

立法會
Legislative Council

LC Paper No. CB(1) 2841/09-10(02)

Ref: CB1/PL/EA

Panel on Environmental Affairs

Special meeting on 22 September 2010
Updated background brief on Technical Memorandum for Allocation of
Emission Allowances in respect of Specified Licence
prepared by the Legislative Council Secretariat
(Position as at 16 September 2010)

Purpose

This paper sets out the development of the Technical Memorandum for Allocation of Emission Allowances in respect of Specified Licences (TM), and gives a brief account of the views expressed by the Panel on Environmental Affairs (the Panel) and the Subcommittee on Technical Memorandum for Allocation of Emission Allowances in respect of Specified Licences (the Subcommittee).

Background

2. To improve air quality, the Hong Kong Special Administrative Region Government reached a consensus with the Guangdong Provincial Government (GPG) in April 2002 to reduce the emissions of sulphur dioxide (SO₂), nitrogen oxides (NO_x), respirable suspended particulates (RSP), and volatile organic compounds by 40%, 20%, 55%, and 55% respectively by 2010 as compared to 1997.

3. Power generation is the largest emission source in Hong Kong, accounting for 89% of SO₂, 44% of NO_x, and 32% of RSP emitted locally in 2006. For Hong Kong to achieve the 2010 emission reduction targets, it is essential for the power companies to substantially reduce their emissions of SO₂, NO_x, and RSP by 2010. Since 2003, the Administration has been engaging the two local power companies regarding the imposition of emission caps in 2010. Emission caps on the power stations have been imposed since 2005 upon renewal of their respective specified process licences. These emission caps are being progressively tightened to ensure that Hong Kong can meet the 2010 emission reduction target.

Technical Memorandum for Allocation of Emission Allowances in respect of Specified Licence

4. In accordance with section 26G of the Air Pollution Control Ordinance (Cap. 311) (APCO), the Secretary for the Environment (SEN) shall by technical memorandum allocate a quantity of emission allowances for each type of specified pollutant, i.e. SO₂, NO_x and RSP, in respect of each specified licence for the operation of power plant in relation to each emission year commencing on or after 1 January 2010. Where a TM has been laid on the table of the Legislative Council (LegCo), section 37B(2) of APCO provides that LegCo may, by resolution passed at a sitting of LegCo held before the expiration of a period of 28 days after the sitting at which it was so laid, amend the TM in any manner consistent with the power to issue the TM. Section 37B(4)(a) of APCO also provides that before the expiry of the 28-day period, LegCo may by resolution extend that period to the first sitting of LegCo held not earlier than 21 days after the day of its expiry.

5. The first TM issued by SEN pursuant to APCO was published in the Gazette on 7 November 2008. It sets out the total quantity of emission allowances for all of the specified licences from 1 January 2010, allocation principles and determination methods of the quantity of emission allowances to be allocated in respect of each specified licence for each emission year, arrangements for adjusting the allocation of emission allowances, and arrangements for new comers. A Subcommittee was formed to study the first TM.

Emission allowances for 2010

6. Based on the need to achieve the 2010 emission reduction targets under the 2002 consensus with Guangdong, the best practicable emission reduction technologies and means available, as well as emissions from other sources and sectors, the 2010 emission allowances for the power sector under the first TM are as follows -

	1997 baseline emissions (tonnes)	2010 emission allowances to be included in the TM (tonnes)	Reduction compared to 1997 (%)
SO ₂	54 400	25 120	54%
NO _x	56 100	42 600	24%
RSP	2 610	1 260	52%

Allocation of emission allowances to individual power plants

7. Emission allowances will be allocated to individual power plants on a pro-rata basis in accordance with their respective share of the total amount of electricity

generated for local consumption. For the 2010 emission allowances, the allocation to individual power plants is determined with reference to their total amount of electricity generated for local consumption for the five-year period from 1999 to 2003. To cater for the change of the market share in electricity generation, the allocation to individual power plants will be updated regularly on the first of January of the year starting from 2010, and in any event not less than once every three years, in accordance with their respective share of total amount of electricity generated for local consumption for the past 60 months.

Arrangements for adjusting the allocation of emission allowances

8. To provide sufficient lead time for power companies to adjust their operation (e.g. installation of additional emission abatement facilities, adjustment of fuel strategy and securing emissions trading opportunities), an advance notice of no less than four years will be given to the power companies before any changes to the allocation of emission allowances arising from the regular updating to take effect.

Arrangements for new comers

9. To cater for the requirements of potential new comers, each new comer will be temporarily allocated a small amount of emission allowances up to around 1% of the total emission allowances for the power sector. The new comer will be included in the subsequent updates and will be allocated with the updated quantity of emission allowances according to the prevailing allocation methodology.

Deliberations by the Panel and the Subcommittee

10. When TM was first discussed by the Panel on 27 October 2008, some members questioned the bases upon which the reduction percentages of SO₂ and NO_x were arrived at. They also urged the Administration to tighten control of RSP, which was the cause for many respiratory diseases in Hong Kong. Other members were concerned that the two power companies would pass the costs to achieve the emission reduction targets (using cleaner fuels and installation of pollution abatement equipment) to consumers through increased electricity tariffs. Questions were also raised on the low emission allowances for new comers and efficacy of emission trading among power plants in Hong Kong and Guangdong.

11. Following the gazettal of the first TM, a Subcommittee was formed to study the TM. While supporting the policy intent of capping the emissions of power plants, members considered that the quantities of emission allowances should be further tightened to achieve better air quality. To ensure that SEN would regularly review the total quantity of emission allowances of the power sector taking into account factors, such as latest technological development, outcome of review of Air Quality Objectives etc, members had examined the feasibility and legality of including an expiry date in the TM. According to the Administration, SEN had a duty to make sure that emission allowances were allocated by TM for each type of specified pollutant in

respect of each specified licence in relation to each emission year commencing on or after 1 January 2010 continuously without any interruption. Therefore, if the first TM was subject to an expiry date, SEN must ensure that a valid TM was in place immediately upon the expiry date of the first TM. It was legally unacceptable for there to be any broken period where there was no valid TM in place to govern the allocation of emission allowances, particularly when there was no express or implied deeming provision in the law whereby the expired TM could continue to be regarded as valid. To allay members' concern, SEN had acceded to the Subcommittee's request to provide an undertaking in writing that he would conduct a review of TM within two years after the coming into operation of the first TM.

Latest development

12. The Administration proposes to brief members on the review of TM at the Panel special meeting on 22 September 2010.

Relevant Papers

Information paper provided by the Administration for the EA Panel meeting on 27 October 2008

<http://www.legco.gov.hk/yr08-09/english/panels/ea/papers/ea1027cb1-88-3-e.pdf>

Minutes of the EA Panel meeting on 27 October 2008

<http://www.legco.gov.hk/yr08-09/english/panels/ea/minutes/ea20081027.pdf>

Report of the Subcommittee on Technical Memorandum for Allocation of Emission Allowances in respect of Specified Licences to the House Committee meeting on 5 December 2008

<http://www.legco.gov.hk/yr08-09/english/hc/papers/hc1205cb1-323-e.pdf>

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Legislative Council Secretariat
16 September 2010