

立法會
Legislative Council

LC Paper No. CB(1)506/15-16
(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 third meeting
held on Tuesday, 15 December 2015, at 2:30 pm
in Conference Room 1 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 CHAN Hak-kan, 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
- Public Officers attending** : **For item I**

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

Dr Alain LAM
Principal Environmental Protection Officer
(Waste Management Policy)
Environmental Protection Department

Mr Gilbert MO
Law Draftsman (Acting)
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

Action

I. Meeting with the Administration

Matters arising from previous meetings

(LC Paper No. CB(1)196/15-16(01) — List of follow-up actions arising from the meeting on 30 October 2015

LC Paper No. CB(1)270/15-16(01) — Administration's response to the issues raised at the meeting on 30 October 2015

Action

LC Paper No. CB(1)270/15-16(02) — List of follow-up action arising from the meeting on 30 November 2015)

Relevant papers

(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)196/15-16(02) — Administration's reply to Assistant Legal Adviser's letter dated 23 October 2015

LC Paper No. CB(1)79/15-16(05) — Background brief prepared by the Legislative Council Secretariat)

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

2. The Administration briefed members on its response to the issues raised at the meeting of the Bills Committee held on 30 October 2015 (LC Paper No. CB(1)270/15-16(01)). With the aid of a power-point presentation, the Administration further briefed members on the considerations to be taken into

Action

account in determining the recycling levy under the Promotion of Recycling and Proper Disposal (Product Container) (Amendment) Bill 2015 ("the Bill").

(*Post-meeting note:* A set of the power-point presentation materials was circulated to members vide LC Paper No. CB(1)317/15-16(01) on 15 December 2015.)

Follow-up actions to be taken by the Administration

Definitions

"Beverage"

3. Further to paragraph 2 of and Annex A to the Administration's written response to the issues raised at the Bills Committee's meeting on 30 October 2015 (LC Paper No. CB(1)270/15-16(01)) in which reference had been made to the food category system under the Codex Alimentarius ("Codex") in assessing whether certain products were "beverage" under the mandatory producer responsibility scheme on product containers which would initially cover glass beverage containers ("the mandatory PRS"), the Administration was requested to –

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- (a) provide the legal basis, in the light of the proposed definition of "beverage" in the Bill, for drawing reference to the Codex to determine whether a product fell under the said definition as drafted in the Bill; and
- (b) further elaborate on, with reference to the food categories as stated in the said Annex A, whether the food categories of the Codex were mutually exclusive, that was, a product which was under one category of the Codex could not appear in any other food categories under the Codex.

"Glass"

4. The Administration was requested to provide the definition of "glass" for determining whether a product container was a glass container, and hence a beverage held in that container was covered by the mandatory PRS.

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Costs and benefits of the mandatory PRS

5. Further to paragraphs 6-8 of the aforesaid Administration's written response, the Administration was requested to –

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- (a) elaborate on all relevant costs and savings/benefits involved (with ballpark estimations set out in terms of per-litre costs/savings where appropriate) in the operation of the mandatory PRS, including the collection, treatment, reuse/recycling and outlets of glass beverage containers (including the costs/values of different types of recycled glass products (e.g. eco-pavers and glass cullet as a substitute for river sand)), so as to demonstrate the feasibility of the scheme in achieving a balance of payments along the supply/recycling chain to recover the full PRS costs; and
- (b) provide a consolidated response in consultation with relevant bureaux/departments (such as the Civil Engineering and Development Department) regarding (i) the technical and financial feasibilities of using glass cullet as a substitute for river sand in public works, including the estimated cost savings to be achieved based on the highest/lowest river sand prices in the past five years, etc., together with (ii) an analysis of the commercial values and environmental benefits compared to other viable outlets, such as reusing the glass containers, or using them for the production of eco-pavers and other construction materials, or as fill materials in reclamation and other earthworks, etc.

Selection and monitoring of performance of glass management contractors

Admin 6. The Administration was requested to –

- (a) set out the terms and conditions to be included in the tender documents for glass management contractors ("GMCs"), together with a list of required information in their tender submissions, such as glass container recovery targets and recovery plans/strategies including the provision of incentives/rebates, cost computations, sources and types of glass containers to be recovered, outlets for the glass containers recovered, etc.;
- (b) provide the major considerations of and criteria for selecting GMCs; and
- (c) elaborate on how it would monitor the implementation of the recovery plans/strategies laid down in the GMCs' tender submissions, and any consequences in case of non-performance.

(Post-meeting note: The Administration's response was issued vide LC Paper No. CB(1)407/15-16(01) on 7 January 2016.)

Action

II. Any other business

Date of next meeting

7. The Chairman reminded members that the next meeting of the Bills Committee had been scheduled for Monday, 11 January 2016, at 10:45 am.

8. There being no other business, the meeting ended at 4:29 pm.

Council Business Division 1
Legislative Council Secretariat
28 January 2016

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

**Proceedings of the third meeting
on Tuesday, 15 December 2015, at 2:30 pm
in Conference Room 1 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
<i>Agenda Item I - Meeting with the Administration</i>			
000154 - 000340	Chairman	Introductory remarks	
000341 - 001913	Chairman Administration	<p>The Administration briefed members on –</p> <p>(a) its written response to the issues raised at the meeting of the Bills Committee held on 30 October 2015 (LC Paper No. CB(1)270/15-16(01)); and</p> <p>(b) with the aid of a power point presentation (circulated to members vide LC Paper No. CB(1)317/15-16(01) after the meeting), considerations to be taken into account in determining the recycling levy ("the levy") under the Promotion of Recycling and Proper Disposal (Product Container) (Amendment) Bill 2015 ("the Bill").</p> <p>Request of the Chairman for the Administration to set out the estimated costs/savings involved under the mandatory producer responsibility scheme on product containers which would initially cover glass beverage containers ("the mandatory PRS") in terms of "per litre" costs/savings.</p> <p>The Administration advised that one tonne of waste glass was roughly equivalent to 2 000 red wine bottles of 750 millilitres in volume.</p>	
001914 - 002606	Chairman Mr CHAN Chi-chuen Administration	<p>Mr CHAN Chi-chuen queried about –</p> <p>(a) whether all beverages in the market could definitely be generalized into the seven sub-categories of beverages in the Codex with no uncertainty, for example –</p> <p>(i) while "vinegar" was not classified as a beverage, what was the category in the Codex for "fruit vinegar", which was commonly sold in the market as a kind</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>of beverages;</p> <p>(ii) whether there was a clear line under the Codex to classify a product that might be regarded as both food and beverage, such as "snake wine"; and</p> <p>(b) whether herbal tea drinks made and bottled in glass containers at small herbal tea shops would be subject to the levy.</p> <p>The Administration responded that –</p> <p>(a) it was not the policy intent to take "beverage" as any edible substances in liquid form;</p> <p>(b) "fruit vinegar" could be classified as "Vinegars" under the Codex, and "snake wine" as alcoholic beverage;</p> <p>(c) herbal tea drinks manually bottled in glass containers not airtight and sealed by machine or with the aid of a tool would not fall under the proposed definition of "regulated articles" and hence not subject to the mandatory PRS; and</p> <p>(d) to address concerns of small suppliers of regulated articles over the compliance requirements, the Administration would continue to liaise with the trade with a view to simplifying the relevant procedures as appropriate.</p> <p>The Chairman requested the Administration to provide the legal basis, in the light of the proposed definition of "beverage" in the Bill, for drawing reference to the Codex to determine whether a product fell under the said definition as drafted in the Bill.</p>	<p>Admin (paragraph 3(a) of the minutes refers)</p>
002607 - 003605	Chairman Ms Cyd HO Administration	<p>Ms Cyd HO enquired about –</p> <p>(a) the estimated surplus/deficit under the mandatory PRS, taking into account the amount of levy collectible, costs involved, savings in public works as a result of using recycled glass materials as construction materials;</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>(b) the environmental benefits to be brought about by the mandatory PRS; and</p> <p>(c) whether the Administration would consider expanding the proposed mandatory PRS to cover glass food/sauce containers simultaneously, and explore with the recycling trade on viable means to facilitate "clean recycling".</p> <p>The Administration responded that –</p> <p>(a) the levy would be set at a level to recover the full PRS costs. The mandatory PRS would also bring about other social and environmental benefits such as saving of landfill space;</p> <p>(b) the construction trade was exploring the potential use of glass cullet as a substitute for river sand which, if feasible, would be a gainful outlet of a higher commercial value to fully absorb the waste glass beverage containers recovered under the mandatory PRS, given the high cost of imported river sand; and</p> <p>(c) thorough cleansing of glass food/sauce containers would add costs to the treatment process and impact on the levy. Further, imposing a levy on these common general household items might also lead to a potential livelihood concern.</p> <p>At the requests of the Chairman and Ms Cyd HO, the Administration undertook to –</p> <p>(a) elaborate on all relevant costs and savings/benefits involved in the operation of the mandatory PRS so as to demonstrate the feasibility of the scheme in achieving a balance of payments; and</p> <p>(b) provide a consolidated response in consultation with relevant bureaux/ departments regarding the technical and financial feasibilities of using glass cullet as a substitute for river sand in public works, including the estimated cost savings to be achieved based on the highest/lowest river sand prices in the past five years.</p>	<p>Admin (paragraphs 5(a) and (b) of the minutes refer)</p>

Time marker	Speaker	Subject(s)	Action required
003606 - 004834	Chairman Mr Andrew LEUNG Administration	<p>While not objecting to the charging of levy to finance the mandatory PRS, Mr Andrew LEUNG stated that –</p> <p>(a) members of the Federation of Hong Kong Industries considered that it was incumbent upon the Administration to elucidate to the public that reuse of glass beverage containers was more environmentally friendly than turning waste glass into recycled glass materials; and</p> <p>(b) the threshold for granting levy exemption to beverage suppliers with plans for the reuse of glass beverage containers should not be too high, and a transitional period should be allowed to facilitate them to change to reusable glass containers for their beverages.</p> <p>The Administration responded that –</p> <p>(a) it supported the reuse of waste glass beverage containers as glass since it would be more environmentally friendly than crushing them into cullet for use as construction materials. Yet, most waste glass beverage containers would not be reused as beverage containers, given beverage products were mostly imported instead of manufactured in Hong Kong. As such, treating and recycling waste glass materials for use as construction materials was a pragmatic solution;</p> <p>(b) it had liaised with local beverage suppliers interested in taking forward recovery/reuse plans for their glass containers, and kept an open mind on their proposed plans; and</p> <p>(c) based on the information from two major local beverage manufacturers, the Administration's initial thinking was to grant the levy exemption if the glass beverage containers could be recovered/reused for five times or more on average, in view that a practicable reuse scheme could achieve such or even better performance.</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>On the Chairman's further enquiry, the Administration advised that there were two major outlets for reusing glass beverage containers, i.e. (a) exported to glass container manufacturers in South East Asia countries for reuse; and (b) reused by local beverage suppliers for their beverages.</p>	
004835 - 010314	<p>Chairman Dr Kenneth CHAN Administration</p>	<p>Dr Kenneth CHAN requested the Administration to elaborate on –</p> <ul style="list-style-type: none"> (a) the overall cost effectiveness of the mandatory PRS; (b) whether it would put in place any legal or contractual requirements and penalties to ensure that the glass management contractors ("GMCs") would not reject properly rinsed glass containers other than glass beverage containers; (c) in the absence of a landfill disposal ban, the measures for ensuring that glass beverage containers would be channelled effectively for treatment under the mandatory PRS; and (d) the "mitigating measures" to address the concerns of small suppliers over the compliance requirements. <p>The Administration responded that –</p> <ul style="list-style-type: none"> (a) it would submit supplementary information on the costs and benefits involved in the mandatory PRS; (b) GMCs could provide incentives to recycle properly rinsed glass food/sauce containers under GMC contracts; (c) imposing a landfill ban was premature at this stage given the present volume of glass containers disposed of at landfills and the associated operational difficulties. That said, it would continue to monitor the situation and collect statistics on the amount of glass containers disposed of at landfills for the purpose of reviewing the effectiveness of the mandatory PRS; and 	

Time marker	Speaker	Subject(s)	Action required
		<p>(d) it would liaise with the trade to introduce suitable relaxations in the auditing requirements for registered suppliers manufacturing or importing a small amount of beverages in glass containers.</p> <p>On the Chairman's enquiry, the Administration confirmed that the compliance requirements and operational details would be prescribed in a subsidiary legislation subject to the Legislative Council's approval.</p>	
010315-011108	Chairman Mr Gary FAN Administration	<p>Mr Gary FAN enquired about –</p> <p>(a) the considerations for expanding the mandatory PRS to cover non-beverage glass containers, and whether that it would take a long time before the expansion; and</p> <p>(b) implementation details of PRS on glass containers in other places like South Korea and Taiwan, including whether there was phased implementation and the interval between each phase.</p> <p>The Administration responded that –</p> <p>(a) it would consider expanding the scope of the mandatory PRS where practicable in the light of the experience gained from the initial stage of implementation, and the progress of introducing the municipal solid waste charging;</p> <p>(b) PRS on glass containers was also implemented by phases and initially covered glass beverage containers in some parts of the world; and</p> <p>(c) in the interim, the Administration would continue to expand the glass container collection network in the community, and step up public education to facilitate members of the public to put the "clean recycling" concept into practice. It would also provide financial incentives and consider prescribing relevant requirements in GMC contracts to ensure that GMC would accept non-beverage glass containers that had been properly rinsed.</p>	

Time marker	Speaker	Subject(s)	Action required
011109 - 012045	Chairman Administration Mr Christopher CHUNG	<p>Mr Christopher CHUNG enquired about –</p> <p>(a) the policy measures to encourage or mandate the reuse of glass containers by beverage manufacturers, including punitive payments for not reusing the glass containers by them; and</p> <p>(b) the environmental benefits of using waste glass cullet as a substitute for river sand, vis-à-vis that of other uses.</p> <p>The Administration responded that –</p> <p>(a) it would incentivize reuse of glass beverage containers by beverage manufacturers through the exemption mechanism; and</p> <p>(b) Hong Kong did not have a local glass manufacturing industry, and only a few beverage (e.g. milk, soft drinks) manufacturers still maintained re-bottled operations and "deposit-and-return" schemes. As such, there should be other outlets to absorb waste glass containers recovered under the mandatory PRS, including exporting them to other places, or crushing them into glass cullet for use as construction materials or as a substitute for river sand.</p> <p>At the Chairman's request, the Administration agreed to provide an analysis of the commercial values and environmental benefits of using glass cullet as a substitute for river sand compared to other viable outlets.</p>	Admin (paragraph 5(b) of the minutes refers)
012046 - 013040	Chairman Mr Tony TSE Administration	<p>Mr Tony TSE considered that –</p> <p>(a) it was more environmentally friendly to reuse waste glass containers than processing them into recycled glass materials or using them as a substitute of river sand; and</p> <p>(b) the tender prices to be determined by the services requirements on GMC would have impact on levy level.</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>The Administration responded that –</p> <p>(a) the GMC tender documents would set out the service requirements, including maintaining a sufficient network of collection points and a collection schedule for all properly rinsed waste glass containers (including glass food/sauce containers), meeting a recovery target based on the estimated amount of waste glass containers in the catchment area, properly processing waste glass containers in its own plant or through outsourcing, arranging appropriate outlets for waste glass containers recovered, etc. Tenderers should provide cost estimations in their tender submissions; and</p> <p>(b) with a view to boosting the amount of waste glass containers to be collected and maximizing cost effectiveness, GMCs would have certain degree of flexibility in their operations, including whether to offer incentive payments for attracting deposition of glass containers at their collection points, the sources and types of glass containers to be collected, and the outlets for the waste glass containers.</p> <p>At the request of Mr TSE, the Administration agreed to provide the terms and conditions to be included in the GMC tender documents, together with a list of required information in their tender submissions.</p>	<p>Admin (paragraph 6(a) of the minutes refers)</p>
<p>013041 - 013750</p>	<p>Chairman Dr Kenneth CHAN Administration</p>	<p>Dr Kenneth CHAN asked whether the Administration would consider imposing higher landfill charges on glass beverage containers to disincentivize disposal at landfills, with a view to boosting the recovery rate of glass beverage containers under the mandatory PRS.</p> <p>The Administration responded that –</p> <p>(a) it was estimated that the recovery rate of glass beverage containers by GMCs under the mandatory PRS could reach 70%, which was a reasonable level by international standard; and</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>(b) given that separation of waste at source was not widely practised in the community, there would be operational difficulties in imposing higher landfill charges on glass beverage containers.</p>	
<p>013751 - 014516</p>	<p>Chairman Assistant Legal Adviser 10 ("ALA10") Administration</p>	<p>ALA10 drew members' attention to her letters to the Administration dated 14 September and 23 October 2015 on various issues in connection with the Bill [LC Paper Nos. CB(1)79/15-16(02) and CB(1)79/15-16(04)]. The Administration's replies to the letters were issued vide LC Paper Nos. CB(1)79/15-16(03) and CB(1)196/15-16(02).</p> <p>Referring to paragraph 2 and Annex A to the Administration's written response in which reference had been made to the Codex in assessing whether certain products were "beverage" under the mandatory PRS, ALA10 enquired whether the food categories of the Codex were mutually exclusive.</p> <p>The Administration initially responded that –</p> <p>(a) for beverages held in glass containers that were distributed in Hong Kong, an overwhelming majority were alcoholic drinks (80.2%), and the remaining were water (8.6%), juice products (4.5%) and other non-alcoholic beverages that were normally taken as "drinks". As such, there should not be major operational difficulty in determining whether a product commonly found in the market was a "beverage"; and</p> <p>(b) the Codex could provide a relevant framework that might assist in determining whether a product should be regarded as a "beverage". The Administration would maintain close liaison with the relevant trades on the operational details.</p> <p>The Chairman maintained that in the light of the definition of "beverage" in the Bill, making reference to the Codex (which was not referred to in the definition or the Bill) for determining whether a product fell under the said definition was disputable.</p>	<p>Admin (paragraph 3(b) of the minutes refers)</p>

Time marker	Speaker	Subject(s)	Action required
014517 - 015222	Chairman Mr Andrew LEUNG Administration	<p>Mr Andrew LEUNG expressed concerns that –</p> <p>(a) if the "clean recycling" culture in relation to glass containers could not be built and strengthened among the community through the mandatory PRS, there would be challenges in improving the recovery rate, or expanding the mandatory PRS to cover non-beverage glass containers; and</p> <p>(b) GMCs might be inclined to collect glass beverage containers from catering premises while taking a passive approach towards smaller and sparsely located waste producers due to cost concern.</p> <p>The Administration responded that –</p> <p>(a) unlike other PRS targeting at changing consumer behavior, the mandatory PRS was developed along the "polluter pays" principle to recover the full PRS costs;</p> <p>(b) it would exercise due diligence in vetting the tender submissions from potential GMCs to ensure that their recovery plans/strategies could positively support the mandatory PRS; and</p> <p>(c) it would keep an open mind towards any creative and effective means proposed by the GMCs to boost up the recovery rate.</p> <p>At the request of Mr LEUNG, the Administration undertook to elaborate on how it would monitor the implementation of the recovery plans/strategies laid down in the GMCs' tender submissions, and any consequence in case of non-compliance.</p>	Admin (paragraph 6(c) of the minutes refers)
015223 - 015952	Chairman Mr WU Chi-wai Mr Tony TSE Administration	<p>Mr WU Chi-wai enquired about –</p> <p>(a) as there might be possible loss of economic efficiency by financing three GMCs to collect waste glass containers from waste producers or private recyclers, whether the Administration had considered financing recycling at other points of the recycling chain, such as directly financing private recyclers or paying waste producers for depositing waste glass containers; and</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>(b) whether the levy level could be set before completion of the tendering exercise by making reference to the tender prices submitted by potential GMCs.</p> <p>The Administration responded that –</p> <p>(a) it had considered the pros and cons of financing recycling at other points of the recycling chain and concluded that hiring GMCs could better support recycling on a territory-wide scale. There would also be operational difficulties in directly financing private recyclers or paying waste producers for depositing waste glass containers; and</p> <p>(b) the levy level could only be determined upon completion of the tendering exercise for the GMC contracts.</p> <p>At the request of Mr Tony TSE, the Administration undertook to supplement –</p> <p>(a) the major considerations of and criteria for selecting GMCs; and</p> <p>(b) the definition of "glass" for determining whether a product container was a glass container, and hence a beverage held in that container would be covered by the mandatory PRS.</p>	<p>Admin (paragraphs 4 and 6(b) of the minutes refer)</p>
015953 - 020030	Chairman	Date of next meeting	