

立法會
Legislative Council

LC Paper No. CB(1)1860/12-13
(These minutes have been seen
by the Administration)

Ref: CB1/BC/4/12

Bills Committee on Air Pollution Control (Amendment) Bill 2013

**Minutes of the first meeting held on
Tuesday, 16 April 2013, at 10:45 am
in Conference Room 3 of the Legislative Council Complex**

- Members present** :
- Hon Charles Peter MOK (Chairman)
 - Hon Abraham SHEK Lai-him, SBS, JP
 - Hon Cyd HO Sau-lan
 - Hon CHAN Hak-kan, JP
 - Hon Michael TIEN Puk-sun, BBS, JP
 - Hon Frankie YICK Chi-ming
 - Hon WU Chi-wai, MH
 - Dr Hon Kenneth CHAN Ka-lok
 - Hon KWOK Wai-keung
 - Hon Dennis KWOK
 - Hon TANG Ka-piu
 - Ir Dr Hon LO Wai-kwok, BBS, MH, JP
 - Hon Christopher CHUNG Shu-kun, BBS, MH, JP
 - Hon Tony TSE Wai-chuen
- Members absent** :
- Hon WONG Yuk-man
 - Dr Hon Helena WONG Pik-wan
 - Dr Hon Elizabeth QUAT, JP

**Public Officers
attending** : **Agenda item II**

Ms Christine LOH Kung-wai, JP
Under Secretary for Environment

Mr Andrew LAI Chi-wah, JP
Deputy Director of Environmental Protection (3)
Environmental Protection Department

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

Ms Selina LAU Suet-ching
Senior Government Counsel
Department of Justice

Clerk in attendance : Ms Sophie LAU
Chief Council Secretary (1)2

Staff in attendance : Miss Evelyn LEE
Assistant Legal Adviser 10

Ms Macy NG
Senior Council Secretary (1)2

Ms Emily LIU
Legislative Assistant (1)2

Action

I Election of Chairman

Mr Abraham SHEK, the member who had the highest precedence among those present at the meeting, presided at the election of Chairman of the Bills Committee. He invited nominations for the chairmanship of the Bills Committee.

2. Mr Abraham SHEK nominated Mr Charles Peter MOK, and the nomination was seconded by Mr WU Chi-wai. Mr Charles Peter MOK accepted the nomination.

Action

3. There being no other nominations, Mr Charles Peter MOK was elected Chairman of the Bills Committee.

4. Members agreed that there was no need to elect a deputy chairman of the Bills Committee.

II Meeting with the Administration

(LC Paper No. CB(3)364/12-13

File Ref: EP CR 9/150/34

- The Bill

- The Legislative Council Brief issued by the Environment Bureau and Environmental Protection Department

LC Paper No. LS31/12-13

- Legal Service Division Report on the Bill

LC Paper No. CB(1)851/12-13(01)

- Paper on Air Pollution Control (Amendment) Bill 2013 prepared by the Legislative Council Secretariat (background brief)

LC Paper No. CB(1)851/12-13(02)

- Marked-up copy of the Bill prepared by the Legal Service Division)

5. The Administration briefed members on the Air Pollution Control (Amendment) Bill 2013 ("the Bill").

6. The Bills Committee deliberated (index of proceedings attached at **Annex**).

Discussion

7. Members expressed the following major concerns about the Bill at the meeting –

(a) The impact of the new Air Quality Objectives ("AQOs") on the public and on different sectors.

(b) There might be cases where an applicant for the Environmental Impact Assessment ("EIA") would rush and file their assessment report to avoid the relevant projects to be subject to the new AQOs.

Action

- (c) The proposed number of exceedances allowed was greater than that of the current standard.

Admin 8. To facilitate further discussion on the Bill, the Administration was requested to provide the following information –

- (a) (i) The applications and impact of the new Air Quality Objectives ("AQOs") to the public and on different sectors including the licensing requirements of various industries, in particular the energy and the transport sectors.
- (ii) The number and ages of pre-Euro, Euro I and Euro II diesel commercial vehicles which were "single-vehicles" (i.e. the owners of which were also the drivers).
- (b) In response to members' concern that there might be cases where an applicant for the EIA would rush and file their assessment report to avoid the relevant projects to be subject to the new AQOs, the Administration to provide information on –
 - (i) The sequence of stages of EIA under the EIA Ordinance (Cap. 499) and an explanation of the transitional arrangement for ongoing infrastructure projects with reference to those stages.
 - (ii) The number and a list of designated projects of those stages before the new AQOs come into operation.
- (c) (i) The sources of emission of the seven pollutants specified in the Air Pollution Control Ordinance (Cap. 311), in particular, information regarding the emission of any of them by vehicles.
- (ii) Information on the actual number of exceedances in respect of the seven air pollutants in Hong Kong in the past few years.
- (iii) How the proposed number of exceedances of the seven pollutants compared to the international standard.
- (iii) Justifications for setting the number of exceedances allowed in the new AQOs and whether they would be tightened in future review.

Action

Date of next meeting

9. Members agreed to hold the next meeting on 29 April 2013 to meet with the Administration and receive public views on the Bill on 10 May 2013.

(Post-meeting note: To avoid clashing with the anticipated continuation of the Council meeting of 24 April 2013, the Chairman directed to cancel the meeting on 29 April 2013 and reschedule the meeting on 10 May 2013 to 25 May 2013 vide LC Paper No. CB(1)916/12-13.)

III Any other business

10. There being no other business, the meeting ended at 12:35 pm.

Council Business Division 1
Legislative Council Secretariat
4 October 2013

**Proceedings of the first meeting of
the Bills Committee on Air Pollution Control (Amendment) Bill 2013
on Tuesday, 16 April 2013, at 10:45 am
in Conference Room 3 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
Agenda item I – Election of Chairman			
000136 – 000306	Mr Abraham SHEK Mr Charles Peter MOK Mr WU Chi-wai Mr TANG Ka-piu	<ul style="list-style-type: none"> - Election of Chairman - Mr Charles Peter MOK was elected as the Chairman of the Bills Committee ("BC"). - Members agreed that there was no need to elect a deputy chairman of the BC. 	
Agenda item II – Meeting with the Administration			
000444 – 000647	Chairman Administration	<ul style="list-style-type: none"> - Briefing by the Administration on the Air Pollution Control (Amendment) Bill 2013 ("the Bill") 	
000648 – 000739	Chairman Mr Abraham SHEK	<ul style="list-style-type: none"> - Mr SHEK expressed support for the Bill and urged the Administration to expedite the legislative process. He pointed out that the Public Accounts Committee had also discussed the matter and indicated support to the Bill. 	
000740 – 001414	Chairman Mr WU Chi-wai Administration	<ul style="list-style-type: none"> - Mr WU expressed support for the new Air Quality Objectives ("AQOs") for Hong Kong. He asked about the timeframe of achieving the ultimate Air Quality Guidelines ("AQG") of the World Health Organization ("WHO"), any target set for the five-yearly review in respect of progressively achieving the ultimate AQGs, and whether the targeted result of the review would be stipulated in the legislation. - The Administration advised that: <ul style="list-style-type: none"> (a) the Bill provided that the new AQOs would be reviewed at least once every five years after commencement. As such, it would be possible that the new AQOs would be reviewed more than once in five years where necessary; (b) the AQOs of different pollutants, if not all, might be revised or tightened in each review on their individual merits; and (c) the established mechanism allowed Legislative Council ("LegCo") to monitor 	

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		<p>closely the progress of reviewing the AQOs by the Administration, e.g. the relevant panel could request the Administration to report the progress to the Panel annually.</p>	
001422 – 001634	Chairman Mr Frankie YICK Administration	<ul style="list-style-type: none"> - Mr YICK expressed support for the Bill. However, he disagreed to stipulate in the legislation that the AQOs must be tightened in the five-yearly review as every new air quality improvement measure required a certain period of time for implementation. - The Administration advised that the requirement of reviewing the AQOs at least once every five years was benchmarked against the most advanced countries in the world. The Bill specified the timetable for conducting the review but did not specify the outcome of the review. 	
001635 – 001827	Chairman Dr Kenneth CHAN Administration	<ul style="list-style-type: none"> - Dr CHAN expressed support for the Bill. He, however, considered that there was a need to further discuss the transitional arrangement for on-going infrastructure projects and the arrangement for tightening the proposed AQOs. He requested that a public hearing should be held to receive views on the Bill. 	
001828 – 003600	Chairman Mr CHAN Hak-kan Administration	<ul style="list-style-type: none"> - Mr CHAN hoped that the Administration's proposal to update the AQOs could be implemented as soon as possible. In addition, the Democratic Alliance for the Betterment and Progress of Hong Kong would support the conduct of a public hearing to receive public views from organizations and members of the public on the Bill. - Noting that the new AQOs would take effect from early 2014, Mr CHAN and the Chairman expressed concern that there might be cases where an applicant for the Environmental Impact Assessment ("EIA") would rush and file their assessment report to avoid the relevant projects to be subjected to the new AQOs, which would be more stringent. Mr CHAN asked for a list of designated projects which need to apply for Environmental Permits ("EPs") before the effective date of the new AQOs. 	

Time marker	Speaker	Subject(s)	Action required
		<ul style="list-style-type: none"> <li data-bbox="563 275 1238 925">- The Administration replied that it aimed to make the new AQOs effective from January 2014 subject to the passage of relevant legislation in 2013. The effective date of the new AQOs would affect the arrangement for designated projects with EP granted under the EIA Ordinance (Cap. 499) ("EIAO"). If the project proponents estimated that they would be able to submit the EIA report to the Administration and have them be approved before 1 January 2014, they could follow the current AQOs. For large infrastructure projects with EIA studies straddling across 2013-2014, the project proponents would have to follow the new AQOs. The Administration agreed to provide a list of designated projects to which the EIA studies were in progress after the meeting. <li data-bbox="563 969 1238 1149">- Mr CHAN expressed concern that although the Bill sought to tighten the existing AQOs, the proposed number of exceedances allowed under some of the new AQOs was higher than that of the current standard. <li data-bbox="563 1193 1238 1619">- The Administration advised that the allowance of exceedances was consistent with the recommendations of the AQGs of WHO and the practices of other countries. It aimed to provide flexibility to cater for the circumstances which were beyond control, such as weather. In determining the proposed number of exceedances allowed (except for Suspended Particulates which were subject to strong regional influence), the Administration had made reference to those of the European Union as far as practicable. <li data-bbox="563 1664 1238 1888">- The Administration agreed to provide information on the actual number of exceedances in respect of the seven air pollutants in Hong Kong in the past few years and provide justifications for setting the number of exceedances allowed in the new AQOs. 	<p data-bbox="1254 790 1485 992">Administration to provide information/response (paragraph 8 of minutes)</p> <p data-bbox="1254 1664 1485 1865">Administration to provide information/response (paragraph 8 of minutes)</p>
003601 – 004827	Chairman Ms Cyd HO Administration	<ul style="list-style-type: none"> <li data-bbox="563 1924 1238 2101">- Ms HO requested the Administration to provide written information to illustrate the sequence of stages of EIA under the EIAO and explain the transitional arrangement for ongoing infrastructure projects with reference to those 	

Time marker	Speaker	Subject(s)	Action required
		<p>stages.</p> <ul style="list-style-type: none"> - The Administration advised that there were three stages involving assessment of air quality under the EIAO. Firstly, the project proponents were required to submit a study brief which set out the scope of the EIA study for approval by the Environmental Protection Department ("EPD"). Secondly, the project proponents were required to submit the EIA report to EPD for approval. In both stages, assessment would be made by EPD based on the air quality standards as set out in the prevailing legislation. Thirdly, when the EPs with conditions had been issued but the project proponents found that they were unable to meet the relevant conditions and applied for variation of EP, the Administration proposed in the Bill to allow a 36-month transitional arrangement for those projects. This time-limited transitional arrangement, under which the old AQOs would be used, was proposed to preserve the integrity of the EIA system and provide regulatory certainty for project proponents who had already completed the EIA process. The Administration agreed to provide written information after the meeting to explain the proposed transitional arrangement in detail. - Ms HO asked whether the Administration had studied whether there were any discrepancies between the assessed and actual environmental impact after completion of the infrastructure projects, and if yes, the number of projects with discrepancies, and whether the Administration would study the reasons for the discrepancies and review the assessment method. - The Administration advised that EPD had not studied the subject, but would regularly measure the air quality in respect of different pollutants in Hong Kong as a whole. - Ms HO suggested that academics and experts should be invited to attend the public hearing to express views on the Bill. 	<p>Administration to provide information/response (paragraph 8 of minutes)</p>
004828 – 005155	Chairman Mr Dennis KWOK Administration	<ul style="list-style-type: none"> - Mr KWOK requested the Administration to provide the following data to facilitate members' consideration of the proposed 	

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		<p>transitional arrangement for ongoing infrastructure projects under the Bill:</p> <p>(a) The number of study briefs submitted for approval by EPD.</p> <p>(b) The number of designated projects with approved study briefs but the EIA study had not commenced.</p> <p>(c) The number of designated projects with approved study briefs and the EIA study was in progress.</p> <p>(d) The number of EIA reports which had been submitted to EPD and were being processed by EPD.</p> <p>(e) The number of EIA reports approved by EPD but pending the issuance of EPs.</p> <p>(f) The number of designated projects which had been issued EPs but were under monitoring by EPD according to the Technical Memorandum.</p> <p>- The Administration agreed to provide the above mentioned relevant figures after the meeting.</p> <p>- Mr KWOK expressed concern on how the Administration would engage the public and the Advisory Council on the Environment in the review of the AQOs, and whether the Administration would consider making reference to EIAO and include public consultation in the proposed new section 7A of the Air Pollution Control Ordinance (Cap. 311) ("APCO"), which provided for the periodic review of the AQOs by the Secretary for the Environment at least once in every five years.</p> <p>- The Administration noted the views of Mr KWOK and advised that the collection of public's views could be achieved through various channels, including consultation with the LegCo.</p>	<p>Administration to provide information/ response (paragraph 8 of minutes)</p>
005156 – 005713	Chairman Mr TANG Ka-piu Administration	<p>- Mr TANG declared that he was the Deputy Secretary of Motor Transport Workers General Union. He requested the Administration to</p>	

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		<p>provide the following information:</p> <ul style="list-style-type: none"> (a) Information on the sources of emission of the seven pollutants specified in the APCO, in particular, information regarding the emission of any of them by vehicles. (b) Measures which would be implemented by the Mainland side of the Pearl River Delta ("PRD") region to reduce emission in order that the proposed new AQOs would be complied with. (c) The impact of the Bill on vehicle inspections. (d) The number and ages of pre-Euro, Euro I and Euro II diesel commercial vehicles which were "single-vehicles" (i.e. the owners of which were also the drivers) as he was concerned over whether the introduction of the Bill would affect the jobs of those owners/drivers. <p>- The Administration agreed to provide the above information after the meeting. However, it was pointed out that LegCo would be briefed separately on the Administration's plan to retire pre-Euro IV diesel commercial vehicles and the BC might consider whether there was a need to further discuss the matter.</p>	<p>Administration to provide information/response (paragraph 8 of minutes)</p>
<p>005714 – 005719</p>	<p>Chairman Mr Christopher CHUNG Administration</p>	<p>- Mr CHUNG expressed concern that the number of exceedances allowed under the proposed AQOs was more lenient than that of the current standard. In his view, without strong justifications of relaxing the number of exceedances, the current standard should continue to be adopted. He asked for the following information:</p> <ul style="list-style-type: none"> (a) Information on the actual number of exceedances in respect of the seven air pollutants in Hong Kong; and (b) How the proposed number of exceedances of the seven pollutants compared to the international standard. 	

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		<ul style="list-style-type: none"> - The Administration agreed to provide the above information after the meeting. 	Administration to provide information/response (paragraph 8 of minutes)
005835 – 010356	Chairman Mr WU Chi-wai Administration	<ul style="list-style-type: none"> - Mr WU asked if there were any further air quality improvement measures to be implemented in the future in order to comply with the new AQOs, which were subject to further review, and the timetable of implementing those measures. He said that those air quality improvement measures should be made public earlier as their implementation might require collaboration among different government bureaux/departments. - The Administration advised that "A Clean Air Plan for Hong Kong" had provided a roadmap of the Administration's plan in improving air quality. While the Administration had no objection to provide such information to the BC, it considered that it might be more appropriate for the relevant measures to be discussed at meetings of the Panel on Environmental Affairs. 	
010357 – 010722	Chairman Mr Tony TSE Administration	<ul style="list-style-type: none"> - Mr TSE expressed support for updating the AQOs for Hong Kong and urged for their early implementation. He considered that the proposed number of exceedances allowed was justified by the objective circumstances of Hong Kong's environment. - The Administration advised that it would provide further information on the justifications of the proposed number of exceedances allowed. 	Administration to provide information/response (paragraph 8 of minutes)
010723 – 011117	Chairman Ir Dr LO Wai-kwok Administration	<ul style="list-style-type: none"> - Ir Dr LO expressed support for the Bill. He considered that apart from legislation, improvement of air quality required collaboration of various stakeholders. He hoped that the BC would concentrate on discussing the legislative aspects of the Bill. - The Administration said that the Environment Bureau ("ENB") and EPD had reached a consensus with all government 	

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		<p>bureaux/departments before introducing the Bill. The Administration shared members' views that the Bill should be implemented as soon as possible.</p>	
011118 – 011419	Chairman Mr TANG Ka-piu Administration	<ul style="list-style-type: none"> - Mr TANG considered that apart from the air quality improvement measures which would be introduced by the Administration, it should also introduce measures to save energy, in particular, electricity. - The Administration noted the views of Mr TANG. It advised that "A Clean Air Plan for Hong Kong" had stated the Administration's targets on air quality. The Administration would brief LegCo Members on the policy on energy separately at the Panel on Economic Development. 	
011420 – 012715	Chairman Mr Michael TIEN Administration	<ul style="list-style-type: none"> - Mr TIEN expressed concern about the applications and impact of the new AQOs to the public and on different sectors, and the timeframe of achieving the WHO AQG standard in respect of Fine Suspended Particulates (PM2.5). - The Administration advised that the proposed new AQOs would provide an indicator for the Government and other sectors to meet the relevant requirements. The interim targets ("ITs") were set with reference to the ultimate WHO AQG. As the achievement of the ITs would also depend on the air quality of PRD region, agreement had been made with the Guangdong Provincial Government on the air pollution reduction targets to be achieved by 2015 and 2020 respectively. The Administration would further explain to members about the air quality improvement measures which would be implemented by Hong Kong and Guangdong in future meetings. - The Administration further advised that the proposed new AQOs would be applied in the following: <ul style="list-style-type: none"> (a) implementation of air quality improvement policy and measures; 	

Time marker	Speaker	Subject(s)	Action required
		<p>(b) renewal of Specified Process Licences ("SPLs") under the APCO; and</p> <p>(c) designated projects under the EIAO.</p> <p>- In assessing the applications for renewal of SPLs, the Administration would take into account whether the best practicable means had been adopted to reduce air pollution, whether the AQOs were met, and whether the pollutants would affect the public's health.</p>	
012716 – 013144	Chairman Mr Abraham SHEK Administration	<p>- Mr SHEK considered that meeting the AQOs should not be one of the essential conditions for issuing SPLs. Otherwise, there might be adverse impact on business development. In his view, the new AQOs should only be regarded as the targets for achievement by different industries.</p> <p>- The Administration replied that meeting AQOs was one of three factors in the assessment of applications for SPLs under the APCO. It aimed to encourage the relevant industries to take practicable measures to reduce air pollution.</p>	
013145 – 013617	Chairman Ms Cyd HO Administration	<p>- Ms HO made the following enquiries:</p> <p>(a) Whether any subsidiary legislation in respect of the APCO was required to effect the new AQOs.</p> <p>(b) The actual number of exceedances in respect of Sulphur Dioxide (SO₂) and Fine Suspended Particulates (PM_{2.5}).</p> <p>- Ms HO considered that ENB and EPD should remind different government bureaux/departments on the need to comply with the new AQOs in implementing any policies/measures.</p> <p>- The Administration replied that:</p> <p>(a) it would provide information on the actual number of exceedances in respect of Sulphur Dioxide (SO₂) and Fine Suspended Particulates (PM_{2.5}) after the meeting;</p>	Administration to provide information/response (paragraph 8 of

Time marker	Speaker	Subject(s)	Action required
		<p>(b) ENB and EPD would remind other government bureaux/departments on the need to comply with the new AQOs in respect of their newly introduced measures/projects; and</p> <p>(c) no subsidiary legislation would be needed to effect the new AQOs after the Bill was passed.</p>	minutes)
013618 – 014312	Chairman Mr Michael TIEN Administration	<p>- Mr TIEN was concerned about whether the Administration would still allow the conduct of those specified process if the permissible pollutant levels were not met due to technical impracticability; or if the operators were reluctant to adopt practicable measures with very high cost to meet the relevant levels.</p> <p>- The Administration advised that the aim of licence control on certain polluting industrial processes known as "specified processes" was to properly control and monitor the air pollution caused by the industries that had significant pollution potential. At present, 23 industries, including power stations and cement plants, were classified as specified processes under the APCO. EPD would discuss with the operators of those industries on the best practicable means which could be adopted to reduce or avoid air pollution.</p> <p>- The Administration further advised that it would provide supplementary information on the applications and impact of the new AQOs to the licensing requirements of various industries, including the energy and transport sectors.</p>	Administration to provide information/ response (paragraph 8 of minutes)
014313 – 015040	Chairman Administration Ms Cyd HO	<p>- Summary of supplementary information to be provided by the Administration.</p> <p>- Discussion on the dates of future meetings and major focus of the meetings</p>	