

立法會
Legislative Council

LC Paper No. CB(1) 1744/07-08
(These minutes have been seen
by the Administration)

Ref : CB1/BC/7/07/2

Bills Committee on Air Pollution Control (Amendment) Bill 2008

**Minutes of the fifth meeting
held on Monday, 19 May 2008, at 1:00 pm
in Conference Room A of the Legislative Council Building**

- Members present** : Hon Audrey EU Yuet-mee, SC, JP (Chairman)
Hon Martin LEE Chu-ming, SC, JP
Hon Emily LAU Wai-hing, JP
Hon CHOY So-yuk, JP
Hon Alan LEONG Kah-kit, SC
Hon WONG Ting-kwong, BBS
- Members absent** : Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Hon SIN Chung-kai, SBS, JP
Hon Howard YOUNG, SBS, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon LEE Wing-tat
Hon Mrs Anson CHAN, GBM, JP
- Public officers attending** : Environmental Protection Department

Mr Carlson K S CHAN
Deputy Director of Environmental Protection (3)

Mr Benny WONG
Assistant Director of Environmental Protection (Air Policy)

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

Department of Justice

Ms Amy CHAN
Senior Government Counsel

Clerk in attendance : Miss Becky YU
Chief Council Secretary (1)1

Staff in attendance : Miss Winnie LO
Assistant Legal Adviser 7

Mrs Mary TANG
Senior Council Secretary (1)2

I Meeting with the Administration

(LC Paper No. CB(3) 373/07-08	-- The Bill
Ref: EP CR 9/150/21	-- The Legislative Council Brief
LC Paper No. CB(1) 1208/07-08(03)	-- Marked-up copy of the Bill
LC Paper No. CB(1) 1521/07-08(03)	-- Summary of deputations' views on individual clauses of the Bill
LC Paper No. CB(1) 1554/07-08(01)	-- Submission from Mr David RENTON of Baker Botts L.L.P. (English version only))

The Committee deliberated (Index of proceedings attached at **Annex A**).

2. The Administration was requested to-
 - (a) review the drafting of proposed section 26G(4) to state clearly how the technical memorandum (TM) operated;
 - (b) provide the draft TM for members' reference. To also advise the legislative timetable for the introduction of the first TM; and
 - (c) refine both the English and the Chinese renditions of proposed section 26G(5).
3. Members agreed to hold three additional meetings as follows –
 - (a) Monday, 26 May 2008 from 1:00 pm to 2:30 pm;
 - (b) Thursday, 29 May 2008, at 10:45 am; and
 - (c) Tuesday, 3 June 2008, at 8:30 am.

II Any other business

4. There being no other business, the meeting ended at 2:20 pm.

**Proceedings of the
Bills Committee on Air Pollution Control (Amendment) Bill 2008
Meeting on Monday, 19 May 2008, at 1:00 pm
in Conference Room A of the Legislative Council Building**

Time Marker	Speaker	Subject(s)	Action Required
000000 - 000839	Chairman Administration	Continuation of clause-by-clause examination of the Bill Clause 4 - Grant or refusal of licenses	
000840 - 001512	Administration Chairman	Clause 5 - Part IVB added Discussion on proposed section 26G - Secretary to allocate emission allowances in respect of specified licence, and submission from Mr David RENTON (LC Paper No. CB(1) 1554/07-08(01))	
001513 - 002602	Miss CHOY So-yuk Chairman Administration	Miss CHOY So-yuk's concerns about - (a) trading of emission allowances which were provided free of charge to the local power plants; and (b) the need for regular adjustments to be made to the emission caps beyond 2010 Administration's explanation that it would take into account the following in setting emission caps - (a) the use of best practicable means for the prevention of emissions; (b) the need to attain and maintain the relevant air quality objective (AQOs); and (c) whether the emissions would be prejudicial to public health	
002603 -003727	Chairman Administration Miss CHOY So-yuk	Members' request for explanation on the four-year period under section 26G(4) Administration's explanation - (a) any change in the allocation of emission allowances, including that resulted from regular updating, would be incorporated in the technical memorandum (TM) which would need to be subject to the negative vetting	

Time Marker	Speaker	Subject(s)	Action Required
		<p>procedure before it commenced to have effect. The allocation however would only come into effect four years after the commencement of TM to allow sufficient time for the power plants to get prepared; and</p> <p>(b) the four-year period would not apply to the first TM as the allocation of emission allowances would take effect on 1 January 2010 in accordance with proposed sections 26G(1) and (5). This was because the two power companies had been notified of the 2010 emission caps in 2005</p>	
003728 -004331	Mr Martin LEE Administration Miss CHOY So-yuk	<p>Mr Martin LEE's request for the Administration to undertake that the emission caps would be tightened as soon as practicable after 2010</p> <p>Administration's explanation that such an undertaking at this stage might not be possible as the setting of emission caps would hinge on a number of factors. The Government would consider the matter in the light of the findings of the AQO review.</p>	
004332 - 004832	Chairman Administration	<p>Chairman's enquiry on the allocation of emission allowances under the first TM</p> <p>Administration's explanation -</p> <p>(a) the two power companies were well aware of their emission allowances to be allocated under the first TM which would be published in the Gazette soon after the passage of the Bill; and</p> <p>(b) TM would be subject to the negative vetting procedure</p>	The Administration to refine both the English and the Chinese renditions of proposed section 26G(5).
004833 - 005926	Miss CHOY So-yuk Administration Chairman	<p>Discussion on the operation of TM</p> <p>Miss CHOY So-yuk's concerns on whether -</p> <p>(a) there would be sufficient time for scrutiny of TM under the negative vetting procedure; and</p> <p>(b) consideration could be given to including carbon dioxide emission in</p>	<p>The Administration to</p> <p>(a) review the drafting of proposed section 26G(4) to state clearly how the technical</p>

Time Marker	Speaker	Subject(s)	Action Required
		<p>TM</p> <p>Administration's explanation -</p> <p>(a) TM would set out the emission allowance of each power plant based on its market share of electricity generated for local consumption; and</p> <p>(b) it was not Government's policy to include carbon dioxide emission in TM. In any event, the proposed framework for allocating emission allowances for the three types of air pollutants covered by TM might not be applicable to carbon dioxide.</p>	<p>memorandum (TM) operated; and</p> <p>(b) provide the draft TM for members' reference. To also advise the legislative timetable for the introduction of the first TM.</p>
005927 - 010804	Administration	Discussion on section 26H - Authority to ascertain quantity of allocated allowances	
010805 - 011841	Miss CHOY So-yuk Administration Chairman	Discussion on section 26I - Determination of compliance with certain terms and conditions	
011842 - 012011	Chairman Administration	Discussion on section 26J - Increase in quantity of allocated allowances in case of surplus of allocated allowances in preceding year	
012012 - 012026	Miss CHOY So-yuk	<p>Miss CHOY So-yuk's concern about free allocation of emission allowances to the local power plants, particularly when these allowances could be carried over to the next emission year</p> <p>Administration's explanation -</p> <p>(a) emission allowances were allocated free of charge in most developed countries, such as the United Kingdom and United States, where the cap and trade mechanism was commonly applied;</p> <p>(b) emission allowances allocated to local power plants were based on their respective market share of electricity generated for local consumption and not on the emission performance of individual plants; and</p> <p>(c) the unspent emission allowances could be traded with other local power plants</p>	

Time Marker	Speaker	Subject(s)	Action Required
012027 - 012209	Chairman	Date of next meeting	

Council Business Division 1
Legislative Council Secretariat
2 June 2008