

立法會
Legislative Council

LC Paper No. CB(1)189/15-16
(These minutes have been seen
by the Administration)

Ref : CB1/BC/10/14/2

**Bills Committee on Promotion of Recycling and Proper Disposal
(Product Container) (Amendment) Bill 2015**

**Minutes of first meeting
held on Friday, 30 October 2015, at 9:00 am
in Conference Room 2A of the Legislative Council Complex**

Members present : Ir Dr Hon LO Wai-kwok, SBS, MH, JP (Chairman)
Hon Tommy CHEUNG Yu-yan, GBS, JP
Hon Andrew LEUNG Kwan-yuen, GBS, JP
Hon Cyd HO Sau-lan, JP
Hon WU Chi-wai, MH
Hon Gary FAN Kwok-wai
Hon CHAN Chi-chuen
Dr Hon Kenneth CHAN Ka-lok
Hon KWOK Wai-keung
Hon Christopher CHUNG Shu-kun, BBS, MH, JP
Hon Tony TSE Wai-chuen, BBS

Members absent : Hon Vincent FANG Kang, SBS, JP
Hon WONG Ting-kwong, SBS, JP
Hon CHAN Hak-kan, JP

Public Officers attending : **For item II**

Mr Howard CHAN, 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 Stephen SIU
Acting Principal Environmental Protection Officer
(Waste Management Policy)
Environmental Protection Department

Mr Gilbert MO
Deputy Law Draftsman
(Bilingual Drafting and Administration)
Department of Justice

Miss Elaine NG
Senior Government Counsel
Department of Justice

Clerk in Attendance : Ms Angel SHEK
Chief Council Secretary (1)1

Staff in attendance : Miss Evelyn LEE
Assistant Legal Adviser 10

Ms Doris LO
Senior Council Secretary (1)1

Miss Mandy POON
Legislative Assistant (1)1

Action

I. Election of Chairman

Mr Tommy CHEUNG, the member with the highest precedence among those who were present at the meeting, presided over the election of the Chairman of the Bills Committee. He invited nominations for the chairmanship of the Bills Committee.

Action

2. Ir Dr LO Wai-kwok was nominated by Mr Christopher CHUNG and the nomination was seconded by Mr Andrew LEUNG. Ir Dr LO Wai-kwok accepted the nomination. There being no other nominations, Ir Dr LO Wai-kwok was declared Chairman of the Bills Committee.
3. Members agreed that there was no need to elect a Deputy Chairman.

II. Meeting with the Administration

(LC Paper No. CB(3)829/14-15	—	The Bill
File Ref: EP CR 9/150/35 Pt.4	—	Legislative Council Brief
LC Paper No. LS86/14-15	—	Legal Service Division Report
LC Paper No. CB(1)79/15-16(01)		Marked-up copy of the Bill prepared by the Legal Service Division (Restricted to Members)
LC Paper No. CB(1)79/15-16(02)	—	Assistant Legal Adviser's letter dated 14 September 2015 to the Administration
LC Paper No. CB(1)79/15-16(03)	—	Administration's reply to Assistant Legal Adviser's letter dated 14 September 2015
LC Paper No. CB(1)79/15-16(04)	—	Assistant Legal Adviser's letter dated 23 October 2015 to the Administration
LC Paper No. CB(1)79/15-16(05)	—	Background brief prepared by the Legislative Council Secretariat)

Discussion

4. The Deputy Director of Environmental Protection (2) ("DDEP(2)") briefed members on the Promotion of Recycling and Proper Disposal (Product Container) (Amendment) Bill 2015 ("the Bill").

Action

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

Follow-up actions to be taken by the Administration

Definitions

"Beverage"

Admin

6. In the light of the proposed definition of "beverage" in the Bill, the Administration was requested to –

- (a) clarify the principles, criteria and industry guidelines, if any, for determining whether a product fell within the said definition and hence would be subject to regulation under the mandatory producer responsibility scheme on product containers which would initially cover glass beverage containers ("the mandatory PRS"); and
- (b) illustrate with examples of common types of food, beverage and sauce contained in glass containers available in the market, such as soup, soya sauce, vinegar, bird nest essence, chicken essence, Bovril beef juice, "turtle tea/jelly", and beauty supplements like collagen drink/jelly, etc. whether and how a product fell under the said definition.

"Suppliers" of regulated articles

Admin

7. The Administration was requested to provide, in relation to the definitions of "supplier" and "regulated article" under the Bill, the policy intent and considerations in respect of regulating an article which (a) satisfied the definition of "regulated article"; (b) was acquired locally and hence owned by a supplier that carried on a business of distributing regulated articles in Hong Kong; and (c) the supplier distributed or consumed the article concerned in Hong Kong. In other words, the Administration was requested to provide the policy intent and considerations in respect of the regulatory framework under the Bill relating to a regulated article that was neither manufactured nor imported by the supplier as defined in the definition of "supplier" but the article was nonetheless owned by the supplier who acquired it locally and that the article was acquired by the supplier concerned for distribution or consumption in Hong Kong.

Action

Costs and benefits of the mandatory PRS and determination of the recycling levy

- Admin 8. The Administration was requested to –
- (a) provide a detailed cost-benefit analysis on the mandatory PRS, including the potential cost items and levels, annual levy collectible, values and outlets of materials recycled from glass beverage containers, as well as the quantifiable economic/environmental benefits that the mandatory PRS would bring about, such as reduced land/capital costs involved in the provision of landfill space, and savings achieved for public works projects as a result of using construction materials manufactured from the recycled glass; and
 - (b) set out the considerations to be taken into account in determining the recycling levy, including –
 - (i) the reasons for computing the levy on the basis of per litre-container volume instead of other criteria such as the container weight or adopting a tiered levy rate for different weights/volumes of glass beverage containers; and
 - (ii) whether the costs involved in the collection of glass containers other than glass beverage containers by the glass management contractors to be hired by the Government would affect the level of levy payable by registered suppliers.

Disposal, recycling and reuse of glass containers

- Admin 9. The Administration was requested to provide –
- (a) updated information on the amount of glass containers disposed at landfills in Hong Kong, with breakdown by glass beverage containers, food/sauce containers and other glass containers, and the percentage of daily municipal solid waste generated by glass containers;
 - (b) distribution in terms of alcoholic beverages (with breakdown by beer, red wine and white wine, etc.) and non-alcoholic beverages (with breakdown by milk, soft drinks and juices, etc.) held in glass in Hong Kong; and the respective rates and average number of times of recovery/reuse of glass containers of the respective beverage categories; and

Action

- (c) the number of companies conducting glass recycling business in Hong Kong at present.

Compliance costs

- Admin 10. The Administration was requested to address the concerns raised by members about the potential compliance costs incurred by registered suppliers of regulated articles as a result of implementation of the mandatory PRS, in particular the requirements on the submission and auditing of periodic returns for computation of levy payment.

Invitation of public views

11. Members agreed to post a notice on the website of the Legislative Council ("LegCo") and write to the 18 District Councils ("DCs") to invite views from the public and DCs on the Bill.

(Post-meeting note: The notice was posted on the LegCo website on 4 November 2015 and invitation letters were sent to DCs and relevant organizations on the same day.)

Date of next meeting

12. The Chairman said that he would work out the date of next meeting with the Clerk and inform members accordingly.

(Post-meeting note: With the concurrence of the Chairman, the second meeting was scheduled for Monday, 30 November 2015 from 8:30 am to meet with deputations and the Administration. The notice of meeting was issued to members vide LC Paper No. CB(1)98/15-16 on 4 November 2015. Taking into account the number of deputations attending the meeting, the Chairman had directed that the meeting would end by 10:30 am. Members were informed vide LC Paper No. CB(1)196/15-16 accordingly.)

III. Any other business

13. There being no other business, the meeting ended at 10:46 am.

**Bills Committee on Promotion of Recycling and Proper Disposal
(Product Container) (Amendment) Bill 2015**

**Proceedings of the first meeting
on Friday, 30 October 2015, at 9:00 am
in Conference Room 2A of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
<i>Agenda Item I - Election of Chairman</i>			
000110 - 000239	Mr Tommy CHEUNG Mr Andrew LEUNG Ir Dr LO Wai-kwok Mr Christopher CHUNG	Election of Chairman	
<i>Agenda Item II - Meeting with the Administration</i>			
000240 - 000410	Chairman	Opening remarks	
000411 - 000911	Administration	Briefing by the Administration on the Promotion of Recycling and Proper Disposal (Product Container) (Amendment) Bill 2015 ("the Bill"), which aimed at providing for a statutory regulatory framework for a mandatory producer responsibility scheme on product containers which would initially cover glass beverage containers ("the mandatory PRS")	
000912 - 001847	Chairman Mr Andrew LEUNG Administration	<p>While expressing support for the mandatory PRS in principle, Mr Andrew LEUNG relayed the concern of the relevant trade that the level of the recycling levy to be imposed on beverages held in glass containers ("the levy") to recover the full costs of the PRS was uncertain. It would also be difficult for members to consider the PRS in totality if the specific levy amount was not specified in the Bill.</p> <p>The Administration responded that –</p> <p>(a) the levy, which would be set at a level to recover the full costs of the mandatory PRS, could only be determined upon completion of the open tendering for the required services from glass management contractors ("GMCs") to collect waste glass containers, etc;</p> <p>(b) overseas experience suggested an indicative level of the levy at around \$1 per one litre-container volume; and</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>(c) the Administration would consult the trade on the specific level of the levy to be prescribed by way of subsidiary legislation to be introduced for approval by the Legislative Council ("LegCo") in the next stage.</p> <p>Regarding the levy exemption mechanism for registered suppliers (including manufacturers and importers who carried on a business of distributing regulated articles (i.e. beverages held in glass containers as specified by the Bill) in Hong Kong and registered as registered suppliers under the mandatory PRS) with waste reduction plans for the recovery/reuse of their glass beverage containers, Mr LEUNG enquired about –</p> <p>(a) the number of times of recovery/reuse of the glass beverage containers for meeting the exemption threshold; and</p> <p>(b) whether the proposed import/export control would apply to glass beverage containers imported or exported by registered suppliers arising from the operation of their production lines in the Mainland.</p> <p>The Administration responded that –</p> <p>(a) the granting of exemption of levy (and renewal of exemption) would be subject to demonstration of an environmentally sound reuse/recycling plan of the glass beverage containers by the registered suppliers concerned. The Administration's initial thinking was to grant the exemption if the glass beverage containers could be recovered/reused for five times or more on average, excluding any wastages of such containers due to contamination or damages, among other things; and</p> <p>(b) it would examine whether and how the permit control on import/export of waste glass containers under the mandatory PRS should apply to the reuse operation of registered suppliers if their production lines were in the Mainland.</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>The Chairman and Mr Andrew LEUNG shared grave concern about the unclear definition of "beverage" (i.e. "(a) means every type of drink; and (b) includes water") in the Bill.</p> <p>The Administration advised that it had consulted the trade and made reference to relevant industry guidelines when drawing up the definition of "beverage". It was considered appropriate to adopt a general description for the definition to cater for the development of new products in the market.</p>	
001848 - 002613	<p>Chairman Mr Christopher CHUNG Mr Andrew LEUNG Administration</p>	<p>Mr Christopher CHUNG enquired about –</p> <p>(a) whether the Administration had assessed if beverage suppliers might –</p> <p style="padding-left: 40px;">(i) switch to using plastic bottles or paper cartons for packing their beverages, thus giving rise to other environmental issues;</p> <p style="padding-left: 40px;">(ii) pass on the levy costs to consumers by marking up the retail prices; and</p> <p>(b) the schedule for extending the mandatory PRS to cover other products held in glass containers, or other types of product containers (e.g. plastic and paper containers).</p> <p>The Administration responded that –</p> <p>(a) about 85% of waste glass containers were generated from alcoholic beverages, which were not commonly packed in plastic bottles or paper cartons. Subject to review, the mandatory PRS might be expanded in future to cover other products held in glass containers, or other types of containers; and</p> <p>(b) the mandatory PRS was developed along the "polluter pays" principle. How a registered supplier might recover the levies wholly or partially along the supply chain and ultimately from consumers would be determined by market forces.</p> <p>At the request of the Chairman and some members, the Administration agreed to provide written information to clarify the principles,</p>	<p>Admin (paragraph 6(a) of the minutes</p>

Time marker	Speaker	Subject(s)	Action required
		criteria and industry guidelines, if any, for determining whether a product fell within the definition of "beverage" in the Bill and hence would be subject to regulation under the mandatory PRS.	refers)
002614 - 003550	Chairman Mr WU Chi-wai Administration	<p>Mr WU Chi-wai enquired about whether –</p> <ul style="list-style-type: none"> (a) setting the levy at \$1 per one litre-container volume could achieve the target of recovering the full PRS costs, and if the costs could be recovered through alternative and more cost-effective means; (b) the handling capacity of local recyclers could cope with the envisaged increase in the amount of waste glass containers recovered under the mandatory PRS; and (c) there were sufficient outlets for the recycled glass. <p>The Administration responded that –</p> <ul style="list-style-type: none"> (a) the indicative levy level of around \$1 per one litre-container volume was only a reference level at the time of the public consultation in 2013 in the light of overseas experience; (b) the collection and recycling of glass containers under a territory-wide mandatory PRS would benefit from economy of scale along with progressive increase in the amount of waste glass containers over time; and (c) recycled glass materials from waste glass containers could be absorbed locally for the production of eco-pavers and other construction materials, or used as fill materials in reclamation and other earthworks. <p>The Chairman requested the Administration to provide a detailed cost-benefit analysis ("CBA") on the mandatory PRS, including the potential cost items and levels, annual levy collectible, values and outlets of materials recycled from glass beverage containers, and benefits that the mandatory PRS would bring about in quantifiable terms.</p>	Admin (paragraph 8(a) of the minutes refers)

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003551 – 004332	Chairman Mr Tommy CHEUNG Administration	<p>Mr Tommy CHEUNG indicated that he would not support the Bill unless the specific level of levy was clearly specified at this stage. He also opined that the proposed definition of "beverage" in the Bill was ambiguous.</p> <p>On Mr CHEUNG's enquiry, the Administration affirmed that the subsidiary legislation to prescribe the specific level of the levy would be subject to positive vetting by LegCo.</p> <p>At the request of the Chairman and Mr CHEUNG, the Administration agreed to provide information on the distribution in terms of alcoholic beverages (with breakdown by beer, red wine and white wine, etc.) and non-alcoholic beverages (with breakdown by milk, soft drinks and juices, etc.) held in glass containers in Hong Kong, and the respective rates and average number of times of recovery/reuse of glass containers of the respective beverage categories.</p>	Admin (paragraph 9(b) of the minutes refers)
004333 - 005323	Chairman Mr Tony TSE Administration	<p>Mr Tony TSE expressed the following views –</p> <p>(a) he had grave concern about the uncertain level of the levy to be imposed on suppliers and how far the levy costs would be passed onto consumers;</p> <p>(b) drawing experience from implementation of the extended Environmental Levy Scheme on Plastic Shopping Bags ("the PSB Scheme"), it was necessary to clarify the definition of "beverage" to avoid giving rise to confusion in implementing the mandatory PRS, as well as minimize inadvertent contravention of relevant offences; and</p> <p>(c) the Administration should adopt a holistic approach to (i) promote the reuse and recycling of glass containers, and (ii) enhance environmental education with a view to encouraging "clean" recycling of glass containers.</p> <p>The Administration responded that –</p> <p>(a) unlike the PSB scheme, the mandatory PRS involved collection of levy from manufacturers and importers (and not consumers) and there would be no issue of</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>dispute between retailers and consumers as to whether a levy should be charged for the glass containers of certain products;</p> <p>(b) the mandatory PRS embraced best practices of recovery/reuse of glass beverage containers, as manifested in the exemption arrangements to encourage registered suppliers to recover/reuse their glass beverage containers; and</p> <p>(c) the Administration would step up efforts in publicity and environmental education to dovetail with the implementation of the mandatory PRS.</p>	
005324 - 010532	Chairman Ms Cyd HO Administration	<p>Ms Cyd HO requested the Administration to explain –</p> <p>(a) why it would take so long to ascertain the PRS costs and the specific level of the levy; and</p> <p>(b) the reasons for computing the levy on the basis of per litre-container volume instead of other criteria such as the container weight or adopting a tiered levy rate for different weights/volumes of glass beverage container.</p> <p>The Administration responded that –</p> <p>(a) before a legal framework was put in place through the Bill for introducing the mandatory PRS and providing the basis for conducting the tendering exercise for GMC services, the PRS costs and the specific levy level could not be ascertained; and</p> <p>(b) the trade generally considered it more expedient to calculate the levy on the basis of per litre-container volume compared to other criteria. Hence, there would be no need for a tiered levy rate.</p> <p>Pointing out that the glass weight and recycling costs might not correlate with the volume of glass containers (e.g. the weight of a 1.5-litre glass bottle could be less than that of two 500-millilitre glass bottles together), Ms HO remained unconvinced regarding the adoption of a volume-based levy.</p>	Admin (paragraph 8(b)(i) of the minutes refers)

Time marker	Speaker	Subject(s)	Action required
		<p>Referring to a study conducted in 2014 that revealed serious inaccuracies in the estimation of waste plastic recovery rate due to mistakes made by relevant traders and exporters in customs declarations, Ms HO enquired about how the Administration would ensure that similar problem would not recur in the estimation of waste glass container recovery rate.</p> <p>The Administration explained that unlike waste plastics, the import and export of waste glass containers would be subject to permit control and verification against the quantity of the waste glass containers stated in the relevant applications for the permits.</p> <p>At the request of Ms HO, the Administration agreed to provide updated information on the amount of glass containers disposed of at landfills in Hong Kong, with breakdown by glass beverage containers, food/sauce containers and other glass containers, and the percentage of daily municipal solid waste generated by glass containers.</p>	<p>Admin (paragraph 9(a) of the minutes refers)</p>
010533 - 011237	Chairman Mr CHAN Chi-chuen Administration	<p>Mr CHAN Chi-chuen requested the Administration to –</p> <p>(a) illustrate with examples of common types of food, beverage and sauce contained in glass containers available in the market, such as soup, soya sauce, vinegar, bird nest essence, chicken essence, Bovril beef juice, "turtle tea/jelly", and beauty supplements like collagen drink/jelly, etc. whether and how a product fell under the definition of "beverage" in the Bill;</p> <p>(b) based on the indicative level of levy at \$1 per litre-container volume, clarify whether the levy for a small-sized glass container of just a few millilitres in volume would be charged the levy of \$1 in full or on a pro-rata basis; and</p> <p>(c) on the granting of levy exemption, clarify how the Administration could verify if a registered supplier had complied with the relevant requirements stated in its plan of recovering/reusing glass beverage</p>	<p>Admin (paragraph 6(b) of the minutes refers)</p>

Time marker	Speaker	Subject(s)	Action required
		<p>containers, and the penalty for non-compliance.</p> <p>The Administration advised that –</p> <p>(a) the levy payable by a registered supplier would be calculated based on the total container volume reported in the periodic returns submitted by the registered supplier and subject to audit; and</p> <p>(b) the granting of levy exemption would be subject to an environmentally sound reuse/recycling plan submitted by the registered supplier concerned and a robust and reliable monitoring and audit system to ensure effective execution of the plan.</p>	
011238 - 012104	Chairman Mr KWOK Wai-keung Administration	<p>Given the substantial amount of glass containers other than glass beverage containers disposed of at landfills, Mr KWOK Wai-keung took the view that the mandatory PRS should be expanded early to cover other products including food or sauces held in glass containers.</p> <p>Mr KWOK enquired about whether the costs involved in the collection of non-regulated articles (glass containers other than glass beverage containers) by GMCs would affect the levy level.</p> <p>The Administration responded that the costs for the collection of non-regulated articles by GMCs would be calculated according to the terms and conditions of the GMC contracts, and subject to audit. The costs would be absorbed by the recurrent expenses of the Environmental Protection Department and would not be counted into the PRS costs for determining the levy.</p> <p>At the request of Mr KWOK, the Administration agreed to supplement information on the number of companies conducting glass recycling business in Hong Kong at present.</p>	<p>Admin (paragraph 8(b)(ii) of the minutes refers)</p> <p>Admin (paragraph 9(c) of the minutes refers)</p>
012105 - 013042	Chairman Dr Kenneth CHAN Administration	<p>Dr Kenneth CHAN expressed concerns about –</p> <p>(a) the potential compliance costs incurred by registered suppliers of regulated articles as a</p>	Admin (paragraph 10 of

Time marker	Speaker	Subject(s)	Action required
		<p>result of implementation of the mandatory PRS, in particular the requirements on the submission and auditing of periodic returns for computation of levy payment; and</p> <p>(b) the stipulation in the proposed new section 39(1)(c) of the Product Eco-responsibility Ordinance (Cap. 603) under the Bill that the Secretary for the Environment might make regulation in respect of the levy for each "<u>type</u>" of regulated article appeared to be at variance with the policy intent to charge the levy on the basis of "<u>per litre-container volume</u>".</p> <p>The Administration responded that –</p> <p>(a) it would continue to liaise with the trade and consider measures to reduce the compliance costs arising from the mandatory PRS; and</p> <p>(b) as the scope of the mandatory PRS might be expanded in future to cover new regulated articles, i.e. products other than beverages held in glass containers, it was considered more appropriate to use the generic term "type" in the context of the proposed new section 39(1)(c).</p> <p>Dr CHAN also enquired about the quantifiable economic/environmental benefits arising from the mandatory PRS, such as reduced land/capital costs involved in the provision of landfill space, and savings achieved for public works projects as a result of using construction materials manufactured from the recycled glass under the mandatory PRS.</p> <p>The Administration will provide written response to Dr CHAN's enquiry.</p> <p>The Chairman announced that the meeting be extended for not more than 15 minutes.</p>	<p>the minutes refers)</p> <p>Admin (paragraph 8(a) of the minutes refers)</p>
013043 - 014259	Chairman Mr WU Chi-wai Administration	<p>Mr WU Chi-wai enquired about –</p> <p>(a) whether the GMC contracts could incorporate incentive payments to waste producers and/or private recyclers with a view to boosting the supply of waste glass containers to GMCs; and</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>(b) whether the Administration would consider putting in place a "collect and pay" mechanism along the recycling chain to incentivize the public to reuse and recycle glass containers.</p> <p>The Administration responded that –</p> <p>(a) when considering the PRS costs, it would take into account the relevant costs incurred by GMCs for offering incentive payments, if any, as a strategy to boost the amount of waste glass containers to be collected. GMCs might also collaborate with private glass recyclers to build up a network of collection points with a view to increasing the supply of glass containers while bringing down the operating costs; and</p> <p>(b) it had considered the pros and cons of collecting the levy at different points of the supply/recycling chain, and on balance, it was considered more feasible and cost effective to collect the levy from registered suppliers.</p>	
014300 - 014510	Chairman Assistant Legal Adviser 10 ("ALA10")	In the light of ALA10's enquiries, the Administration was requested to provide information on its policy intent and considerations in respect of the regulatory framework under the Bill relating to a regulated article that was neither manufactured nor imported by a registered supplier but the article was nonetheless owned by the supplier who acquired it locally and that the article was acquired by the supplier concerned for distribution or consumption in Hong Kong.	Admin (paragraph 7 of the minutes refers)
014511 - 014735	Chairman	<p>Invitation of public views</p> <p>Meeting arrangements</p>	