

立法會
Legislative Council

LC Paper No. CB(1)1315/12-13
(These minutes have been seen
by the Administration)

Ref : CB1/BC/9/12/1

Bills Committee on Product Eco-responsibility (Amendment) Bill 2013

Minutes of first meeting
held on Friday, 31 May 2013, at 10:45 am
in Conference Room 2B of the Legislative Council Complex

Members present : Dr Hon Kenneth CHAN Ka-lok (Chairman)
Hon Vincent FANG Kang, SBS, JP
Hon WONG Ting-kwong, SBS, JP
Hon Cyd HO Sau-lan
Hon CHAN Hak-kan, JP
Dr Hon Priscilla LEUNG Mei-fun, JP
Hon Paul TSE Wai-chun, JP
Hon WU Chi-wai, MH
Hon Gary FAN Kwok-wai
Hon KWOK Wai-keung
Ir Dr Hon LO Wai-kwok, BBS, MH, JP
Hon Tony TSE Wai-chuen

Members absent : Hon CHAN Han-pan
Dr Hon Helena WONG Pik-wan

Public Officers attending : **For item II**
Mr Albert LAM, JP
Deputy Director of Environmental Protection (2)
Environmental Protection Department

Mr Samson LAI
Assistant Director of Environmental Protection
(Waste Management Policy)
Environmental Protection Department

Mr Lawrence PENG
Senior Assistant Law Draftsman
Department of Justice

Miss Selina LAU
Senior Government Counsel
Department of Justice

Miss Libera CHENG
Senior Administrative Officer
(Waste Management Policy Division)
Environmental Protection Department

Clerk in Attendance : Ms Miranda HON
Chief Council Secretary (1)1

Staff in attendance : Miss Evelyn LEE
Assistant Legal Adviser 10

Mrs Mary TANG
Senior Council Secretary (1)1

Miss Mandy POON
Legislative Assistant (1)1

Action

I. Election of Chairman

Election of Chairman

Mr Vincent FANG, the member who had the highest precedence among members of the Bills Committee present at the meeting, presided at the election of Chairman of the Bills Committee. Mr FANG invited nominations for the chairmanship of the Bills Committee.

2. Dr Priscilla LEUNG nominated Dr Kenneth CHAN, and the nomination was seconded by Mr CHAN Hak-kan. Dr CHAN accepted the nomination.

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3. There being no other nominations, Dr Kenneth CHAN was declared Chairman of the Bills Committee. Dr CHAN then took the chair.

4. The Chairman sought members' view on the need for a deputy chairman. It was agreed that no deputy chairman was required.

II. Meeting with the Administration

(LC Paper No. CB(3)540/12-13 — The Bill

File Ref: EP CR 9/150/20 Pt.24 — Legislative Council Brief

LC Paper No. LS47/12-13 — Legal Service Division Report

LC Paper No. CB(1)1171/12-13(01) — Marked-up copy of the Bill prepared by the Legal Service Division (Restricted to Members)

LC Paper No. CB(1)1171/12-13(02) — Assistant Legal Adviser's letter dated 3 May 2013 to the Administration

LC Paper No. CB(1)1171/12-13(03) — Assistant Legal Adviser's letter dated 7 May 2013 to the Administration

LC Paper No. CB(1)1171/12-13(04) — Background brief prepared by the Legislative Council Secretariat)

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

Admin 6. The Administration was requested to -

- (a) provide the additional number of retailers which would be covered under the proposed extended Environmental Levy Scheme on Plastic Shopping Bags ("PSB") ("the extended Scheme");
- (b) provide a paper to set out the previous discussions on the implementation details of the extended Scheme, including the

Action

definition of PSBs, and the exclusion of PSB use for food hygiene reasons, etc, and the Administration's considerations;

- (c) explain the means to assess the effectiveness of and ensure compliance with the extended Scheme when retailers were not required to submit returns on the number of PSBs distributed and the PSB charge collected; and
- (d) provide written response to the issues raised by the Assistant Legal Adviser in her letters dated 3 and 7 May 2013.

7. Members agreed to the following schedule of meetings -

<u>Date</u>	<u>Time</u>
Tuesday, 18 June 2013	9:00 am
Tuesday, 9 July 2013	10:45 am

8. Members also agreed to invite deputations to give their views on the Bill at the meeting on 18 June 2013.

III. Any other business

9. There being no other business, the meeting ended at 12:25 pm.

Council Business Division 1
Legislative Council Secretariat
14 June 2013

Bills Committee on Product Eco-responsibility (Amendment) Bill 2013

**Proceedings of the first meeting
on Friday, 31 May 2013, at 10:45 am
in Conference Room 2B of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
<i>Agenda Item I - Election of Chairman</i>			
000540 - 000817	Mr Vincent FANG Mr WONG Ting -kwong Mr CHAN Hak-kan Dr Priscilla LEUNG Dr Kenneth CHAN Ir Dr LO Wai-kwok	Election of Chairman Dr Kenneth CHAN was elected Chairman of the Bills Committee.	
<i>Agenda Item II - Meeting with the Administration</i>			
000818 - 001416	Chairman Administration	Opening remarks The Administration's introduction on the Product Eco-responsibility (Amendment) Bill 2013 ("the Bill").	
001417 - 002753	Chairman Mr Tony TSE Administration	Mr Tony TSE – (a) supported the direction of the Bill; (b) questioned the propriety of and justifications for the proposed "retention" approach whereby a seller might retain and handle the plastic shopping bag ("PSB") charge without the need to remit it to the Government; (c) sought explanation on the exemptions provided under the Bill; and (d) expressed concern about the difficulties in enforcing the extended Environmental Levy Scheme on PSBs ("the PSB Levy Scheme"). The Administration's response that – (a) under the present "remittance" approach, the some 3 300 registered retailers were required to submit quarterly returns setting out the number of PSBs distributed and the amount of levy collected as well as to remit the	

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		<p>levy to Government;</p> <p>(b) with the proposed extension of the PSB Levy Scheme to cover all retailers, the "remittance" approach with its elaborate compliance system would be too burdensome and the compliance cost too high for small and medium enterprises ("SMEs") which formed over 90% of the retail industry;</p> <p>(c) a "retention" approach was proposed to be adopted whereby a seller might retain and handle PSB charge;</p> <p>(d) staff of the Environmental Protection Department ("EPD") would be deployed to enforce the law. They would conduct investigation upon receipt of complaints; and</p> <p>(e) in the light of the outcome of the consultation on the extension of the PSB Levy Scheme, the Administration proposed that –</p> <p>(i) PSBs used for food hygiene reasons be exempted from the PSB Levy Scheme; and</p> <p>(ii) flat-top bags would also be subject to regulation under the extended PSB Levy Scheme ("the extended Scheme").</p>	
002754 - 003824	Chairman Mr WU Chi-wai Administration	<p>Mr WU Chi-wai's enquiries that –</p> <p>(a) the additional number of retailers which would be covered under the extended Scheme;</p> <p>(b) the impact of the extended Scheme on these retailers;</p> <p>(c) the uses that had been made of the levy collected under the current PSB Levy Scheme and whether the same uses could be made of the PSB charge collected under the "retention" approach of the extended Scheme; and</p>	The Administration to provide the additional number of retailers which would be covered under the extended Scheme.

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		<p>(d) the difficulties that would be faced by small grocery stores in complying with the extended Scheme.</p> <p>The Administration's response that –</p> <p>(a) the levy collected by registered retailers under the current PSB Levy Scheme had been remitted to the Government. The amount of levy income collected under the current scheme was far less than the original estimation made in 2008, indicating that the public had reduced the use of PSBs;</p> <p>(b) the less than estimated levy income did not affect the Government's expenditure on environmental issues. The Government had injected funds into the Environmental and Conservation Fund for implementing environmental projects;</p> <p>(c) of the some 60 000 retailers in Hong Kong, 90% were SMEs and about 3 300 (4% to 5%) were registered retailers under the current PSB Levy Scheme; and</p> <p>(d) the outcome of the consultation indicated that there was general support for extending the PSB Levy Scheme to cover all retailers.</p>	
003825 - 005356	Chairman Mr WONG Ting-kwong Administration	<p>Mr WONG Ting-kwong's views/enquiries that –</p> <p>(a) there would be practical difficulties in enforcing the extended Scheme which applied to all retailers;</p> <p>(b) the PSB Levy Scheme should target at importers of PSBs rather than retailers;</p> <p>(c) the current PSB Levy Scheme was unfair as the ban on free PSB distribution only applied to registered retailers;</p> <p>(d) the exemption of flat-top bags under the current PSB Levy Scheme was unreasonable;</p>	

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		<p>(e) the levy collected should be designated for use for environmental purposes and should not become part of government revenue; and</p> <p>(f) whether there would be a third phase of the PSB Levy Scheme.</p> <p>The Administration's response that –</p> <p>(a) flat-top bags would be subject to regulation under the extended Scheme;</p> <p>(b) the charge collected under the extended Scheme would be retained by retailers;</p> <p>(c) the PSB Levy Scheme was meant to induce behavioural changes on the part of consumers to avoid excessive use of PSBs and the imposition of PSB charges on importers could not serve the intended purpose;</p> <p>(d) the Administration noted the concerns about effective enforcement under the extended Scheme. Efforts would be made to enhance publicity and public education to achieve the objectives of extending the PSB Levy Scheme; and</p> <p>(e) there would unlikely be a third phase of the PSB Levy Scheme as the proposed extension would cover all retailers.</p>	
005357 - 010410	Chairman Ir Dr LO Wai-kwok Administration	<p>Ir Dr LO Wai-kwok's views/enquiries that –</p> <p>(a) the PSB Levy Scheme was successful in promoting public awareness against excessive use of PSBs;</p> <p>(b) he supported the concept of the extended Scheme which took into account the views of SME retailers, but the implementation details would need to be further examined;</p> <p>(c) whether the "retention" approach would be reverted back to the "remittance" approach at a later stage;</p> <p>(d) on the definition of PSBs, whether paper bags with plastic lamination or</p>	

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		<p>plastic handles would be regarded as PSBs; and</p> <p>(e) whether the use of flat-top bags for carrying frozen food stuff, which might melt or be subject to condensation of water vapour, would be exempted from regulation under the extended Scheme.</p> <p>Ir Dr LO Wai-kwok also requested the Administration to provide a paper to set out the previous discussions on the implementation details of the extended Scheme, including the definition of PSBs, and the exclusion of PSB use for food hygiene reasons, etc, and the Administration's considerations.</p> <p>The Administration's response that –</p> <p>(a) the "retention" approach was proposed to be adopted under the extended Scheme which would be applicable to all retailers; and</p> <p>(b) details of implementation of the extended Scheme would be provided for members' reference</p>	<p>The Administration to provide a paper to set out the previous discussions on the implementation details of the extended Scheme, including the definition of PSBs, examples to illustrate what kinds of bag will be considered as a PSB under the Bill and the exclusion of PSB use for food hygiene reasons, etc, and the Administration's considerations.</p>
010411 - 010942	Chairman Mr Gary FAN Administration	<p>Mr Gary FAN's views that –</p> <p>(a) he had reservations about the "retention" approach as retailers might try to please their regular customers through free distribution of PSBs, thereby defeating the purpose of the extended Scheme; and</p> <p>(b) with the adoption of the "retention" approach and the removal of the record keeping requirements, there would not be any means to assess the effectiveness of the extended Scheme.</p> <p>The Administration's response that –</p> <p>(a) with the extension of the PSB Levy Scheme to cover all retailers, SMEs would find it difficult to comply with the "remittance" approach. Hence, a "retention" approach similar to that adopted by Taiwan and Mainland was</p>	

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		<p>proposed to be adopted under the extended Scheme;</p> <p>(b) there would be other means to assess the effectiveness of the extended Scheme, such as the volume of PSBs disposed of at landfills and the conduct of surveys; and</p> <p>(c) the Administration would step up publicity efforts and public education to promote public awareness of the need to avoid excessive use of PSBs.</p>	
010943 - 012626	<p>Chairman Ms Cyd HO Assistant Legal Adviser 10 ("ALA10") Administration</p>	<p>Ms Cyd HO's enquiries/views that –</p> <p>(a) she agreed to the broad direction of the Bill but would need to examine the details of implementation;</p> <p>(b) whether there would be any control on plastic-laminated paper bags or over-packaging; and</p> <p>(c) the means to assess the effectiveness of and ensure compliance with the extended Scheme when retailers were not required to submit returns on the number of PSBs distributed and the PSB charge collected.</p> <p>Ms Cyd HO also requested for an explanation on the operation of the Bill, with particular reference to the proposed section 28N regarding the amendment by resolution to be made by the Legislative Council ("LegCo") to certain amounts. She was concerned whether the addition of such provision would affect the Legislative Council's power to amend the Product Eco-responsibility Ordinance (Cap. 603) ("PERO") in future.</p> <p>The Administration's response that –</p> <p>(a) under PERO, a bag was a PSB if it was "made wholly or partly of plastic";</p> <p>(b) under the extended Scheme, retailers would no longer be required to register for the collection of PSB charge or to provide quarterly returns to</p>	<p>The Administration to explain the means to assess the effectiveness of and ensure compliance with the extended Scheme when retailers were not required to submit returns on the number of PSBs distributed and the PSB charge collected.</p>

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		<p>Government. The enforcement strategy would also require adjustments. According to the outcome of the public consultation on the extended Scheme, "publicity and public education" was considered a very important factor for the extended Scheme to be successful. Hence, the Administration would step up publicity efforts and public education; and</p> <p>(c) the staff of EPD would conduct inspections and surprise checks on the retailers to monitor compliance with the extended Scheme. They would also act on complaints.</p> <p>ALA10's explanation that –</p> <p>(a) provisions which were similar to the proposed section 28N could be found in other legislation;</p> <p>(b) the mere presence of the section would not, in itself, affect LegCo's power to amend PERO in the future; and</p> <p>(c) she would provide more information on the proposed section 28N if required.</p>	
012627 - 013021	Chairman ALA10 Ms Cyd HO Administration	<p>Discussion on ALA10's letters dated 3 and 7 May 2013 to the Administration which were circulated to members under LC Paper No CB(1)1171/12-13(02) and (03).</p> <p>Ms Cyd HO's concern about the Administration's delay in responding to ALA10's letters.</p>	The Administration to provide written response to the issues raised by ALA10 in her letters dated 3 and 7 May 2013.
013022 - 013739	Chairman Mr WU Chi-wai Ms Cyd HO Administration	<p>Mr WU Chi-wai's concern that it would be difficult to monitor compliance with the extended Scheme if no returns were required to be submitted by retailers under the "retention" approach.</p> <p>The Administration's response that –</p> <p>(a) during the consultation on the extended Scheme, it had specifically consulted the public on the proposal that the PSB charge collected by retailers need not be remitted to the Government. The</p>	

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		consultation outcome indicated general support for the "retention" approach as the "remittance" approach would be too burdensome for SME retailers; and (b) as the extended Scheme was not meant to increase government revenue but to deter excessive use of PSBs, the Administration proposed that the "retention" approach be adopted.	
013740 - 014117	Chairman	Date of next meeting	

Council Business Division 1
Legislative Council Secretariat
14 June 2013