

## **Product Eco-responsibility Bill**

### **The Administration's Response on the Issues of Legislative Approach and Vetting of Subsidiary Legislation**

#### **Legislative Approach**

##### ***The framework and how new PRS's are to be introduced***

As stated in the "Policy Framework for the Management of Municipal Solid Waste (2005-2014)" (the Policy Framework), the introduction of producer responsibility schemes (PRS's) is an integral part of the Administration's overall waste management strategy to promote the reduction, recovery and recycling of waste. The Administration's proposal seeks to provide the necessary legal framework for the implementation of PRS's through the enactment of the Product Eco-responsibility Bill (PER Bill).

2. As a piece of framework legislation, the PER Bill contains a purpose clause to set out the objectives and the intended coverage of the Bill. The Bill also provides for enforcement powers and an appeal mechanism, which can be applied (with or without modification as appropriate) to other PRS's when introduced under the legislation in future. While the purpose clause states clearly the objective of the Bill to introduce PRS's as an overall policy measure to promote waste reduction, recovery and recycling, the PER Bill is drafted in such a way that the essential regulatory measures of each statutory PRS must be set out in the Bill itself.

3. The Administration agrees with Members that all PRS's contain policy and administrative details, which must be developed in consultation with the relevant stakeholders and be subject to the full scrutiny of the Legislative Council (LegCo). Under the proposed framework legislation, each and every PRS must be implemented through amendments to the principal Ordinance (if enacted). The PER Bill does not contain any provision that will empower the Secretary for the Environment to introduce a new PRS through subsidiary legislation. In the case of plastic shopping bags, the Administration has already set out

the regulatory scheme in Part 3 of the PER Bill for LegCo's scrutiny. For other statutory PRS's to be introduced in future, the Administration must add them as new provisions (to be numbered as Part 4 onwards) to the principal Ordinance (if enacted) through amendment bills. The LegCo Panel on Environmental Affairs (EAP) will be consulted prior to the introduction of such amendment bills, and the prevailing scrutiny process for amendment bills will apply. It involves, amongst other procedures, the formation of Bills Committee at Members' decision and the requirement of three readings for their passage by the LegCo.

4. In adopting the current legislative approach, the Administration has taken on board the views expressed by Members of the EAP, green groups and other stakeholders. While there were views that the future legislation should allow for introduction of mandatory PRS's as an integral part of the waste management strategy, the importance of ensuring that detailed mechanism on individual PRS's should be subject to the thorough and transparent deliberation of the LegCo was highlighted. The current legislative approach strikes the right balance between the need for LegCo to closely examine each and every PRS and the need to implement PRS's as an integral package.

5. To address Members' concern over the scrutiny role of the LegCo, the Secretary for the Environment will clearly state in his speech at the resumption of second reading that all new statutory PRS's in respect of other products would be developed in consultation with the relevant stakeholders and the LegCo, and they would be implemented through amendments to the principal Ordinance.

6. In fact, the current legislative approach had already been set out in the EAP Paper on "A Proposal on An Environmental Levy on Plastic Shopping Bags" (**Annex A; paragraphs 16 - 17**) in May 2007, as well as in the follow-up paper on the public consultation report (**Annex B; paragraph 35**) in September 2007, to which Panel Members noted and did not raise any specific comments. In response to enquiries from the Assistant Legal Advisor, the Administration has also provided supplementary information on the "framework" legislative approach in January 2008 (LC Paper No. CB(1)657/07-08(03)) and March 2008 (LC Paper No. CB(1)1032/07-08(02)).

### ***General provisions – enforcement***

7. Some Members have earlier raised concerns over the enforcement powers proposed in the PER Bill, for instance, whether the power to enter and search non-domestic premises without warrant in clause 8 is proportionate with the enforcement requirement for the proposed environmental levy on plastic shopping bags. The Administration would like to point out that under the proposed PRS on plastic shopping bags, there are offences for breaching various provisions, ranging from free distribution of plastic shopping bags to fraudulent cases in reporting of environmental levy. It is necessary to confer powers on authorized officers to enforce these provisions. Furthermore, the power of entry and search can only be exercised in specific and defined circumstances, i.e. only when an authorized officer has a reasonable belief that an offence has been or is being committed in that place, or there is evidence related to an offence in that place. Similar powers can also be found in other environmental legislation where effective enforcement is warranted, such as the Air Pollution Control Ordinance (Cap. 311), the Noise Control Ordinance (Cap. 400) and the Environmental Impact Assessment Ordinance (Cap. 499). The Administration would welcome further deliberations on the enforcement powers in the Bill at the stage of clause-by-clause examination. We consider these powers are both necessary for enforcing the legislation; and appropriate with regard to the enforcement action required.

### ***Overall waste management strategy***

8. In parallel with the introduction of PRS's, the Administration is pressing ahead with other waste reduction, recovery and recycling initiatives in the Policy Framework, including territory-wide roll out of the source separation of waste programme, support to environmental industry through the provision of the necessary infrastructure and various funding schemes, and sustained public education to promote green lifestyle. PRS's are both instrumental and part and parcel of the overall waste management strategy and require legislative underpinning. In the light of the general public support on PRS's, particularly with respect to plastic shopping bags, the Administration sees an imminent need for the Bill to be enacted. We urge Members to accord priority to facilitate the passage of the PER Bill.

### **Vetting of Subsidiary Legislation**

9. Under the PER Bill, there are two sets of scenarios involving

negative vetting procedure provided in section 34 of the Interpretation and General Clauses Ordinance (Cap. 1) –

- (a) clauses 18(4) and 19(2) empower the Secretary for the Environment to amend, by order published in the Gazette after consultation with the Advisory Council on the Environment (ACE), Schedules 1, 2, 3 and 4, which deal with the meaning of plastic shopping bags, the exempted bags, the levy to be imposed, and the scope of prescribed retailers to which the PRS is applied; and
- (b) clause 27 empowers the Secretary for the Environment to make regulation to deal with the operational details of the environmental levy scheme (with clause 5 supplementing the regulation-making provisions).

10. As stated in LC Paper No. CB(1)1117/07-08(02), Schedules 1, 2, 3 and 4 to the Bill set out the details of the proposed environmental levy on plastic shopping bags. These Schedules are introduced as part of the overall regulatory framework under the Bill, which will be subject to the scrutiny and approval of the LegCo in the first place. Furthermore, the provisions of the main body of the Bill have already set out the parameters within which the Secretary has to be guided in exercising the proposed power in future to amend the Schedules. Taking reference from similar provisions in other environmental legislation, the Administration considers it appropriate to subject such amendments to negative vetting.

11. As regards the regulation to be made under clause 27, given that the substantive regulatory provisions for the levy on plastic shopping bags are already incorporated in the Bill itself, the regulation would only deal with operational details of the PRS for plastic shopping bags, such as registrations, returns, payments and record-keeping. In line with the usual practice in other environmental legislation, the Administration considers that negative vetting of subsidiary legislation on such procedural matters should suffice.

12. Nevertheless, the Administration has taken note of Members'

demand for sufficient time to scrutinize the matters to be provided in the regulation made under clause 27 and the future amendments to the Schedules. The Administration is prepared to review the case for positive vetting arrangement for individual provisions, where justified, at the stage of clause-by-clause examination.

Environmental Protection Department  
April 2008

**For discussion on  
28 May 2007**

**LEGISLATIVE COUNCIL  
PANEL ON ENVIRONMENTAL AFFAIRS**

**A Proposal on An  
Environmental Levy on Plastic Shopping Bags**

**PURPOSE**

This paper consults Members on a proposal on an environmental levy on plastic shopping bags.

**BACKGROUND**

2. Hong Kong is facing an imminent and serious waste problem. The Government's "First Sustainable Development Strategy for Hong Kong" has recommended, amongst others, to implement the "polluter pays" principle to tackle the waste problem. Among these wastes, over eight billion plastic shopping bags are disposed of at our landfills every year. This translates into more than three plastic shopping bags per person per day, which is much higher than the figures of developed economies overseas<sup>1</sup>. We consider that the "abuse" of plastic shopping bags can be effectively addressed in accordance with the "polluter pays" principle.

**THE PROPOSAL**

***An Environmental Levy***

3. As foreshadowed in the "Policy Framework for the Management of Municipal Solid Waste (2005-2014)", we propose to introduce a producer responsibility scheme (PRS) on plastic shopping bags, which would involve an environmental levy. Retailers covered by

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<sup>1</sup> The figures of developed economies overseas are usually in the range of one to two plastic shopping bags per person per day.

the scheme will no longer be allowed to give out free plastic shopping bags; and their customers must pay an environmental levy for each plastic shopping bag they ask for.

4. The proposed environmental levy would create a direct economic incentive to encourage consumers to switch to reusable shopping bags and reduce the indiscriminate use of plastic shopping bags. The proposed environmental levy will also serve as a constant reminder to the public of their “eco-responsibility”. This approach has been adopted in Ireland and in Taiwan, where a reduction in the use of plastic shopping bags by about 90% and 80% respectively was recorded in the first year of implementation. The “No Plastic Bag Day” campaign<sup>2</sup> supported by the Environmental Protection Department (EPD) in the past year further confirms that an environmental levy is workable and effective in reducing the use of plastic shopping bags.

### ***The Level***

5. We propose to fix the environmental levy initially at 50 cents for each plastic shopping bag. In a public opinion survey on the “usage of plastic shopping bags” conducted in 2006, more than 85% of respondents said that they would reduce the use of plastic shopping bags if an environmental levy of 50 cents was imposed. In addition, the result of the “No Plastic Bag Day” campaign indicates that a voluntary charge of 50 cents could lead to a drop in plastic shopping bag usage by up to 54% at participating retail chains. We consider that a levy of 50 cents would create a sufficient incentive to reduce the use of plastic shopping bags, while not exceeding a level generally accepted by the public.

### ***The Scope***

6. There are some 55,000 retail outlets in Hong Kong. We consider that it is *not* feasible from the outset to impose a blanket requirement of plastic shopping bag levy on all retail outlets. To ensure a successful introduction of the levy and an effective administration of the scheme, we propose to adopt a phased approach by first covering chain or large supermarkets, convenience stores and personal health and beauty stores. According to our landfill survey, while chain or large

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<sup>2</sup> The “No Plastic Bag Day” campaign was co-organized by major green groups with the support of EPD between June and December 2006. On designated “No Plastic Bag Day” (i.e. the first Tuesday of each month), participating retail chains would not proactively give out plastic shopping bags and would encourage customers to donate 50 cents for each plastic shopping bag.

supermarkets, convenience stores and personal health and beauty stores make up less than 4% of our retail outlets, more than 20% of plastic shopping bags in our landfills are originated from these retailers. We therefore consider that we could achieve more prominent reduction by first covering these retailers.

7. There are no precise legal definitions for chain or large supermarkets, convenience stores and personal health and beauty stores, even though they are generally well-recognized by the public. To facilitate compliance and enforcement, we propose to apply the environmental levy on a person<sup>3</sup> (“relevant retailer” hereafter) who carries on a retail business in Hong Kong that -

(a) offers for sale at the same time the following three categories of products -

- (i) food and beverages, including confectionery or snacks;
- (ii) non-prescribed medicine, first-aid items and dietary or herbal supplements; and
- (iii) personal hygiene and beauty products, including soaps, shampoo, tooth paste, tissues, cosmetics, perfumes, hairstyling and shaving products, etc.;

and

(b) either has two or more retail outlets owned or controlled<sup>4</sup> by that person (including franchisers), regardless of size; or has a single retail outlet with a retail floor area<sup>5</sup> of not less than 200 square metres.

8. The proposed definition will mean that small-scale, individual neighbourhood retail stores that offer a wide range of products for sale will not be covered in the scheme. We preliminarily estimate that some 70-100 retailers with about 2,000 outlets would fall within our proposed definition. We would continue our voluntary efforts to promote plastic shopping bag reduction at retailers not yet covered by the

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<sup>3</sup> A “person” also includes a corporation or a partnership.

<sup>4</sup> A person is controlling a retail outlet if he has the power to determine the types of products offered for sale at the outlet and their selling prices, and is either the landlord or tenant of the premise in which the outlet operates.

<sup>5</sup> “Retail floor area” refers to all permanent built-up enclosed space available at the outlet, whether owned or leased, which are accessible by customers, including space for display of goods, passage ways and cashiers, but excluding storage space and offices for the use of staff only.



scheme.

9. Through the introduction of the environmental levy and with our continuing voluntary efforts, we consider that it will help change the public's habit and lead to a longer-term and more sustained reduction in overall plastic shopping bag usage. After we have gained experience in running this scheme, we will review whether and how to expand the environmental levy to other retail outlets.

### ***Bags subject to the Environmental Levy***

10. We propose that the environmental levy will apply to plastic shopping bags as defined as bags that -

- (a) are made wholly or predominantly of plastic; and
- (b) have carrying handles, holes or strings.

The proposed criteria primarily target those plastic shopping bags commonly distributed at the cashier counters of "relevant retailers". In accordance with the definition above, plastic bags with no carrying handles, holes or strings that are commonly offered at supermarkets for wrapping unpackaged fresh food would *not* be caught under the scheme as the usage of such bags is justified on the grounds of public hygiene. Sealed plastic bags applied before goods are offered for sale (e.g. boxes of tissues) and plastic bags sold as packaging materials (e.g. sandwich bags) or bin liners would also *not* be caught under the scheme as they are not plastic *shopping* bags distributed by "relevant retailers" for free. Since the proposed environmental levy aims to address the problem of indiscriminate use, reusable shopping bags (e.g. environmentally friendly bags made of plastic) sold for \$5.00 or more each would be exempted, as such reusable shopping bags already carry a price and would be used and re-used productively.

11. Some people have proposed exemption of degradable plastic shopping bags from the environmental levy. We do not support this proposal, as our key objective is to reduce the indiscriminate use of plastic shopping bags. The disposal of degradable plastic shopping bags has its own environmental impact, and imposes further pressure on our landfills. The best solution to our waste problem is, therefore, to bring our own reusable shopping bags at all time and avoid plastic shopping bags at source.

### ***The Administration of the Scheme***

12. The EPD will administer and enforce the whole scheme. “Relevant retailers” are required to register with EPD and to charge their customers the environmental levy in full. The amount of the environmental levy should be explicitly made known to the customers on receipts. EPD would carry out front-line enforcement to ensure the environmental levy is fully passed on to the customers. To allow for subsequent audits by EPD, “relevant retailers” must keep true and sufficient records on the amount of plastic shopping bags acquired and the amount of levy collected. “Relevant retailers” are also required to submit returns and transmit the levy collected to EPD on a quarterly basis. If “relevant retailers” fail to furnish a return timely or EPD has reasons to believe that the amount of levy payable on the return is under-reported, EPD may estimate the amount of levy payable and serve an assessment notice to the retailer concerned. A statutory appeal board will be established to consider appeals against decisions made by EPD on, for example, the estimated amount of levy payable by “relevant retailers”.

## **IMPACT OF THE PROPOSAL**

13. With the introduction of the environmental levy, we envisage the number of plastic shopping bags distributed from chain or large supermarkets, convenience stores and personal health and beauty stores will be reduced by close to 1 billion from the current figure of more than 1.8 billion. It is equivalent to some 50% reduction of plastic shopping bags at “relevant retailers”. The reduction in plastic shopping bags also represents a saving of raw materials, as well as the energy and transport costs involved in their production.

14. Based on the estimated 50% reduction in the use of plastic shopping bags in chain or large supermarkets, convenience stores and personal health and beauty stores and some 50% allowance for plastic bags for packaging fresh food, the environmental levy could generate up to \$200 million a year. The experience in Ireland suggests that the use of plastic shopping bags could experience significant drop initially (i.e. more than 90%), and as such, the environmental levy collected for the first few years could be significantly less than \$200 million per year.

## **COMMITMENT ON ENVIRONMENTAL PROTECTION**

15. The Administration is committed to environmental protection, which requires close partnership with the community at large. With the introduction of the environmental levy, we pledge to further strengthen our efforts in this regard. In particular, we are committed to

promoting environmental awareness in the community and solving our waste problem in the long term through the Environment and Conservation Fund, strengthened cooperation between District Councils and Home Affairs Department on district-based environmental activities and investment in waste management infrastructure.

## **WAY FORWARD**

### ***The Product Eco-responsibility Bill***

16. We consulted the Panel on the proposed legislation for the implementation of the PRSs (*LC Paper No. CB(1) 1300/05-06(04)*) in April 2006. It remains our plan to provide for the legal basis of all the PRSs under one piece of primary legislation, namely the Product Eco-responsibility (PER) Bill, which will allow us the flexibility of introducing individual PRSs as and when appropriate. Yet, taking into account the comments from Members, as well as the experience in local and overseas waste management legislation, we now propose to set out the essential elements of individual PRSs in the main ordinance and to provide for the implementation and operational details in the subsidiary legislation.

17. On this basis, we propose that the tentative body of the PER Bill would set out the purpose of the legislation; the types of products and materials intended to be covered; the major regulatory measures of the PRS on plastic shopping bags such as the imposition of the environmental levy, the definitions of plastic shopping bags, the requirements of registration, return submissions and record-keeping; the enforcement powers of the Director of Environmental Protection and authorized officers; the penalties for different offences; and an appeal mechanism against the decisions of the Director of Environmental Protection or authorized officers. The Bill will also allow the Chief Executive in Council to provide for the definition of “relevant retailers” to which the levy will apply and the implementation and operational details of the PRS on plastic shopping bags, such as the time and methods of registration, the time and methods of submitting returns, the records to be kept, etc. through subsidiary legislation. In the future when we have firmed up the details of other PRSs, new parts will be added to the main ordinance through amendment bills to provide for the essential elements of these PRSs. Again, subsidiary legislation will be made for the implementation and operational details of the new PRSs.

18. In the coming two months, we will widely consult the public

and discuss the implementation details with the trade and other stakeholders so as to prepare for the drafting of the Bill and its subsidiary legislation.

### **ADVICE SOUGHT**

19. Members are invited to comment on the proposal and the way forward.

Environmental Protection Department  
May 2007

## Legislative Council Panel on Environmental Affairs

### Public Consultation Report on the Proposal on An Environmental Levy on Plastic Shopping Bags

#### PURPOSE

This paper presents the results of the public consultation on the proposal on an environmental levy on plastic shopping bags, and the proposed way forward.

#### BACKGROUND

2. The Environmental Protection Department (EPD) launched a public consultation on a proposal on an environmental levy on plastic shopping bags on 28 May 2007. The objective of the proposal is to reduce the indiscriminate use of plastic shopping bags through an economic disincentive. The proposal involves a phased introduction of an environmental levy of 50 cents on each plastic shopping bag distributed at retailers, with the first phase covering chain or large supermarkets, convenience stores and personal health and beauty stores. It is estimated that close to one billion plastic shopping bags could be saved each year with the introduction of the environmental levy. The public consultation lasted for about two months and ended on 31 July 2007.

#### PUBLIC CONSULTATION

3. The public consultation exercise adopted a multi-pronged approach, involving i) public opinion survey; ii) meetings of the Legislative Council (LegCo) Panel on Environmental Affairs, the Advisory Council on the Environment, the District Councils and the Green Group Liaison Committee; iii) Public Affairs Forum under the Home Affairs Bureau; iv) consultation sessions with major stakeholders, including plastic bag manufacturers, retailers and relevant trade associations; v) public forum; and vi) dedicated website, email and fax for written submissions.

4. A list of meetings, consultation sessions and public forum and a list of written submissions received during the public consultation period are at **Annex A** and **Annex B** respectively.

## ***General Public***

5. The Center of Communication Research of the Chinese University of Hong Kong was commissioned to conduct a public opinion survey on the proposal on an environmental levy on plastic shopping bags during the public consultation period. The survey was carried out in the period of 28 - 29 June and 2 - 4 July, with 1,102 telephone interviews successfully conducted.

6. Nearly 90% of the respondents of the survey agreed that there was room to reduce the use of plastic shopping bags in their daily life. 84% and 66% of the respondents supported the implementation of the "polluter pays" principle and the introduction of the environmental levy on plastic shopping bags respectively.

7. Among the respondents who supported the introduction of the environmental levy, 76% of them considered that a levy of 50 cents or more would be effective in discouraging the use of plastic shopping bags, and close to 80% said that they would reduce the use of plastic shopping bags or bring their own shopping bags more often if a levy of 50 cents was introduced. Close to 85% of the respondents, who supported the introduction of the environmental levy, also supported a phased approach. Among those who supported a phased approach, more than 95% of them agreed that supermarkets, convenience stores and personal health and beauty stores should be covered in the first phase. The key findings of the public opinion survey are further set out at **Annex C**.

8. We also consulted the Chairmen and Vice-Chairmen of the District Councils at their monthly meeting on 21 June. Most of the Chairmen and Vice-Chairmen spoke in support of the environmental levy. Upon invitation, we also joined the meeting of Wan Chai District Council on 17 July, and Members were generally supportive of the levy. In addition, we made use of the Public Affairs Forum under the Home Affairs Bureau to solicit views from some 500 Forum members. The majority of the views expressed was in support of the proposal.

9. Notwithstanding the general public consensus, some members of the public considered that the proposed environmental levy amounted to a penalty, and could be a burden upon the underprivileged. Some considered that most of the plastic shopping bags had already been productively reused as garbage bags or packaging bags. Some suggested that the Government should encourage the use of degradable

plastic shopping bags instead. Others suggested that the Government should strengthen public education and further work with retailers on the reduction, reuse and recovery of plastic shopping bags on a voluntary basis.

### ***Legislative Council***

10. The LegCo Panel on Environmental Affairs discussed the proposed environmental levy at its meetings on 28 May and 16 July. The meeting on 16 July was open for deputations. The majority of political parties, as well as the deputations, spoke in support of the environmental levy. They considered that the environmental levy was in line with the principle of "polluter pays", and given the seriousness of plastic shopping bag abuse, it should be implemented as soon as practicable. Regarding the details of the proposal, some considered that the environmental levy collected should be deposited into an environmental fund to support environmental projects, while others suggested that the levy should be lowered to 10 to 20 cents so as to reduce its impact on the underprivileged.

11. While not opposing the introduction of the environmental levy in principle, a political party suggested that the voluntary efforts on plastic shopping bag reduction should be strengthened and continued for another two years, before considering the need to introduce an environmental levy. The party was also concerned that environmental levies, or producer responsibility schemes in general, could become another form of Goods and Services Tax and add undue burden to the trade and the public. The administrative costs of the proposed environmental levy might also add to the burden of small and medium enterprises.

### ***Advisory Council on the Environment***

12. The Advisory Council on the Environment, as well as its Waste Management Subcommittee, supported the Administration's proposal and considered that it should be implemented as soon as possible. The Council also accepted that the scheme, being the first phase in the introduction of producer responsibility schemes (PRS) in Hong Kong, should be simple and easy to administer such that it could get off the ground smoothly. The Council encouraged the Administration to review the scheme in a year's time, and consideration should be given to extending the scheme to other retail outlets so as to realize more environmental benefits and foster a level-playing field in the affected business sector.

### ***Plastic Bag Manufacturers***

13. Plastic bag manufacturers, as represented by the Hong Kong Plastic Bags Manufacturers' Association, opposed the proposed environmental levy on plastic shopping bags. They considered that plastic shopping bags were more environmentally friendly than other single-use carriers, such as paper bags. They also considered that plastic bags were productively reused by the general public and could be recycled if properly sorted. They questioned the effectiveness of the scheme in waste reduction, given the limited amount of plastic shopping bags disposed of at the landfills and the apparent risk of switching to other single-use carriers.

### ***Retailers***

14. The retail trade, as represented by the Hong Kong Retail Management Association, opposed the proposed environmental levy. They considered that chain and large supermarkets, convenience stores and personal health and beauty stores were being *unfairly* targeted under the proposal. They claimed that these major retailers only contributed to a small part of the problem, and had done the most in reducing plastic shopping bags on a voluntary basis. The retail trade also questioned the effectiveness of the proposal given the limited coverage initially and the risk of switching to other single-use carriers or other free sources of plastic shopping bags. They also had doubts on the success of overseas experience. The affected retailers disputed the figures of the landfill survey, which attributed some 20% of plastic shopping bags to them. The retail trade suggested that the Government should continue with voluntary initiatives on plastic shopping bag reduction.

### ***Green Groups and Other Organizations***

15. Green groups supported the proposed environmental levy. Yet, there were slightly different views on the details of the proposal, especially on the use of the levy. The majority of written submissions from other organizations also supported the environmental levy in principle, though there were some dissenting views on the effectiveness and long-term benefits of the proposed levy.



## **ADMINISTRATION'S RESPONSE TO THE VIEWS RECEIVED**

16. We are very much encouraged by the overwhelming support of the respondents on our proposed initiatives to address our waste problems. We are also delighted to note that the public generally agree with the implementation of the "polluter pays" principle. The public consultation exercise has shown that there is a broad-based support from members of the LegCo, the Advisory Council on the Environment, the District Councils and the public on the proposed environmental levy on plastic shopping bags.

17. Notwithstanding the broad consensus, we are aware of the concerns frequently raised by those who have expressed reservations with our proposal. In particular, some challenge the objective of the proposal. They question why plastic bag should be targeted and whether the proposed levy is a disguised move by the Government to raise revenue. Some cast doubts on the effectiveness of our proposal and similar levy schemes introduced in other economies upon reduction in plastic shopping bag waste, and call on the Government to continue with voluntary initiatives. Among those who support our proposal, there are also frequent requests for the Government to use the levy collected for environmental purposes, to promote the use of degradable plastic bags and to step up recycling of plastic shopping bags. There have also been request for the Government to release the consultancy study conducted by GHK (Hong Kong) Limited (GHK). We would take this opportunity to respond to these comments and concerns.

### ***Objective of the Proposal***

18. It is universally accepted that usage of plastic bags is a common and in certain situation, necessary practice. The problem lies in the fact that we have been disposing of more than three plastic shopping bags per person per day. The core objective of our proposal is to reduce the *indiscriminate use* of plastic shopping bags affirmatively and effectively.

19. It has *never* been our intention to raise public revenue through the environmental levy. The environmental levy serves solely as an economic incentive to encourage the public to bring their own shopping bags and reduce the use of plastic shopping bags. The fewer plastic shopping bags the public use, the less revenue the levy generates. In fact, the public can, and should, avoid the environmental levy entirely by bringing their own shopping bags at all time.

### ***Effectiveness of the Proposal***

20. The effectiveness of our proposal should be measured against its objective, i.e. to reduce the indiscriminate use of plastic shopping bags. In this regard, we estimate that close to one billion plastic shopping bags could be saved each year with the introduction of the environmental levy.

21. There have been some concerns that as most people would reuse their plastic shopping bags as garbage bags, the proposed environmental levy could result in “switching” to bin liners, thus leading to an overall increase in plastic waste. In the case of Ireland, even though the environmental levy resulted in more frequent use of bin liners, there was still an overall reduction of 77% in the combined use of plastic shopping bags and bin liners. Given the extent of the indiscriminate use of plastic shopping bags in Hong Kong, there would still be ample scope for reusing plastic shopping bags as bin liners after the introduction of the proposed environmental levy.

22. Notwithstanding the above, we are mindful of the risk of “switching” to other single-use carriers, such as paper bags. We have, therefore, proposed a phased approach by first introducing the environmental levy at chain or large supermarkets, convenience stores and personal health and beauty stores. Given the nature of the products offered by these retailers and the shopping habits of Hong Kong people, the risk of “switching” to paper bags at these retailers is considered low. Yet, we will closely monitor the situation, and address any side effects that may arise. We have also undertaken to review the scheme after a year of implementation. The coverage of the scheme, in terms of both the types of retailers and the types of carriers, could be adjusted or expanded if considered appropriate.

### ***Overseas Experience***

23. Contrary to the claims propagated by interested parties, the overseas experience on environmental levy has largely been successful. Ireland introduced an environmental levy of EUR 15 cents (HK\$ 1.5) on plastic shopping bags at the retail level in March 2002. The plastic shopping bag usage dropped by 95% in the first year of implementation.

In subsequent years, the usage slightly rebounded, but was still 90% below the pre-levy level<sup>1</sup>. As stated above, even taking into account of more frequent use of bin liners, there was still an overall reduction of 77% in the combined use of plastic shopping bags and bin liners. To maintain the effectiveness of the levy, Ireland has revised the levy upwards to EUR 0.22 (HK\$ 2.2) in July 2007.

24. Taiwan introduced its “Restricted Use Policy on Plastic Shopping Bags” in 2002, which involved i) a ban on plastic shopping bags with thickness less than 0.06 mm; and ii) an environmental levy at the retail level. After the introduction of the levy, the plastic shopping bag usage dropped by 80% in the first year, but slightly rebounded subsequently<sup>2</sup>. The ban on “thin” plastic shopping bags has led to an increase in plastic bag waste in certain sector where plastic shopping bags are necessary. The Taiwan Environmental Protection Agency had therefore exempted restaurants with storefronts from the scheme since June 2006. Given the experience of Taiwan, we propose that we should adopt a phased approach, and review the scheme after a year of implementation.

25. Back in January 2005, the San Francisco City Government proposed to introduce an environmental levy of US\$ 17 cents (HK\$ 1.30) to reduce the use of plastic shopping bag. The proposal was withdrawn due to the objection from the trade. Instead, the City Government signed a voluntary agreement with major supermarkets in November 2005 to reduce 10 million plastic bags by December 2006<sup>3</sup>. Yet, it was reported that the target was not met<sup>4</sup>. In March 2007, a piece of legislation was passed to ban the use of conventional plastic shopping bags and to mandate the use of recyclable paper bags, compostable plastic bags or reusable checkout bags at supermarkets and pharmacies<sup>5</sup>.

### ***Voluntary Efforts***

26. Our voluntary efforts on plastic shopping bag reduction started in as early as 1993 with the launch of the “Bring Your Own Bags (BYOB)” campaign. Yet, the indiscriminate use of plastic shopping bags remains a prominent environmental problem as of today. We consider, and the public generally agree, that it is time for a more decisive action by

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<sup>1</sup> <http://www.environ.ie/en/Environment/Waste/PlasticBags/News/MainBody,3199,en.htm>

<sup>2</sup> <http://ww2.epa.gov.tw/enews/Newsdetail.asp?InputTime=0920627163727>

<sup>3</sup> [http://www.sfenvironment.org/our\\_sfenvironment/press\\_releases.html?topic=details&ni=118](http://www.sfenvironment.org/our_sfenvironment/press_releases.html?topic=details&ni=118)

<sup>4</sup> [http://www.sfenvironment.org/our\\_sfenvironment/news.html?topic=details&ni=32](http://www.sfenvironment.org/our_sfenvironment/news.html?topic=details&ni=32)

<sup>5</sup> <http://www.sfgov.org/site/uploadedfiles/bdsupvrs/ordinances07/o0081-07.pdf>

introducing the proposed environmental levy. The levy would work hand-in-hand with our continuing voluntary efforts to achieve a more reasonable use of plastic shopping bags.

### ***Use of the Levy***

27. As stated above, the objective of the proposal is to reduce the indiscriminate use of plastic shopping bags through an economic disincentive. We concur with the views of the Advisory Council on the Environment that it would be undesirable to associate the environmental levy with the funding of environmental protection initiatives. This could risk generating public misconception that they are contributing towards environmental protection by paying the environmental levy, which would defeat the very purpose of our proposal.

28. The Administration is firmly committed to environmental protection, regardless of the amount of the environmental levy collected. We will continue with our efforts to promote environmental awareness in the community and to address our waste problem in a sustainable manner through implementation of programmes on waste reduction, recovery, recycling and the adoption of latest technologies in waste treatment.

### ***Degradable Plastic Shopping Bags***

29. The use of degradable plastic shopping bags does *not* actually solve the problem of indiscriminate use. Instead, it gives a *wrong* impression that the public could use degradable plastic shopping bags without adverse environmental consequence. In fact, the disposal of degradable plastic shopping bags has its own environmental impact, and similarly imposes further pressure on our precious landfills. The mixing of degradable plastic shopping bags with conventional ones also makes the recovery and recycling of plastic shopping bags much more difficult. The best solution to our waste problem is, therefore, to bring our own reusable shopping bags at all time and avoid plastic shopping bags at source.

### ***Recycling of Plastic Shopping Bags***

30. While the proposed environmental levy focuses on reduction at source, we also very much encourage the recycling of plastic shopping bags. Since 2005, we have launched a territory-wide “source separation of domestic waste programme”, where plastic bags, together with other

plastic materials, are separately sorted and collected for recycling. Similarly, the 3-colored recycling bins also collect plastic bags and other plastic materials for recycling. In conjunction with the source separation programme, we plan to launch a programme to facilitate the plastic shopping bags recycling through more publicity and enhanced collection methods. Separately, we shall work with green groups to run pilot schemes to encourage multiple use of plastic shopping bags.

### ***Consultancy Study by GHK***

31. In December 2005, EPD commissioned GHK to conduct an "Assessment of the Benefits and Effects of the Plastic Shopping Bag Charging Scheme". GHK identified and assessed four options for plastic shopping bags reduction, namely (1) voluntary approach; (2) combination of supplier levy and consumer charge; (3) consumer charge at all retail outlets; and (4) consumer charge at selected retail outlets (primarily supermarkets and convenience stores).

32. GHK considered that all options could reduce the number of plastic shopping bags, but a key issue to address was the risk of "switching" to alternative bags. Option (1) could achieve some reduction in plastic shopping bags, and the risk of "switching" to alternative bags was minimal. Options (2) and (3) could achieve significant reduction in plastic shopping bags but the risk of "switching" to alternative bags was substantial, and would likely result in more waste to our landfills. Option (4) could achieve considerable reduction in plastic shopping bags but the risk of "switching" to alternative bags was still present. Depending on the extent of switching, there could either be a net increase or decrease in the amount of waste.

33. We have taken note of GHK's study in formulating our proposal. In particular, we generally share GHK's concern over the risk of "switching" to alternative bags. We have, therefore, proposed a phased approach by first introducing the environmental levy at chain or large supermarkets, convenience stores and personal health and beauty stores. Given the nature of products offered by these retailers and the shopping habit of Hong Kong people, the risk of "switching" to alternative bags at these retailers would be limited. According to GHK's assessment, under such a "no switching" scenario, option (4) would result in less waste to our landfills. Yet, we would closely monitor the situation, and address any problem of indiscriminate use that may arise. We have also undertaken to review the scheme after a year of implementation, as

recommended by GHK. The GHK's study has been made available online<sup>6</sup>.

## **WAY FORWARD**

34. It is clear from the public consultation that there is a broad-based public support to the introduction of the proposed environmental levy to address the indiscriminate use of plastic shopping bags. As reflected in the written submissions, there has been an increasing awareness on environmental protection among members of the public, who consider that it is time for more decisive action to address our environmental problems. The proposed environmental levy responds affirmatively to this public aspiration. The results of the public consultation were presented to the Advisory Council on the Environment on 10 September. In light of the board-based public support, the Council considered that the proposed environmental levy should be implemented as soon as possible.

35. Going forward, we shall proceed with the preparation of the relevant legislation, namely the Product Eco-Responsibility Bill (PER Bill). As stated in our paper to the LegCo Panel on Environmental Affairs, the PER Bill would set out the purpose of PRS, which encompasses environmental levy as a way to reduce waste at source; the types of products and materials to be covered by the Bill; and the major regulatory measures of the PRS on plastic shopping bags, including the imposition of the environmental levy and the definitions of plastic shopping bags and relevant retailers. The implementation and operational details of the PRS on plastic shopping bags would be set out in a piece of subsidiary legislation. It is our plan to introduce the PER Bill into the LegCo in the 2007/08 legislative session.

36. In the meantime, we will continue to work with green groups and retailers to reduce the use of plastic shopping bags on a voluntary basis. Last year, the Environment and Conservation Fund Committee agreed to dedicate \$10 million to support a public education programme under the "Policy Framework for the Management of Municipal Solid Waste (2005-2014)". A major year-long public education campaign has been approved to promote plastic bag reduction at wet markets, bakeries and newspaper stands. Aside from reduction, we would also encourage green groups to promote plastic bag reuse and recycling, so as to complement the proposed environmental levy and complete the loop of a circular economy.

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<sup>6</sup> [http://www.epd.gov.hk/epd/english/environmentinhk/waste/prob\\_solutions/env\\_levy.html](http://www.epd.gov.hk/epd/english/environmentinhk/waste/prob_solutions/env_levy.html)

Environmental Protection Department  
September 2007

## Annex A

### List of Meetings, Consultation Sessions & Public Forum

<b>Date</b>	<b>Consultation Sessions, Meetings &amp; Public Forum</b>
28 May	The Hon. Vincent Fang and Representatives of the Retail Trade
28 May	Legislative Council Panel on Environmental Affairs
05 June	Green Group Liaison Committee
06 June	Waste Management Subcommittee of the Advisory Council on the Environment
11 June	Advisory Council on the Environment
12 June	China Resources Vanguard
15 June	AS Watsons (PARKnSHOP and Watsons)
15 June	Hong Kong Plastic Bags Manufacturers' Association
18 June	Dairy Farm (Wellcome, Mannings and 7-Eleven)
21 June	Chairmen and Vice-Chairmen of District Councils
28 June	City'super
03 July	Circle-K
05 July	Jusco
06 July	Apita (UNY)
10 July	Marks & Spencer
12 July	Hong Kong Retail Management Association
16 July	Legislative Council Panel on Environmental Affairs (Meeting with Deputations)
17 July	Wan Chai District Council
22 July	Public Forum



**Annex B****List of Written Submissions**

<b>Groups</b>	<b>Number of Submissions</b>
<b>Advisory Body</b>	
- Advisory Council on the Environment	1
<b>Political Parties &amp; Legislative Council Members</b>	
- Civic Party	1
- Democratic Alliance for Betterment and Progress of Hong Kong	1
- Democratic Party	1
- Hong Kong Association for Democracy and People's Livelihood	1
- Liberal Party	1
- Hon. Vincent Fang	1
<b>District Council Members</b>	
- Mr. Chan Kin-shing (Yau Tsim Mong)	1
- Mr. Chan Kuen-kwan (Sai Kung)	1
<b>Trade Associations</b>	
- Chinese Manufacturers' Association of Hong Kong	1
- Federation of Hong Kong Industries	1
- Green Manufacturing Alliance	1
- Hong Kong Plastic Bags Manufacturers' Association	1
- Hong Kong Retail Management Association	1
<b>Professional Organizations</b>	
- Association of Engineering Professionals in Society	1
- Chartered Institution of Water and Environmental Management Hong Kong	1
- Hong Kong Institution of Engineers	1
- Hong Kong Waste Management Association	1
<b>Green Groups</b>	
- Clean Air Action Group	1
- Conservancy Association	1
- Friends of the Earth (Hong Kong)	1
- Green Council	1

- Green Sense	1
- Green Student Council	1
<b>Other Organizations</b>	
- Christians for Eco-concern	1
- Caritas Mok Cheung Sui Kun Community Centre	1
- Hong Kong Christian Service	1
- EC Group	1
- Wan Chai District Focus Group	1
<b>Public Affairs Forum</b>	
- Members of Public Affairs Forum	42
<b>The Public</b>	
- Members of the public	77
<b>Total</b>	<b>148</b>

**Key Findings of Public Opinion Survey on the  
Proposal on An Environmental Levy on Plastic Shopping Bags**

**Dates:** 28 – 29 June; 2 – 4 July  
**Samples:** 1,102 respondents of age 15 and above  
**Margin of Error:**  $\pm 3.0\%$  (95% confidence interval)

**Key Findings**

***Scope for Reducing Plastic Shopping Bags***

- 89.3 % of respondents agreed that there was room in reducing the use of plastic shopping bags.

***“Polluter pays” Principle and Environmental Levy***

- 84.0% of respondents supported or strongly supported the “polluter pays” principle.
- 66.2% of respondents supported or strongly supported the proposed environmental levy on plastic shopping bags.

***Effectiveness of the Environmental Levy***

- Amongst those supporting the environmental levy:
  - 76.2% (50.4% of all respondents) considered that a levy of 50 cents or above would be an effective deterrent.
  - 77.9% (51.6% of all respondents) would use fewer plastic shopping bags if a levy of 50 cents were imposed.
  - 79.9% (52.9% of all respondents) would more often bring their own bags if a levy of 50 cents were imposed.

***Phased Approach***

- Amongst those supporting the environmental levy:
  - 84.3% (55.9% of all respondents) supported a phased approach.
  - 95.3% of those supporting a phased approach (53.2 % of all respondents) agreed that supermarkets, convenience stores and personal health and beauty shops should be covered first.

### ***Reuse and Recycling***

- 92.7% of respondents reused plastic shopping bags for the following purposes:

As garbage bags	90.4%
As general carriers	83.7%
As packaging materials	69.7%
As shopping bags again	64.6%
Others	2.1%

- 34.4% of respondents separately sorted out plastic shopping bags for recycling.
- 71.1% of respondents claimed that they brought their own bags in daily life.

### ***Other Reduction Measures***

- Amongst those not supporting the environmental levy (21.8%), the following measures were suggested to reduce the use of plastic shopping bags:

Measures	Of those not supporting the levy	Of all respondents
More public education	94.3%	20.5%
Voluntary scheme by retailers	82.5%	18.0%
More reuse and recycling	91.8%	20.0%
Ban on plastic bags	13.9%	3.0%
Others	17.5%	3.8%