

立法會
Legislative Council

LC Paper No. CB(1) 2199/07-08
(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 eighth meeting
held on Tuesday, 3 June 2008, at 8:30 am
in Conference Room B of the Legislative Council Building**

- Members present** : Hon Audrey EU Yuet-mee, SC, JP (Chairman)
Hon Martin LEE Chu-ming, SC, JP
Hon SIN Chung-kai, SBS, JP
Hon Howard YOUNG, SBS, JP
Hon Emily LAU Wai-hing, JP
Hon CHOY So-yuk, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon Alan LEONG Kah-kit, SC
Hon WONG Ting-kwong, BBS
Hon Mrs Anson CHAN, GBM, JP
- Members absent** : Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Hon LEE Wing-tat
- Public officers attending** : **For item II**
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 WONG Chin-wo
Senior Environmental Protection Officer (Air Policy) 4

Mr Gordon LEUNG
Environmental Protection Officer (Cross-Boundary &
International)31

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 Confirmation of minutes

(LC Paper No. CB(1) 1744/07-08 -- Minutes of the meeting held on
19 May 2008)

The minutes of the meeting held on 19 May 2008 were confirmed.

II Meeting with the Administration

Clause-by-clause examination

(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 subjects/clauses of the Bill
LC Paper No. CB(1) 1554/07-08(01)	-- Submission from Mr David RENTON of Baker Botts L.L.P
LC Paper No. CB(1) 1671/07-08(01)	-- Administration's response to the submission from Mr David RENTON of Baker Botts L.L.P.

LC Paper No. CB(1) 1726/07-08(01) -- List of follow-up actions arising from the discussion on 26 May 2008)

2. The Committee deliberated (Index of proceedings attached at **Annex A**).
3. The Administration was requested to -
 - (a) define a scope for “special event” under proposed section 26K(2)(b) and to limit the scope to events which occurred for reasons beyond the control of and unforeseeable by the applicant. To also make it clear that special events specified in the relevant specified licence under proposed section 26K(5) were part and parcel of proposed section 26K(2)(b);
 - (b) consider setting a time frame within which the “practicable measures” under the proposed new section 26K(2)(d) should be carried out. To also advise the effects if the term “due diligence” was to be included or to replace “practicable measures” in proposed new section 26K(2)(d);
 - (c) advise whether the fine for non-compliance with the emission caps by a power company would be paid out from the company’s profit and loss account rather than the recurrent operational account. To also advise whether the cost for acquisition of allocated allowances would be paid out from its recurrent operational account, the cost of which would eventually be passed on to consumers;
 - (d) advise if the court’s decision on a dispute regarding transfer of allocated allowances between two specified licence holders would affect the Administration’s determination on their compliance with the emission caps; and
 - (e) consider rephrasing the title of proposed section 26M to make it clear that the section was related to the emission trading scheme entered into with the Guangdong Province
4. Members agreed to continue discussion at the next meeting scheduled for the same day at 1:00 pm with the venue of the meeting to be changed from Conference Room A to Conference Room B.

III Any other business

5. There being no other business, the meeting ended at 10:33 am.

**Proceedings of the
Bills Committee on Air Pollution Control (Amendment) Bill 2008
Meeting on Tuesday, 3 June 2008, at 8:30 am
in Conference Room B of the Legislative Council Building**

Time Marker	Speaker	Subject(s)	Action Required
000000 - 000112	Chairman	Confirmation of minutes of the meeting held on 19 May 2008 (LC Paper No. CB(1) 1744/07-08)	
000113 -001407	Chairman Administration Mrs Anson CHAN Mr SIN Chung-kai Ms Emily LAU	Discussion on the Administration's response to the list of follow-up actions arising from the discussion at the meeting on 26 May 2008 (LC Paper No. CB(1)1794/07-08 (01))	
001408 -003806	Mr Martin LEE Administration Mr Alan LEONG Chairman Ms Emily LAU Mr SIN Chung-kai Mrs Anson CHAN	Discussion on "special events" under proposed section 26K(2) Members' concerns - (a) there was a need to define the scope for "special event" and to limit it to events which occurred for reasons beyond the control of and unforeseeable by the applicant; and (b) the circumstances which might be classified as "special events" in the specified licences of individual power plant Administration's explanation that some "special events" would only be relevant to specific power plants and a list of such "special events" would be specified in the licences of power plants having regard to the different modes of operation	The Administration to define a scope for "special event" under proposed section 26K(2)(b) and to limit the scope to events which occurred for reasons beyond the control of and unforeseeable by the applicant
003807 - 004202	Mr Alan LEONG Administration	Mr Alan LEONG's view on the need to ensure that the special events specified in the relevant specified licence under proposed section 26K(5) were the same as those under proposed section 26K(2) since both sections were related to "special event"	The Administration to make it clear that special events specified in the relevant specified licence under proposed section 26K(5) were part and parcel of proposed section 26K(2)(b)

Time Marker	Speaker	Subject(s)	Action Required
004203 - 004629	Mr WONG Ting-kwong Administration Chairman	Mr WONG Ting-kwong's enquiry on (a) whether the fine for non-compliance with the emission caps by a power company would be paid out from the company's profit and loss account rather than the recurrent operational account; and (b) whether the cost for acquisition of allocated allowances would be paid out from its recurrent operational account. If so, the cost would eventually be passed on to consumers	The Administration to advise whether the fine for non-compliance with the emission caps by a power company would be paid out from the company's profit and loss account rather than the recurrent operational account. To also advise whether the cost for acquisition of allocated allowances would be paid out from its recurrent operational account, the cost of which would eventually be passed on to consumers
004630 - 005928	Ms Emily LAU Administration Chairman ALA7	Discussion on items V to VI of LC Paper No. CB(1)1794/07-08 (01) Ms Emily LAU's enquiry on whether the court's decision on a dispute regarding transfer of allocated allowances between two specified licence holders would affect the Administration's determination on their compliance with the emission caps	The Administration to advise if the court's decision on a dispute regarding transfer of allocated allowances between two specified licence holders would affect the Administration's determination on their compliance with the emission caps
005929 -010549	Chairman ALA7 Administration Mr Abraham SHEK	Examination of the Committee Stage amendments regarding the inclusion of proposed new section 26K(2)(d) as set out in the Annex to LC Paper No. CB(1)1794/07-08 (01) ALA7's views that it might be more appropriate to use the term "due diligence" to replace "practicable measures" in proposed new section 26K(2)(d) and to add the word "special" before the word "event" wherever it appeared	

Time Marker	Speaker	Subject(s)	Action Required
010550 -010933	Mrs Anson CHAN Administration Chairman Ms Emily LAU	Mrs Anson CHAN's view that there was a need to set a time frame within which the “practicable measures” under proposed new section 26K(2)(d) should be carried out	The Administration to consider setting a time frame within which the “practicable measures” under the proposed new section 26K(2)(d) should be carried out
010934 -011053	Mr Alan LEONG Mr SIN Chung-kai	Discussion on whether the term “due diligence” should be included or adopted to replace “practicable measures” in proposed new section 26K(2)(d)	The Administration to advise the effects if the term “due diligence” was to be included or to replace “practicable measures” in proposed new section 26K(2)(d)
011054 -011944	Chairman Administration Ms Emily LAU	Discussion on items VII to VIII of LC Paper No. CB(1)1794/07-08 (01)	
011945 - 012625	Chairman Administration	Continuation of clause-by-clause examination of the Bill Proposed section 26M - Increase or reduction in quantity of allocated allowances further to acquisition or transfer of emission credits	
012626 -013109	Ms Emily LAU Administration Mr Abraham SHEK	Ms Emily LAU's request that the title of proposed section 26M should be rephrased to make it clear that the section was related to the emission trading scheme entered into with the Guangdong Province	The Administration to consider rephrasing the title of proposed section 26M to make it clear that the section was related to the emission trading scheme entered into with the Guangdong Province
013110 - 013809	Mrs Anson CHAN Administration Chairman	Mrs Anson CHAN's concern that if local power companies could increase the quantity of allocated allowances through acquisition of emission credits under the emission trading scheme (ETS) with the Guangdong Province,	

Time Marker	Speaker	Subject(s)	Action Required
		<p>they would have less incentive to improve their emission performance, which would in turn affect the air quality in Hong Kong</p> <p>Administration's explanation-</p> <ul style="list-style-type: none"> (a) emission trading aimed at providing a more flexible and cost-effective alternative for power plants to meet the emission caps; (b) eligible power plants in the Pearl River Delta (PRD) Region could participate in emission trading on a project basis, provided that they could propose emission reduction plans to further reduce their total emissions below the caps imposed on them for consideration by the joint management panel set up by the environmental protection authorities in Hong Kong and Guangdong; (c) emissions from the PRD Region were a significant factor that affected Hong Kong's air quality. Under the emission trading arrangement, there would not be any net increase in pollutant emissions on a regional basis because the increase or decrease in allocated allowances of local power plants through acquisition or transfer of emission credits by way of emission reduction projects would be offset by the corresponding increase or decrease in emissions from the power plants in the PRD Region; (d) the emission standards of power plants in the Guangdong Province had been progressively tightened; and (e) irrespective of whether they would acquire emission credits through cross-boundary emissions trading, local power plants had to meet the 	

Time Marker	Speaker	Subject(s)	Action Required
		<p>per MWh emission limits in terms of the maximum concentration level of the relevant pollutants as stipulated in the licence</p>	
013810 - 014755	Mr Martin LEE Chairman Administration	<p>Mr Martin LEE's views -</p> <p>(a) could accept the transfer of allocated allowances among power plants in Hong Kong, but not acquisition of emission credits from power plants in the Guangdong Province as the latter arrangement would have adverse impact on the air quality in Hong Kong; and</p> <p>(b) local power plants would likely prefer to buy emission credits from power plants in Guangdong Province since this was easier and cheaper than implementing emission reduction measures in Hong Kong</p> <p>Administration's explanation -</p> <p>(a) it would ensure that local power plants would use the best practicable means to reduce emissions;</p> <p>(b) air pollution was a regional problem and cross-boundary efforts should be taken to reduce emissions;</p> <p>(c) both sides were committed to achieving the 2010 emission reduction targets;</p> <p>(d) ETS would provide financial incentive for power plants in the Guangdong Province to implement additional emission reduction projects which would not be undertaken otherwise; and</p> <p>(e) as participants under ETS, local power plants should be allowed to acquire and transfer their emission credits</p>	

Time Marker	Speaker	Subject(s)	Action Required
		Chairman's concern that there was no limit to the quantity of emission credits to be acquired from power plants in the Guangdong Province	
014756 - 014915	Mr Abraham SHEK	Mr Abraham SHEK's support for the setting of limit on the quantity of emissions credits to be acquired/transferred by local power plants through ETS with power plants in Guangdong Province	
014916 -015603	Ms Emily LAU Administration Mr Martin LEE Chairman	Administration's explanation on ETS as agreed between Hong Kong and Guangdong Governments	
015604 - 015924	Miss CHOY So-yuk Administration	<p>Miss CHOY So-yuk's concerns -</p> <ul style="list-style-type: none"> (a) local power plants would have no incentive to improve their emission performance if they were allowed the easier and cheaper alternative of buying emission credits from their counterparts in Guangdong; and (b) there would be increase in localized pollution in Hong Kong as a result of ETS; and (c) power plants in Guangdong using nuclear and renewable energy would be keen to join ETS as they would have no difficulties in meeting the emission standards <p>Administration's explanation that only thermal power plants with a generation capacity of more than 100 megawatts were eligible to join ETS</p>	
015925 -020339	Chairman Administration Mr Martin LEE	<p>Chairman's emphasis on the need -</p> <ul style="list-style-type: none"> (a) to ensure that local power plants had adopted the best practical means to reduce emissions; and (b) to set a limit on the quantity of emission credits to be acquired/transferred by local power plants through ETS with power 	

Time Marker	Speaker	Subject(s)	Action Required
		<p>plants in the Guangdong Province</p> <p>Administration's explanation -</p> <p>(a) feedback from local power plants thus far indicated that they would prefer to achieve the emission caps through improving their own emission performance;</p> <p>(b) ETS only offer an additional choice to local power plants;</p> <p>(c) prior arrangements had to be made with power plants in Guangdong Province in undertaking emission reduction projects under ETS and approval had to be sought before implementation; and</p> <p>(d) local power plants had to meet maximum emission limits in terms of the maximum concentration level of the relevant pollutants as stipulated in the licence</p>	
020340 - 020516	Chairman Ms Emily LAU Mr Martin LEE	Arrangements for next meeting	