching and posed a serious threat to the extinction of the elephant species. He was inclined to support the Administration's proposal not to provide compensation to the trade lest it might convey a wrong message to the community that the poaching of elephants for ivory was justified.

44. DDEP(2) responded that the Administration had considered the compensation issue from policy and legal perspectives. It should be noted that the proposed total ban did not involve confiscation of ivory and would not lead to immediate cessation of business of the traders concerned. Ivory

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owners could still possess ivory for non-commercial purposes. According to the ivory trade survey conducted in 2016, the ivory trade was generally inactive and the sale of ivory in general did not constitute a substantial part of the traders' business. Many ivory traders had already undergone business transformation or switched to the trading of other commodities not under CITES control such as mammoth ivory. In the light of the foregoing, the Administration considered it justified not to provide compensation to the trade in taking forward the proposed total ban. Besides, other jurisdictions which had banned the ivory trade did not provide compensation to the affected traders.

Length of grace period and enforcement

45. Dr Elizabeth QUAT and Mr LEUNG Yiu-chung expressed concerns that if Hong Kong was to put in place the proposed total ban much later than the Mainland and the international community, it would provide a front for illegal ivory in Hong Kong. Mr LEUNG also urged the Administration to impose heavier penalties to provide a sufficiently strong deterrent against illicit trade of wildlife including elephants, and step up education on wildlife conservation. The Chairman sought the Administration's assessment of the potential impact on Hong Kong arising from the total ivory trade ban to be implemented in the Mainland by the end of 2017.

46. USEN advised that the Administration aimed to introduce the Protection of Endangered Species of Animals and Plants (Amendment) Bill 2017 ("the Amendment Bill") into LegCo in June 2017 and if the amended legislation could take effect by the end of 2017, Step 2 of the three-step plan would commence in about March 2018 to ban all import and re-export of pre-Convention ivory except "antique ivory", and subject pre-Convention ivory in the local market to licensing control. AD(C)/AFCD said that AFCD had been stepping up enforcement actions against smuggling of illegal ivory and strengthened the control of local ivory trade in cooperation with the Customs and Excise Department ("C&ED"). In addition, AFCD had co-ordinated liaison with other international agencies, such as the International Criminal Police Organization, to conduct joint-operations and exchange intelligence information. AFCD and C&ED had also stepped up joint operations with the support of ivory sniffer dogs to target smuggling of ivory at various boundary control points. On the application of new technologies to assist enforcement, AFCD had recently started employing radiocarbon dating to determine the age and legality of ivory. AFCD had also stepped up publicity to increase public awareness of the actions and offences relating to illegal trading in ivory.

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47. Mr CHU Hoi-dick enquired whether the ivory trade was given advance alert of the Administration's plan to phase out the local ivory trade as early as when the international trade in ivory was banned since 1990, and if so, he considered that the traders should have had enough time to get prepared for the proposed total ban. He also sought the rationale for introducing a grace period and whether the grace period could be shortened, such as by way of introducing legislative amendments on the licensing control in respect of the import, re-export and domestic sale of ivory. Mr LEUNG Yiu-chung recalled that the Administration had actively assisted ivory traders to transform their business since the international trade ban, and the trade should have been aware of the strengthening of control in the local ivory trade for a long time. Dr Elizabeth QUAT requested the Administration to explain the reasons for setting the grace period at five years until 30 December 2021.

48. The Deputy Director of Agriculture, Fisheries and Conservation responded that no record was found to confirm whether the ivory trade had been informed of the Government's intention to phase out the local trade in ivory as early as when the international trade ban was imposed. However, AFCD had kept the trade updated since mid-2015 of the latest control on ivory and the three-step plan to phase out the local trade. The direction to further ban the import and export of ivory and phase out the local ivory trade was affirmed when the Chief Executive announced in the 2016 Policy Address that the Government would kick start relevant legislative procedures.

49. USEN advised that the Administration had sought legal opinion on whether the grace period could be shortened, and considered it prudent to impose the proposed total ban after all Possession Licences ("PLs") (i.e. licences issued by AFCD for keeping of post-Convention ivory for commercial purposes) had expired so as to avoid unnecessary legal actions. To pave way for the total ban, arrangements would be made so that no new or renewed PLs would be issued with a validity date on or beyond the effective date for the proposed total ban (i.e. 31 December 2021).

(To allow sufficient time for discussion, the Chairman extended the meeting for 10 minutes beyond the appointed ending time.)

Biodiversity Strategy and Action Plan

50. Noting that the Government had only earmarked \$150 million for taking forward the various initiatives under the Biodiversity Strategy and Action Plan ("BSAP") for Hong Kong from 2016 to 2019, Dr YIU Chung-yim commented that the resource support for promoting BSAP was grossly

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insufficient. He enquired whether the Administration would consider setting up a dedicated fund on BSAP, or introducing legislative amendments for implementing BSAP initiatives more expeditiously and effectively.

51. USEN explained that apart from the funding of \$150 million for AFCD to take forward the BSAP initiatives, separate funding would continue to be made available for conducting studies or implementing measures related to nature conservation such as designation of marine parks. The Environment and Conservation Fund also provided funding to support educational, research, and other projects and activities in relation to environmental and conservation matters. As stated in the 2017 Policy Address, the Government would establish a preparatory committee to study the ambit and modus operandi of a conservation fund to further promote the revitalization of remote rural areas, and to provide resources for implementing policy initiatives relating to the conservation of biodiversity in the rural areas.

52. AD(C)/AFCD advised that the \$150 million provided to AFCD would be used to take forward a series of measures to strengthen and promote conservation of biodiversity, and provide the requisite manpower resources. AFCD also provided subvention to non-governmental organizations to promote biodiversity to the public. USEN advised that BSAP outlined the strategy and actions that could be implemented expeditiously in the short term within the next five years for conserving local biodiversity and supporting sustainable development, and would not require legislative amendments at this stage.

Motion

53. The Chairman referred members to the following motion proposed by Mr LEUNG Yiu-Chung:

"香港作為全球象牙貿易活動的主要中轉站之一，象牙貿易一直存在極大法律漏洞，包括為非法象牙提供流入市場作合法買賣的掩護，再加上中國內地將於 2017 年年底全面禁止象牙買賣，屆時誓必進一步激化本地走私象牙行為；就此，本會促請政府盡快全面禁止本地象牙貿易，並加強打擊非法走私象牙活動，以保護瀕危絕種的非洲大象，有關措施包括：

- (一) 縮短法案建議的兩年寬限期，最遲在一年內全面禁止為商業目的管有任何象牙（確定屬於一九二五年或以前的古董象牙除外）；

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- (二) 加強針對走私象牙執法，並將違反香港法例第 586 章《保護瀕危動植物物種條例》的最高罰則劃一提升至十年刑期，以增加阻嚇作用；
- (三) 從「環境及自然保育基金」中增撥資源，推行有關《瀕危野生動植物種國際貿易公約》的公眾教育工作，以提高本港社會對瀕危動物的認識。

(Translation)

With Hong Kong being one of the major transit points for global trading activities of elephant ivory ("ivory"), there have been enormous legal loopholes in the local ivory trade which, inter alia, provides a cover for illegal ivory to enter the local market for legal trading. In addition, Mainland China will impose a total ban on ivory trading by the end of 2017, which is bound to intensify ivory smuggling locally by then. In this connection, this Panel urges the Government to expeditiously impose a total ban on the local ivory trade and strengthen efforts to combat illicit ivory smuggling activities so as to protect African elephants which are under the threat of extinction. Measures to be taken should include:

- (1) shortening the grace period of two years to be proposed in the Bill and imposing a total ban within one year at the latest on the possession for commercial purposes of all ivory (except antique ivory confirmed to be of the year 1925 or before);
- (2) stepping up enforcement efforts against ivory smuggling and raising the maximum penalties for contravening the Protection of Endangered Species of Animals and Plants Ordinance (Cap. 586) to 10 years across the board to enhance the deterrent effect; and
- (3) allocating additional funding from the Environment and Conservation Fund for carrying out public education work relating to the Convention on International Trade in Endangered Species of Wild Fauna and Flora with a view to raising awareness of endangered animals among the local community.

54. The Chairman decided that the proposed motion was directly related to the agenda item. Mr LEUNG Yiu-chung said that a typo was identified in paragraph (1) of the proposed motion, i.e. the grace period should be five years instead of two years. In response to the enquiries from the Chairman and Mr LEUNG, USEN explained the legislative timetable of the

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three-step plan to phase out the local ivory trade. Noting USEN's explanation, Mr LEUNG withdrew the proposed motion.

Way forward

55. Mr SHIU Ka-fai and Mr Frankie YICK suggested holding a special meeting to receive public views on the legislative proposal before gazettal of the Amendment Bill in June 2017. Members agreed. The Chairman said that she would work out with the Clerk the date of the special meeting and inform members accordingly.

(Post-meeting note: With the concurrence of the Chairman, the special meeting to receive public views on the legislative proposal to phase out the local trade in ivory was scheduled for Tuesday, 6 June 2017 from 2:30 pm to 6:30 pm. The notice of the special meeting was issued to members vide LC Paper No. CB(1)850/16-17 on 20 April 2017.)

VI. Any other business

56. There being no other business, the meeting ended at 5:08 pm.

Council Business Division 1
Legislative Council Secretariat
10 July 2017