

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

This note sets out (i) the Administration's responses to the follow-up issues arising from the fourth meeting of the Bills Committee on the Product Eco-responsibility (Amendment) Bill 2013 ("the Amendment Bill"), held on 23 July 2013; and (ii) information requested by Mr Wu Chi-wai in his letter of 15 August 2013 (Ref: LC Paper No. CB(1)1697/12-13(01)).

Part One: Follow-up for the Fourth Bills Committee Meeting

Issue (a): Provide response to Mr Vincent FANG's letter dated 19 July 2013 (LC Paper No. CB(1)1587/12-13(01));

Effectiveness of the Environmental Levy Scheme on Plastic Shopping Bags ("PSB Levy Scheme")

2. We provided our previous assessment on the effectiveness of the PSB Levy Scheme in reducing the use of plastic shopping bags ("PSBs") in Hong Kong in the Legislative Council Brief on the Product Eco-responsibility Bill in 2007 –

It is difficult to determine to what extent the public would react to the environmental levy. Based on a 50% reduction in the distribution of plastic shopping bags from prescribed retailers and a further 50% exemption of plastic bags with no hole, handle or string (i.e. not plastic shopping bags under our definition), the environmental levy might generate up to \$200 million a year. The experience in Ireland suggests that the use of plastic shopping bags could experience a significant drop initially (more than 90%), but will rebound gradually over time. As such, the environmental levy collected for the first few years could be significantly less than \$200 million per year.

Upon the implementation of the first phase of the PSB Levy Scheme, it showed that the actual levy income is in the region of \$26.5 million per annum, which is far less than the previous estimation. This reflects that the consumption of PSBs by the customers in the prescribed retailers is

much less than estimated.

3. According to previous landfill surveys, the total number of PSBs disposed of at landfills amounted to 8.691 billion a year (including 1.961 billion attributable to the sectors now regulated under the first phase of the PSB Levy Scheme) in 2005¹ before the public consultation on the PSB Levy Scheme was launched. The figure dropped to 4.679 billion a year (including 657.34 million attributable to the regulated sectors) in mid-2009 before the implementation of the first phase, and further to 4.444 billion a year (including 153.12 million attributable to the regulated sectors) in mid-2010 after the implementation of the first phase in July 2009. As explained in the Consultation Document of 2011, despite the initial success of the PSB Levy Scheme, the excessive use of PSBs distributed by retailers outside the existing scheme remains a serious problem².

4. Since the implementation of the PSB Levy Scheme, the top five registered retailers (in terms of levy payments) have distributed the following number of PSBs up to 30 June 2013 –

Rank	Number of PSBs Distributed³ (from July 2009 to 30 June 2013)
1	98 738 836, i.e. on average 2 057 059 per month
2	61 254 350, i.e. on average 1 276 132 per month
3	10 574 227, i.e. on average 220 296 per month
4	8 315 482, i.e. on average 173 239 per month
5	7 629 569, i.e. on average 158 949 per month

¹ Source : http://www.epd.gov.hk/epd/english/environmentinhk/waste/prob_solutions/files/Survey_Result_eng.pdf

² Although there is significant reduction in the amount of PSBs distributed by the regulated sectors, nevertheless, the PSB disposal originated from other sources has increased by 6.7% between mid-2009 and mid-2010, and the magnitude of increase was notably significant in individual retail categories. As a result we considered it opportune to expand the coverage of the Levy Scheme so as to further address the issue.

³ The average number of PSBs distributed per month is calculated based on the total number of PSB levies collected by the registered retail outlets under each registered retailer for the period between 7 July 2009 and 30 June 2013 divided by 48 months.

It is however noteworthy that the number of registered retail outlets differs from one registered retailer to another and may vary during the period even for the same registered retailer. We do not have the corresponding figures for the period before the implementation of the PSB Levy Scheme.

Recycling of Plastic Bag and Plastic Waste

5. Based on statistics compiled by Environmental Protection Department (“EPD”), in the five year between 2008 and 2012, the quantity of recyclable plastics exported and imported is tabulated below –

	2008	2009	2010	2011	2012
Imported Recyclable Plastics	4 489	4 696	4 799	3 962	3 200
Exported Recyclable Plastics	4 178	4 127	4 223	3 453	3 237

Unit: in thousand tonnes

And the amount of waste plastics recovered in Hong Kong is tabulated below –

	2008	2009	2010	2011	2012
Recyclable Recovered	1 023	1 211	1 577	843	Not Available

Unit: in thousand tonnes

6. In line with international practices, we have in place import and export control of waste and recyclables in Hong Kong. Import and export of non-hazardous recyclables for recycling purpose is allowed under the Waste Disposal Ordinance, and imported recyclables are commodities with commercial value and the trading of such recyclables is conducive to the circular economy. Nevertheless, the import of waste, including foreign domestic waste (commonly known as “foreign rubbish”), for disposal in Hong Kong is illegal, and EPD and the Customs and Excise Department are vigilant in taking enforcement actions against

such activities.

7. On the local recycling of plastics, it is noteworthy that in compiling the statistics on the recyclables recovered in Hong Kong, we have mainly based on the domestic exports figures collated by the Census & Statistics Department (“C&SD”). As explained at the special meeting of the Panel on Environmental Affairs held on 26 July 2013, due to Hong Kong’s relatively simple requirements in terms of customs declaration and that there is no tariff on the import and exports of such materials in Hong Kong, the domestic exports figures collected is mainly for statistical purpose⁴. In other words, such figures are not collected as part of any compliance system as in the case of the number of PSBs distributed as tabulated under paragraph 4.

8. At present, the “brown” bin under the waste separation bin (“WSB”) programme accepts all plastic materials including PSBs. As at 2012, some 15 500 sets of WSBs have been placed by the Government in different locations throughout the territory. Among them, over 4 600 sets are placed in public places including roadsides, public transport interchanges, refuse collection points, leisure and cultural venues and country parks. The rest are placed in schools, residential estates, office buildings and shopping malls, etc. In 2012, some 165 tonnes of plastic waste were recovered from the “brown” bins in public places. There is no further breakdown on individual types of plastic waste. The figure does not include recyclables recovered by management companies which have also arranged for their own waste separation facilities in private housing estates and commercial and industrial buildings under their management.

9. As regards local recycling capacity, with the funding support from the Environment and Conservation Fund, Yan Oi Tong (“YOT”) has been operating the Plastic Resources Recycling Centre at the EcoPark⁵ since March 2010. The Centre has so far received over 19 000 visitors and offered over 100 employment and training opportunities to employees of different skill levels. At present, the Centre is processing about six tonnes of local plastic waste a day. Based on the latest annual waste recovery survey, there are about 280

⁴ Source: <http://www.legco.gov.hk/yr12-13/english/panels/ea/papers/ea0726cb1-1620-1-e.pdf>

⁵ The Centre was set up by the Government with core objectives to provide a secure and environmentally sound outlet for local plastic waste, carry out value-added processing, organize community education and promotion activities on waste reduction and plastic waste recycling, and create employment and training opportunities for the underprivileged. YOT is a non-profit making NGO selected as the operator through open tender.

waste plastics recyclers in Hong Kong with nearly 95% of them engaged in simple handling processes such as sorting and baling for export, and the remaining carry out further recycling operations including melting and pelletizing, which convert waste plastics into raw materials. We do not have the figures on the outputs of these operations.

Recycling Businesses in the EcoPark

10. At present, a total of 14 lots in the EcoPark have been leased for a great variety of recycling businesses. EcoPark tenants face similar challenges as other recyclers, including high capital cost for plant design and construction; sourcing of adequate recyclable materials; high operation cost for labour, transport and insurance; shortage of storage area; and market fluctuation for their products.

11. As for the EcoPark Phase 2 development, a total of six lots have been leased since January 2012 for the recycling of food waste, construction waste, waste glass, waste metals, waste acid batteries, waste electrical and electronic equipments and waste tyres. Two tenants are constructing their plants with target commission date in the fourth quarter of 2013. One will start construction soon with target commission date in the second quarter of 2014. The remaining three tenants are in the process of revising their building plans having regard to the upsurge in construction costs. We would continue to assist where appropriate, monitor their progress and performance and enforce tenancy agreements where necessary. However, we do not have the tenants' financial information, which is their commercial data.

Issue (b): Consider obtaining statistics on the import of plastic shopping bags ("PSBs") regularly to facilitate monitoring of PSB usage;

12. As explained at previous Bills Committee meetings, the Government will continue to monitor PSB usage through different means including landfill disposal surveys or other supplementary surveys to assess the effectiveness of the extended PSB Levy Scheme. But import statistics has to be compiled in accordance with international practices using the Standard International Trade Classification Revision 4 for merchandise trade statistics reporting purpose. It is converted from the specific merchandise codes for individual commodity items cited for import/export declarations purpose. At present, there is no specific merchandise code for PSBs.

Issue (c): Consider requesting major supermarkets and chain stores to sign an undertaking to the effect that the PSB charges collected by them under the extended PSB Levy Scheme ("the extended Scheme") would be used for environment purposes;

13. We have proposed to adopt the “retention” approach in the second phase of the PSB Levy Scheme such that retailers will not have to remit to the Government the income arising from the PSB charge and may be subject to a much streamlined compliance system. As the Secretary for the Environment mentioned in moving the Second Reading of the Amendment Bill on 8 May 2013, retailers are encouraged to favourably consider designating revenue raised from the PSB charge for environmental protection or other charitable causes. So far, the feedback from the trade is positive. We are open to the views of the trades and other stakeholders as to whether there is general support for more visible voluntary actions by the retailers to designate the PSB charges for specific purposes, such as environmental education.

Issue (d): Advise the time and resources incurred in dealing with the 11 complaints under the PSB Levy Scheme such that an estimate could be made on the resources required to deal with complaints under the extended Scheme;

14. As mentioned in our reply to the Bills Committee (cf. paragraph 11-12 of LC Paper No. CB(1)1470/12-13(02)), since the implementation of the PSB Levy Scheme, EPD has handled over 2 500 enquiries in which 11 of them were complaints about various issues. These complaints have been handled by the Environmental Compliance Division which enforces various environmental legislations, and we do not have specific breakdown on the manpower spent on these cases. With the proposed fixed penalty system, we envisage that enforcement efficiency would be enhanced and deterrence effect upheld in the second phase. We will critically review and deploy adequate staffing resources for implementation and enforcement of the extended PSB Levy Scheme.

Issue (e): Consider refining the new section 18A and explain the enforcement of the new section 18A(2) and (3) if retailers chose to flexibly adjust their prices for goods sold under

inclusive pricing; and

15. As we have previously explained, the purpose of the PSB Levy Scheme is not to regulate the use of plastic bags that form an integral part of the goods for sale. This should be deferred to the commercial decisions of individual sellers though in practice there does not appear to be commercial reason for the sellers to add the operating costs by doing so. We will carry out investigations and determine on the facts of the case whether and how prosecution actions may be initiated for contravening the new section 18A⁶ in individual cases.

Issue (f): Consider the need to provide definitions for "levy" and "charge".

16. In general, words not defined in law will be interpreted in accordance with their ordinary meanings in the context of the provisions in which the words appear.

17. In the specific context of the “charge” introduced by the Amendment Bill, clear words such as “an amount charged under [section 18A(2)]” are used. It is, hence, clear from the context that the charge is the one required by the new section 18A(2). A definition of the word “charge” is therefore not necessary.

18. After the amendment, no levy will be imposed. References to “levy” in the Product Eco-responsibility Ordinance (“PERO”) does not intend to mean a specific type of levy, but only a general description of a measure that may be covered under the framework of the PERO. For this purpose, there is no need to define “levy”.

Part Two: Information Requested by Mr WU Chi-wai

19. Our response to the questions raised by Mr Wu is as follows –

- (a) The PSB Levy Scheme currently covers over 3 300 registered retail outlets which are mainly chain or large supermarkets, convenience stores, medicare and personal

⁶ Under the new section 18A, a retail seller of any goods must charge a customer an amount not less than \$0.5 for each PSB provided by the seller directly or indirectly to the customer at the time of the sale, for promoting the goods or otherwise in connection with the sale.

hygiene and beauty product stores. According to C&SD, there were about 64 000 retail establishments⁷ in Hong Kong as at December 2012. We provided the aforesaid information vide our response to the follow-up actions arising from the first Bills Committee meeting (cf. paragraph 2 of LC Paper No. CB(1)1291/12-13(02)). The current PSB Levy Scheme covers only about 5% of all retail establishments in Hong Kong.

- (b) We conducted a pre-levy landfill survey in mid-2009 to collect statistics on the disposal of PSBs in the landfills before the launch of the first phase of the PSB Levy Scheme. Post-levy surveys are conducted from mid-2010 onwards. The relevant statistics have been published vide the Consultation Document of 2011. They are now tabulated in the format requested (with the ratio figures calculated) at Annex. It is also noteworthy that we do not have the breakdown of the PSB disposal by individual retailers (say only the registered retail outlets). Therefore the figures provided include disposal originated from retail outlets that fall within the same retail categories but are not registered under the PSB Levy Scheme. For ease of reference, under the first phase of the PSB Levy Scheme, a “prescribed retailer” refers to those who carries on a retail business at (a) 5 or more qualified retail outlets in Hong Kong; or (b) at least one qualified retail outlet in Hong Kong that has a retail floor area of not less than 200 square metres (cf. Schedule 4 of PERO).

20. In the Consultation Document of 2011, we did attempt to analyze the impacts under a phasing approach of extending the PSB Levy Scheme on the basis of selecting specific sectors amongst retailers. Our conclusion was that such incremental moves could only achieve modest impacts in reducing the use of PSB. Please refer to paragraphs 3.3 to 3.6 of the Consultation Document. In gist –

- (a) We noticed that most of the retail establishments in Hong Kong were operated by small and medium enterprises (“SMEs”). To this, in response to the Bills Committee’s request, we have already provided information on the number of SMEs in Hong Kong (cf. paragraph 3 of LC

⁷ Source: Quarterly Report of Employment and Vacancies Statistics

... In general, non-manufacturing enterprises with fewer than 50 employees may be regarded as SMEs in Hong Kong. Following such definition and basing on the C&SD survey referred to in paragraph 2 above, over 99% of the retail establishments in Hong Kong should be regarded as SMEs. In other words, it will be difficult to achieve similar impact as now proposed under the Amendment Bill by continuing to focus at chain stores without extending to SMEs in the second phase.

- (b) A C&SD survey in 2009⁸ recorded that over 90% of the retail establishments have a retail floor area of less than 100m². Some of the retail establishments with a larger floor area could have been covered under the existing scheme since many of the registered retail outlets were supermarkets and department stores which were often operated in larger premises. The survey findings cited are reproduced below for ease of reference –

Floor Area	Number of Establishments	Percentage
< 100m ²	44 956	90.5%
100 – 149m ²	2 269	4.6%
150 – 199m ²	634	1.3%
200m ² or above	1 776	3.6%
	49 635	100.0%

Environmental Protection Department
September 2013

⁸ Source: 2009 Annual Survey of Economic Activities - Import/Export, Wholesale and Retail Trades, and Accommodation and Food Services Sectors

Annex

(a) Year	(b) No of registered retail outlets and its ratio to total of retail establishments	(c) No. of PSBs disposed of by the three retail categories	(d) Total landfill disposal of PSBs	(e) Percentage of (c) over (d)
2009	Approx. 3 000, 5.05% of all retail establishments (approx. 59 400)	657 million/year	4 679 million/year	14.05%
2010	Approx. 3 100, 5.02 % of all retail establishments (approx. 61 700)	153 million/year	4 444 million/year	3.45%
2011	Approx. 3 300, 5.21% of all retail establishments (approx. 63 300)	147 million/year	4 544 million/year	3.23%
2012	Approx. 3 400, 5.32% of all retail establishments (approx. 63 900)	156 million/year	5 247 million/year	2.97%