

**立法會**  
**Legislative Council**

LC Paper No. CB(1) 198/09-10  
(These minutes have been seen  
by the Administration)

Ref : CB1/SS/10/08/1

**Subcommittee on  
Ozone Layer Protection (Products Containing Scheduled Substances)  
(Import Banning) (Amendment) Regulation 2009**

**Minutes of third meeting  
held on Tuesday, 13 October 2009, at 2:30 pm  
in Conference Room A of the Legislative Council Building**

- Members present** : Hon Audrey EU Yuet-mee, SC, JP (Chairman)  
Hon Vincent FANG Kang, SBS, JP  
Hon WONG Ting-kwong, BBS, JP  
Hon KAM Nai-wai, MH  
Hon Cyd HO Sau-lan  
Hon Tanya CHAN
- Public officers attending** : Environmental Protection Department  
  
Mr MOK Wai-chuen  
Assistant Director (Air Policy)  
  
Mr PANG Sik-wing  
Principal Environmental Protection Officer (Air Policy)  
  
Mr TSUI Wing-sing  
Senior Environmental Protection Officer (Air Policy)<sup>3</sup>  
  
Department of Justice  
  
Miss Elaine NG  
Government Counsel/Law Drafting Division
- Attendance by invitation** : Hong Kong & Kowloon Electrical Appliances Merchants Association Ltd.  
  
Mr Peter CHU  
Chairman

The Association of Registered Fire Service Installation  
Contractors of Hong Kong

Mr LAM Oi-ki  
Chairman

The HK Federation of Electrical & Mechanical  
Contractors Ltd

Mr Otto POON  
President

The Chartered Institution of Building Services Engineers  
(Hong Kong Branch)

Mr T M CHUNG  
Vice Chairman

Hong Kong Chinese Importers' and Exporters' Association

Mr Rock CHEN  
Vice President

Consumer Council

Ms Connie LAU  
Chief Executive

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

**Staff in attendance** : Miss Kitty CHENG  
Assistant Legal Adviser 5

Mr Franco KWONG  
Council Secretary (1)1

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**I. Meeting with deputations and the Administration**

Meeting with deputations

The Chairman invited views from the following deputations -

- (a) Hong Kong & Kowloon Electrical Appliances Merchants Association Ltd.  
LC Paper No. CB(1) 2755/08-09(01)

- (b) The Association of Registered Fire Service Installation Contractors of Hong Kong
- (c) The HK Federation of Electrical & Mechanical Contractors Ltd
- (d) The Chartered Institution of Building Services Engineers (Hong Kong Branch)  
LC Paper No. CB(1) 2755/08-09(03)
- (e) Hong Kong Chinese Importers' and Exporters' Association  
LC Paper No. CB(1) 2755/08-09(04) (Chinese version only)
- (f) Consumer Council  
LC Paper No. CB(1) 2755/08-09(05)

***Submissions from deputations not attending the meeting***

- LC Paper No. CB(1) 2755/08-09(06) — Submission from Green Council (English version only)
- LC Paper No. CB(1) 2755/08-09(07) — Submission from The Real Estate Developers Association of Hong Kong (English version only)

**Meeting with the Administration**

- (LC Paper No. CB(1) 2755/08-09(08) — List of follow-up actions arising from the discussion at the meeting on 5 October 2009)

**Background information on the Regulation**

- (Ref: EP 351/04/34 — The Legislative Council Brief
- LC Paper No. LS 95/08-09 — Legal Service Division Report
- LC Paper No. CB(1) 2671/08-09(01) — Background brief on Ozone Layer Protection (Products Containing Scheduled Substances) (Import Banning) (Amendment) Regulation 2009
- LC Paper No. CB(1) 2671/08-09(02) — Marked-up copy of the Regulation
- LC Paper No. CB(1) 2679/08-09 — Information note on "Montreal Protocol on Substances that Deplete the Ozone Layer" prepared by the Research and Library Services Division (IN23/08-09))

2. The Subcommittee deliberated (Index of proceedings attached at **Annex**).

3. The Administration was requested to -
  - (a) advise whether mobile air-conditioners having rated cooling capacity not exceeding 7.5 kilowatts were covered under proposed section 2A(1); and
  - (b) provide the minutes of meeting regarding the outcome of consultation with the trades on the Regulation

**II. Any other business**

4. There being no other business, the meeting ended at 4:30 pm.

Council Business Division 1  
Legislative Council Secretariat  
30 October 2009

**Subcommittee on  
Ozone Layer Protection (Products Containing Scheduled Substances)  
(Import Banning) (Amendment) Regulation 2009**

**Proceedings of the third meeting  
on Tuesday, 13 October 2009, at 2:30 pm  
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
<i>Agenda Item I - Meeting with deputations and the Administration</i>			
000001 - 000408	Chairman	Opening remark	
000409 - 000812	Mr Peter CHU, Hong Kong & Kowloon Electrical Appliances Merchants Association Ltd. (EAMAL)	Expression of views (LC Paper No. CB(1) 2755/08-09(01)).	
000813 - 001117	Mr LAM Oi-ki, The Association of Registered Fire Service Installation Contractors of Hong Kong (ARFSIC)	Expression of views (LC Paper No. CB(1) 2755/08-09(02)).	
001118 - 001358	Mr Otto POON, The HK Federation of Electrical & Mechanical Contractors Ltd (HKFEMC)	Expression of views -  (a) supported the control on the import and use of ozone depleting substances;  (b) as depletion of ozone layer was gradually under control, the problem should now be considered in the wider context of global warming and climate change;  (c) apart from banning the import of hydrochlorofluorocarbon (HCFC)-containing air-conditioners, due consideration should also be given to the energy efficiency of refrigerants since the use of low energy-efficient refrigerants was not conducive to addressing the problem of global warming; and	

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		(d) publicity should be stepped up and a clear labelling system should be put in place to enable consumers to choose the suitable products.	
001359 - 001615	Mr T M CHUNG, The Chartered Institution of Building Services Engineers (Hong Kong Branch) (CIBSE)	Expression of views (LC Paper No. CB(1) 2755/08-09(03)).	
001616 - 001923	Mr Rock CHEN, Hong Kong Chinese Importers' and Exporters' Association (HKCIEA)	Expression of views (LC Paper No. CB(1) 2755/08-09(04)).	
001924 - 002340	Ms Connie LAU, Consumer Council (CC)	Expression of views (LC Paper No. CB(1) 2755/08-09(05)).	
002341 - 002746	Administration	<p>Administration's response to deputations' views -</p> <p>(a) the proposed Regulation aimed to ban the import not the use of controlled products;</p> <p>(b) although the use of scheduled substances listed in Parts 1, 3 and 9 in portable fire extinguishers were rare, the Administration could not rule out the use of such substances in portable fire extinguishers. Hence, opportunity was taken to ban the import of portable fire extinguishers that contain these substances for sake of completeness;</p> <p>(c) the problem of global warming had been taken into account in formulating the Regulation, and the Administration would keep abreast of the latest development of HCFC-free refrigerants with higher energy efficiency and better cooling</p>	

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		<p>performance;</p> <p>(d) the price difference between conventional and HCFC-free air-conditioners had narrowed down to about 7% and was expected to reduce further as more compliant models were made available in the market; and</p> <p>(e) the definition of "room air-conditioner" in the proposed Regulation was consistent with that in the Energy Efficiency (Labelling of Products) Ordinance (Cap. 598) (EELPO), and was adopted after reaching a consensus with the trades on 21 November 2008.</p>	
002847 - 003408	Chairman Mr Peter CHU/EAMAL Administration	<p>Mr Peter CHU's view that unlike split type and window type (termed as "single package type" in the proposed Regulation) room air-conditioners (defined as having a rated cooling capacity not exceeding 7.5 kilowatts), which would be phased out by 1 July 2010 and 1 July 2012 respectively, air-conditioners with a rated cooling capacity exceeding 7.5 kilowatts would need to be phased out by 1 January 2010. Such an arrangement might cause confusion to both the trades and the public. To this end, consideration should be given to deferring the deadline of the latter to 1 July 2010 in tandem with split type room air conditioners (defined as having a rated cooling capacity not exceeding 7.5 kilowatts).</p> <p>Administration's response -</p> <p>(a) the definition of "room air-conditioner" made reference to that of EELPO</p>	The Administration to provide the minutes of the meeting on 21 November 2008 regarding the outcome of consultation with the trades on the Regulation.

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		<p>and was proposed by the EAMAL as recorded in the minutes of the meeting on 21 November 2008; and</p> <p>(b) the definition was modelled after that in EELPO, and thus should not cause any confusion.</p>	
003409 - 004257	<p>Mr Vincent FANG Administration Mr Peter CHU/EAMAL</p>	<p>Mr Vincent FANG's enquiries -</p> <p>(a) the number of air-conditioners with a rated cooling capacity exceeding 7.5 kilowatts currently in use; and</p> <p>(b) if the number was not substantial, whether it was feasible to defer the deadline to 1 July 2010 as proposed by the trades.</p> <p>Administration's response -</p> <p>(a) the trades had only expressed concern that suppliers needed more time to set up production lines for HCFC-free room air-conditioners not other types of air-conditioners. Hence, the banning of split type and window type (termed as "single package type" in the proposed Regulation) room air-conditioners was deferred to 1 July 2010 and 1 July 2012 respectively; and</p> <p>(b) no relevant statistics on the number of air-conditioners with a rated cooling capacity exceeding 7.5 kilowatts currently in use;</p> <p>Mr Peter CHU's views -</p> <p>(a) the number of air-conditioners with a rated cooling capacity exceeding 7.5 kilowatts currently in use was relatively small; and</p>	



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		(b) the price difference between conventional and HCFC-free air-conditioners was less than 25% and varied depending on the models and functions.	
004258 - 004906	Ms Cyd HO Ms Connie LAU/CC	<p>Ms Cyd HO's enquiry on the criteria for assessing market readiness.</p> <p>Ms Connie LAU's response -</p> <p>(a) there was no objective standard, but the availability of sufficient supply of compliant products and market competition would be taken into account; and</p> <p>(b) it was worth noting that the trades were ready for the changes brought about by the Regulation according to their submissions to the Subcommittee.</p>	CC to provide the criteria for assessing market readiness.
004907 - 010329	Mr WONG Ting-kwong Administration Mr LAM Oi-ki/ ARFSIC Chairman	<p>Mr WONG Ting-kwong's views -</p> <p>(a) the Regulation had to be simple and clear;</p> <p>(b) more communications with the trades were essential to facilitate compliance.</p> <p>Administration acknowledged the need to communicate with the trades and was of the view that the trade's views had been taken into account.</p> <p>Mr LAM Oi-ki's enquiries -</p> <p>(a) whether both import and use of portable fire extinguishers would be banned according to paragraph 10(b) of the Legislative Council Brief (EP 351/O4/34);</p>	

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		<p>(b) why scheduled substances listed in Parts 4, 5, 6 and 7 were not banned for fire extinguishers as their counterparts listed in Parts 1, 3 and 9 were.</p> <p>Administration's clarification -</p> <p>(a) only import would be banned not the use;</p> <p>(b) unlike scheduled substances listed in Parts 1, 3 and 9, those listed in Parts 4, 5, 6 and 7 were technically not feasible for use in fire extinguishers.</p>	
010330 - 010535	Chairman Mr Peter CHU/ EAMAL Administration	<p>Mr Peter CHU's view that while the definition of room air-conditioner was in line with that in EELPO, the trades would appreciate it if the Administration would consider extending the deadline for banning air-conditioners with a rated cooling capacity exceeding 7.5 kilowatts from 1 January 2010 to 1 July 2010 to avoid confusion.</p> <p>Administration's response -</p> <p>(a) if there was a problem in the trade-wide supply of the concerned air-conditioners, the Administration would be willing to review and extend the deadline;</p> <p>(b) if this was only a problem of individual suppliers, the extension would be unfair to other complying suppliers; and</p> <p>(c) the proposed adoption of the definition in EELPO for room air-conditioner was proposed by EAMAL and the Regulation had been</p>	

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		<p>formulated taking into account the views of the trades. There should be no confusion to the trades.</p>	
010536 - 010857	Mr Vincent FANG Administration	<p>Mr Vincent FANG's views -</p> <p>(a) air-conditioners with a rated cooling capacity exceeding 7.5 kilowatts were mainly for commercial use; and</p> <p>(b) under the present gloomy economic situation, the Administration should consider extending the deadline as proposed by the trades.</p> <p>Administration's response -</p> <p>(a) during the consultation, the trades were concerned about the supply of HCFC-free room air-conditioners not commercial ones, and</p> <p>(b) no sufficient grounds to extend the deadline for import of air-conditioners mainly for commercial use.</p>	
010858 - 011521	Chairman Mr Peter CHU/ EAMAL Ms Cyd HO	<p>Chairman's enquiry on the trades' views on recycling of HCFC-22 upon disposal of air-conditioners containing such chemical.</p> <p>Mr Peter CHU's views -</p> <p>(a) the subject would be considered in the context of producer responsibility scheme on waste electrical and electronic equipment;</p> <p>(b) a visit to Japan by the trades to observe the recycling process was under preparation; and</p> <p>(c) relevant information could be provided for members'</p>	

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		reference after the visit.	
011522 - 012329	Chairman Mr Peter CHU/ EAMAL Mr WONG Ting-kwong Mr Otto POON/ HKFEMC	<p>Chairman's enquiry on the trades' view on extension of the ban to controlled products in the course of transshipment or are imported solely for export.</p> <p>Mr WONG Ting-kwong's concern that the proposal would affect the logistics industry, which would have no knowledge on whether the goods in transshipment/re-export contained scheduled substances.</p> <p>Mr Otto POON's support for extending the ban to transshipment/re-export of controlled products since the use of these products by neighbouring regions might also affect Hong Kong.</p> <p>Mr Peter CHU's concern about the sale of products containing HCFCs which were smuggled to Hong Kong by unscrupulous retailers.</p>	
012330 - 013257	Chairman Administration Mr KAM Nai-wai	<p>Clause-by-clause examination of the Regulation</p> <p><u>Commencement</u></p> <p><u>Interpretation</u></p> <p>Mr KAM Nai-wai's enquiry on whether the scheduled substances covered all ODS.</p> <p>Administration's response -</p> <p>(a) the scheduled substances listed in the Schedule to the Ozone Layer Protection Ordinance (Cap. 403) (the Ordinance) followed those in the Montreal Protocol on Substances that Deplete the Ozone Layer (the Protocol); and</p>	

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		(b) the Technical and Economic Assessment Panel of the Protocol provided guidelines on products which contained the scheduled substances and alternatives for replacing these products.	
013258 - 014140	Chairman Administration	Chairman's enquiry on the use of "pre-polymer", which appeared in paragraph (e) of the proposed definition of "controlled product" in section 2.  Administration's explanation that pre-polymer was a raw material for plastic products.	
014141 - 014250	Ms Cyd HO Administration	Discussion on the definition of "single package type".	
014251 - 014611	Administration Chairman	Chairman's enquiry on the different phases of prohibiting the import of controlled products.  Administration's explanation that the import of products contained a scheduled substance listed in Part 1, 2 3, 8 or 9 of the Schedule to the Ordinance would be banned from 1 January 2015, other than Dichlorotrifluoroethane, as a schedule substance listed in Part 8, which would be banned from 1 January 2020.	
014612 - 014820	Administration Chairman	Discussion on the definition of "portable fire extinguisher".	
014821 - 014848	Chairman Assistant Legal Adviser 5 (ALA5)	Chairman's query on the phased approach in expanding the definition of controlled products and the import of these products.  ALA5's view that the relevant amendments were technically viable.	

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014849 - 015625	Ms Cyd HO Administration Chairman	Ms Cyd HO's enquiry on whether mobile air-conditioners with a rated cooling capacity not exceeding 7.5 kilowatts would be considered as floor standing type air conditioners and if not, whether these would be covered under proposed section 2A(1).  Administration's agreement to clarify Ms HO's question.	The Administration to advise whether mobile air-conditioners having a rated cooling capacity not exceeding 7.5 kilowatts are covered under proposed section 2A(1).
015626 - 020110	Chairman Administration	Discussion on proposed section 2A(3).	