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**Paper for the House Committee meeting on 8 April 2016**

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

**Purpose**

This paper reports on the deliberations of the Bills Committee on Promotion of Recycling and Proper Disposal (Product Container)(Amendment) Bill 2015 ("the Bills Committee").

**Background**

2. The majority of the waste glass containers generated in Hong Kong are disposed of at landfills rather than being reused or recycled. According to the waste composition surveys conducted annually by the Environmental Protection Department, about 204 tonnes per day of waste glass containers were disposed of at the landfills in 2014, of which 57.2% are beverage containers, about 37.2% food/sauce containers and about 5.6% other glass containers. In 2014, waste glass containers constituted about 2.1% of the total municipal solid waste ("MSW") disposal in Hong Kong.

3. The Product Eco-responsibility Ordinance (Cap. 603) ("PERO") seeks to minimize the environmental impact of various types of products by introducing mandatory producer responsibility schemes ("PRSs") based on the "polluter pays" principle. At present, it contains provisions for discouraging excessive use of plastic shopping bags through a mandatory charge at retail level (i.e. the Plastic Shopping Bag Charging Scheme ("the PSB Scheme")). With the passage of the Promotion of Recycling and Proper Disposal (Electrical Equipment and Electronic Equipment)(Amendment) Bill 2015 ("the EE Bill") at the Council meeting of 16 March 2016, a legislative framework for the implementation of a mandatory PRS targeting certain regulated electrical equipment ("REE") has also been put in place under PERO.

4. In 2013, the Administration conducted a public consultation and on the basis of the positive response,<sup>1</sup> affirmed the direction of introducing a mandatory PRS that first targets glass beverage containers (including beverage bottles, jars or containers in other forms) but can be extended in future to other types of product containers ("the proposed mandatory PRS"), subject to further studies, public consultation and necessary legislative procedures.

### **The Promotion of Recycling and Proper Disposal (Product Container)(Amendment) Bill 2015**

5. The Promotion of Recycling and Proper Disposal (Product Container)(Amendment) Bill 2015 ("the Bill") was published in the Gazette on 3 July 2015 and received its First Reading at the Council meeting of 8 July 2015. The Bill seeks to amend PERO and the Waste Disposal Ordinance (Cap. 354) ("WDO") to provide for a statutory regulatory framework to implement the proposed mandatory PRS. The main provisions of the Bill are:

#### Clauses 2 to 8

6. Clauses 2 to 8 put in place necessary provisions in PERO to implement the proposed mandatory PRS, including:

- (a) Part 4, Division 1 (i.e. section 31) that introduces various definitions such as "consume", "registered supplier" and "container recycling levy",<sup>2</sup> which are essential for the legislative proposal to come into operation upon the passage of the Bill;
- (b) Part 4, Division 2 (i.e. sections 32 to 34) which provides for the registration of suppliers of regulated articles and related matters;
- (c) Part 4, Division 3 (i.e. sections 35 to 38) which provides for the obligations of registered suppliers;
- (d) Section 40, which provides for the exemptions for registered suppliers with container waste reduction plans; and

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<sup>1</sup> The subject for consultation was "Public Consultation on a New Producer Responsibility Scheme on Glass Beverage Bottles".

<sup>2</sup> The definition of "consume" is proposed to be amended by the Administration, as explained in paragraphs 37 and 38 of this report.

- (e) Schedule 6, which specifies the regulated articles to which PERO applies, and the definition of "beverage".<sup>3</sup>

### Clauses 9 to 14

7. Clauses 9 to 14 amend WDO to put in place the licensing control for the disposal of container waste and the import and export control of container waste.

### **The Bills Committee**

8. At the House Committee meeting on 9 October 2015, Members agreed to form a Bills Committee to study the Bill. The membership list of the Bills Committee is in **Appendix I**. Under the chairmanship of Ir Dr LO Wai-kwok, the Bills Committee has held five meetings to discuss with the Administration, including one meeting to receive views from deputations. The Bills Committee has also received 21 written submissions from deputations/individuals. The list of deputations/individuals which have provided views to the Bills Committee is in **Appendix II**.

### **Deliberations of the Bills Committee**

9. The main subjects deliberated by the Bills Committee are set out below:
- (a) scope of regulation (paragraphs 10 – 27);
  - (b) charging of recycling levy (paragraphs 28 – 56);
  - (c) treatment of waste glass containers (paragraphs 57 – 66);
  - (d) costs and benefits of the proposed mandatory PRS (paragraphs 67 – 77);
  - (e) complementary measures (paragraphs 78 – 80); and
  - (f) other issues (paragraphs 81 – 82).

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<sup>3</sup> The definition of "beverage" is proposed to be amended by the Administration, as explained in paragraph 17 of this report.

### Scope of regulation

10. The Bill extends the application of PERO to glass containers containing beverages that are distributed/consumed by registered suppliers in Hong Kong. A recycling levy will be collected from the registered suppliers of these items to recover the costs of the scheme.<sup>4</sup> According to the long title of the Bill, the Bill seeks to provide, among other things, for "the collection of a recycling levy on the containers of certain products". The Bills Committee has requested the Administration to clarify whether it intends to confine the regulatory framework introduced by the Bill to glass containers only or it is envisaged that the scope of regulation may be extended to cover containers made of other materials in future. Some members have enquired whether the proposed mandatory PRS may include in one go all glass containers (including glass containers holding food or sauces), instead of adopting a phased approach.

11. The Administration advises that its intention is to introduce through the Bill a legislative framework for the implementation of a mandatory PRS in respect of "regulated articles", which is defined under the proposed amendments to section 3(1) of PERO to mean an article constituted by:

- (a) a product specified in column 2 of Part 2 of the new Schedule 6 to PERO; and
- (b) a container that is specified in column 3 of that Part opposite to the product and containing that product; and airtight and sealed by machine or with the aid of a tool.

The Administration points out that there is no provision under the Bill that confines the regulatory framework to glass beverage containers only, although "glass container" and "beverage" are the container and product to be specified respectively in columns 3 and 2 of Part 2 of the new Schedule 6 at this stage. Subject to future review, in the light of the experience gained from the initial stage among other things, the proposed mandatory PRS may be expanded in future to cover other products including glass containers holding food or sauces or containers made of materials other than glass. Any such extension, if pursued, will be subject to public consultation and necessary legislative procedures including amendments to the new Schedule 6 to PERO. Under the new section 41(1), the Administration may amend Schedule 6 and to do so it has to consult the Advisory Council on the Environment.<sup>5</sup> The amendment will be

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<sup>4</sup> Please refer to paragraph 28 of the report for details of the charging mechanism of the recycling levy.

<sup>5</sup> There are similar provisions in PERO for consultation with the Advisory Council on the Environment in respect of the making of subsidiary legislation concerning the PSB Scheme and the mandatory PRS for the proper management of waste electrical and electronic equipment.

made by way of subsidiary legislation which will be subject to the Legislative Council ("LegCo")'s approval (i.e. positive vetting).

12. The Administration further advises that the PRSs on glass containers in some parts of the world were likewise implemented by phases and initially covered glass beverage containers. In Hong Kong, different stakeholders have expressed concerns about contaminations of waste glass containers (in particular glass food/sauce containers) causing nuisance and hence undermining public acceptability of a new PRS. At the treatment end, contaminations may undermine product quality and hence the marketability of the recycled glass materials, whereas thorough cleansing of glass food/sauce containers will add costs to the treatment process and impact on the recycling levy. Also, applying the proposed mandatory PRS to glass food/sauce containers simultaneously, which will necessitate recycling levies on such household items, may lead to a potential livelihood concern. Taking into account the above factors, the Administration considers it prudent to adopt a phased approach to implement the proposed mandatory PRS, which will allow more time for public education for the "clean recycling" concept to gradually take root in the community. Meanwhile, the glass management contractors ("GMCs") to be appointed by the Government under the proposed mandatory PRS will collect and arrange for recycling of properly rinsed glass food/sauce containers, although the current scope of the Bill is limited to glass beverage containers.

13. The Bills Committee observes that some beverages (such as herbal tea drinks) may be manually bottled at retail outlets, and has enquired whether the recycling levy will be payable for such products. The Administration advises that manually bottled glass beverage containers that are not airtight and sealed by machine or with the aid of a tool will not fall under the proposed definition of "regulated articles" and hence will not be subject to the proposed mandatory PRS.

#### *Definition of "beverage"*

14. The Bills Committee notes that "beverage" is defined in the new Schedule 6 to PERO to mean "every type of drink; and includes water". In view of the novelties and variety of products in the market, the Bills Committee has requested the Administration to clarify the principles, criteria and industry guidelines, if any, for determining whether a product falls within the said definition and hence will be subject to regulation under the proposed mandatory PRS. Members stress the need for a clear definition of "beverage" to avoid giving rise to confusion in implementation, and minimize inadvertent contravention of relevant offences under the scheme by suppliers.

15. The Administration's initial response is that as beverages are everyday consumer products, a general definition as proposed in the Bill is preferable to

attempting an exhaustive product list which will require frequent legislative updating in the light of new product development/technology. The Administration points out that, based on the Business Impact Assessment study using 2012 market data ("the Business Impact Assessment Study"), for beverages held in glass containers that are distributed in Hong Kong, an overwhelming majority are alcoholic drinks (80.2%), and the remaining are water (8.6%), juice products (4.5%) and other non-alcoholic beverages that are normally taken as "drinks". In view of this market situation, and as the recycling levies will be collected from registered suppliers, who are familiar with the different food categories including "beverage", there should not be any major operational difficulty in determining whether a product commonly found in the market is a "beverage" or not. When necessary, say, in international trading, the relevant trade will make reference to the Codex Alimentarius ("the Codex") which refers to different food categories.<sup>6</sup>

16. Given that the definition of "beverage" as drafted in the Bill makes no reference to the Codex, the Bills Committee has explored whether more specific criteria (e.g. specific reference to the Codex) can be made in the definition of "beverage" if the Administration intends to use the Codex as a reference. Ms Cyd HO has suggested that unless a clear definition of "beverage" is made, the Administration should reconsider expanding the proposed mandatory PRS to cover all glass containers in one go, with a view to minimizing implementation or enforcement difficulties.

17. The Administration explains that as beverage products change in response to market and customer demands, it is not practicable to set out an exhaustive list of products which are considered as "beverage" and provide each product with a technical definition under the proposed mandatory PRS. Rather, the Codex has provided a relevant framework that may assist in determining whether a certain product should be regarded as a "beverage". Individual food categories under the Codex are not necessarily mutually exclusive and it is important to take into account practical and other customary considerations in the determination process. The key consideration is that there is good understanding among the relevant trades on the categorization of different products into "beverage" and "food". However, taking into account the Bills Committee's deliberations, the Administration sees the merits of setting out more clearly the scope of the regulation and has advised that it will move Committee Stage amendments ("CSAs") to set out, on a non-exhaustive basis,

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<sup>6</sup> The Codex was established by the Food and Agriculture Organization and the World Health Organization in 1963 to develop harmonized international food standards contribute to the safety, quality and fairness of international food trade. For details of the food category system under the Codex, please refer to Codex General Standard for Food Additives (CODEX STAN 192-1995) which is downloadable at: [http://www.fao.org/fao-who-codexalimentarius/download/standards/4/CXS\\_192\\_2015e.pdf](http://www.fao.org/fao-who-codexalimentarius/download/standards/4/CXS_192_2015e.pdf).

certain major categories of beverages in the new Schedule 6 to PERO with reference to the Codex, as follows:

"Beverage" means –

- (a) a ready-to-serve drink, including –
  - (i) alcoholic drink;
  - (ii) water (carbonated or non-carbonated) or water-based flavoured drink (carbonated or non-carbonated);
  - (iii) milk or dairy-based drink;
  - (iv) soybean-based drink;
  - (v) fruit or vegetable juice or nectar;
  - (vi) coffee, coffee substitute, tea or herbal infusion; and
  - (vii) cereal grain drink; or
- (b) a product that –
  - (i) is a liquid or consists of liquid; and
  - (ii) is commonly served as a drink after being diluted or reconstituted.

18. The Administration's stance is that a "beverage" should be liquid-based if it is to be covered by the definition. Although there are food products which exist in non-liquid form (say jelly, powder or solid) and may be consumed as beverages after being dissolved in water, the Administration considers it inappropriate to regard such products as beverages for the purpose of the proposed mandatory PRS because doing so may cast the net unnecessarily wide, and such products may be consumed as non-beverages in actual practice.

19. The Administration has explained how the proposed revised definition of "beverage" will apply with reference to the following products:

- (a) *Fruit vinegar*: while fruit vinegar is classified as "vinegar" under the Codex and does not fall under "beverage" under the original definition, it will be caught as "beverage" under the revised definition in paragraph 17(a) above if it is a ready-to-serve drink, or under paragraph 17(b) as a liquid and is commonly served as a drink after being diluted.
- (b) *Black sweet vinegar with pig trotters and ginger*: black sweet vinegar is classified as "vinegar" under the Codex and does not fall into "beverage" under the original definition. Not being commonly served as a drink, it will not be caught as "beverage" under the revised definition.

- (c) *Honey citrus fruit tea concentrates*: it will be caught as "beverage" under the revised definition because it falls under paragraph 17(b), i.e. consisting of liquid and is commonly served as a drink after being diluted.
- (d) *Honey*: it will be caught as "beverage" under the revised definition if it falls under paragraph 17(b), i.e. consisting of liquid and is commonly served as a drink after being diluted.
- (e) *"Barbecue honey"*: although barbecue honey is liquid-based and can be diluted for drinking, it will not be caught as "beverage" under the revised definition because it is not commonly served as a drink after being diluted.
- (f) *Fruit jam*: although fruit jam may contain liquid and can be diluted for drinking, it will not be caught as "beverage" because it is not commonly served as a drink after being diluted.
- (g) *Ready-to-serve drink containing food (e.g. juices with fruit flesh)*: it will be caught as "beverage" under paragraph 17(a) as a ready-to-serve drink even though it is a mixed form of liquid and solid.

20. Mr Tommy CHEUNG and Mr WU Chi-wai consider that the revised definition of "beverage" may in effect widen the scope of regulation unwarrantedly and complicate the enforcement regime. Mr WU has suggested simply including common beverages that are customarily taken as drinks at the initial stage of the proposed mandatory PRS. Mr CHEUNG observes that the revised definition may give rise to inconsistencies and ambiguities in implementation. For instance, fruit vinegar is regarded as "beverage" whereas "black sweet vinegar" is not, despite both products are vinegar, liquid-based and edible.

21. The Administration explains that the definition of "beverage" is proposed to be revised in response to the request of the Bills Committee for a clearer definition to set out the scope of regulation more clearly. The proposal has struck a balance between adopting a generic and a prescriptive approach. The Administration assures the Bills Committee that it has been closely engaging the relevant trades in preparing the operational details of the proposed mandatory PRS, and will continue to do so during the implementation stage.

22. Given that none of the criteria in the revised definition of "beverage" refers expressly to whether a product is marketed and sold as a drink, the Bills

Committee has enquired how this factor is relevant in considering whether a product falls within the revised definition of "beverage".

23. The Administration advises that whether a product is to be regarded as a drink for the purpose of the proposed mandatory PRS should be considered based on the revised definition of "beverage" if it is adopted. While the drinks set out therein are not exhaustive, how the supplier markets the product will provide further information on the nature of the product and how it is intended to be consumed. In this regard, if the supplier of a liquid-based product markets and sells the product as a drink, even though the product may customarily be deemed as "food" not beverage, there is no strong policy reason for the Administration not to accept it as such for the purpose of promoting recycling and proper disposal of the container under the proposed mandatory PRS. On the other hand, if it is clear that a product is a ready-to-serve drink, the Administration considers that it should be included as a drink under the revised definition even if it is not specifically marketed and sold by the supplier as such.

*Definition of "glass container"*

24. The Bills Committee has sought the definition of "glass" or "glass container" for determining whether a product container is a glass container, and hence covered by the proposed mandatory PRS. The Bills Committee has also suggested the Administration consider whether it is necessary to specify for regulatory purpose the materials of other component parts (e.g. lids) of glass containers.

25. The Administration advises that technically, "glass" refers to non-crystalline amorphous solid made principally from silica. Glass materials used for beverage containers have similar properties that are generally distinct from other materials. As such, the Administration does not consider it useful to include a technical definition, as not only is a technical definition of "glass" not absolutely necessary for effective enforcement, it may also complicate the enforcement regime. Nor does the Administration consider it necessary to provide a definition for "glass container" as it is the Administration's intention that, in order for a container to be regarded as a glass container under the proposed mandatory PRS, it must be a container that holds the beverage and is made of glass. Whether the container may consist of other features or components made of other materials (e.g. a metallic cap or plastic labels) is not a relevant consideration.

26. The Bills Committee notes that under the proposed amendments to WDO in Part 3 of the Bill, "container waste" is defined to mean a container (whether damaged or not) that judging by its appearance, is a container specified in column 3 of Part 2 of the new Schedule 6 to PERO; and has been

abandoned. The Bills Committee has enquired whether the definitions/usages of "container/glass container" under the proposed definitions of "regulated articles" and "container waste" and in column 3 of Part 2 of the new Schedule 6 are consistent.

27. The Administration points out that the proposed provisions for PERO under the Bill concern "regulated articles" and such articles initially include beverages held in glass containers. On the other hand, "container waste" is defined under WDO as proposed for the purpose of the relevant licensing/permit controls in respect of an abandoned container that, judging by appearance, is a container specified in column 3 of the new Schedule 6 to PERO. It may include a waste glass container that was previously used to contain beverage or other non-beverage products. The adoption of such a definition is appropriate because in practice, different types of glass containers can be mixed at the waste stream and it will be difficult to prove for enforcement purposes if they have been used to contain beverages.

### Charging of recycling levy

#### *Charging mechanism*

28. Under the current PERO, a PRS may include "the imposition of a recycling fee to finance the proper waste management of certain products". In the current context of the proposed mandatory PRS, the Bills Committee notes that the PRS costs will be mainly incurred for hiring GMCs to collect waste glass containers from waste producers after the regulated articles are consumed, and properly treat or arrange for proper reuse of such waste glass containers.<sup>7</sup> The mechanism for collecting the levy is outlined as follows:

- (a) *Registration of suppliers*: manufacturers and importers who carries on a business of distributing regulated articles will have to be registered as "registered suppliers" (the new section 32 of PERO). A registered supplier must pay a recycling levy to the Director of Environmental Protection ("DEP") for a regulated article if the supplier (i) distributes the article in Hong Kong; or (ii) consumes the article in Hong Kong (the new section 35(1)).<sup>8</sup>

According to the Administration, a supplier importing regulated articles into Hong Kong solely for export will not be regarded as

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<sup>7</sup> For details of the glass container collection services to be provided by GMCs, please refer to paragraph 63 of this report.

<sup>8</sup> The definition of "distribute" is proposed to be amended by the Administration to achieve consistency with similar provisions in the EE Bill, as explained in paragraph 82 of this report. With the proposed amendment, the definition will not include any such act done with a view that the article is to be exported in the course of business.

distributing the articles in Hong Kong, and hence will not be required to register as a registered supplier in respect of the articles concerned.

- (b) *Submission and auditing of periodic returns*: a registered supplier must submit to DEP periodic returns, setting out the information that is necessary for the computation of the recycling levy payable (the new section 36(1)). The registered supplier will also have to engage an independent auditor to conduct annual audits on the periodic returns to ensure factual accuracy (the new section 37), and have to keep records to facilitate future inspection (the new section 36(4)). The detailed reporting requirements will be prescribed by subsidiary legislation.
- (c) *Payment of the recycling levy*: within a specified period of time after receiving a payment notice from DEP, a registered supplier will have to pay the recycling levy computed on the basis of the information contained in the periodic returns (the new section 36(3)). The recycling levy will only be collected for regulated articles that are "distributed" or "consumed" in Hong Kong, thereby excluding exports of locally manufactured regulated articles and re-exports of imported regulated articles.<sup>9</sup>

#### *Definition of "supplier"*

29. The Bills Committee notes that "supplier" is defined in the Bill to mean:

- (a) a person who, in the course of the person's business of manufacturing the article, undertakes in Hong Kong the process of sealing the container constituting part of the article; or
- (b) a person who, in the course of the person's business, causes the article to be imported into Hong Kong for distribution, but does not include a person who (i) does not own the article; and (ii) only provides a service for transporting the article into Hong Kong for another person.<sup>10</sup>

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<sup>9</sup> Source: paragraph 9(c) of the Legislative Council Brief issued by the Environment Bureau/Environmental Protection Department in July 2015.

<sup>10</sup> To achieve consistency with similar provisions in the EE Bill as explained in paragraph 82 of this report, the phrase "causes the article to be imported in Hong Kong for distribution" in part (b) of the definition of "supplier" is proposed to be amended by the Administration to "imports the article into Hong Kong for distribution".

30. In the light of the above definition of "supplier", the Bills Committee has sought clarification on the policy intent and considerations relating to a regulated article that is neither manufactured nor imported by a supplier but the article is nonetheless owned by the supplier who acquires it locally and that the article is so acquired for distribution or consumption in Hong Kong.

31. The Administration points out that if a person does not manufacture or import a regulated article, this person will not be regarded as a "supplier" in relation to the article. The person will not be liable to pay the recycling levy for acquiring the article locally for distribution or consumption in Hong Kong. On the other hand, the importer or manufacturer of the regulated article, from whom the person obtains the regulated article, will be responsible for payment of the recycling levy, which is in line with the outcome of the public consultation that the recycling levy will not be collected at the point of sales.

32. The Administration has further clarified that a person who merely commits oneself or gives a formal promise or pledge to perform the relevant process in Hong Kong is not a "supplier" as defined under the Bill. The act of "undertakes" in the proposed definition of "supplier" occurs in the course of the person's business of manufacturing the article, and only the person who performs the relevant process in the course of his/her business will be regarded as a supplier.

33. The Bills Committee has sought clarification on whether importing beverage held in glass containers through online purchase will be subject to payment of the recycling levy. The Administration explains that a person who, in the course of the person's business, imports beverages held in glass containers into Hong Kong for distribution, whether or not through the internet, will be regarded as a supplier and has to pay the recycling levy. On the other hand, an individual who directly purchases, whether or not through an online website, any quantity of regulated articles from a manufacturer outside Hong Kong for personal use is not liable to pay the levy in respect of the article(s) concerned. As the levy is not collected at the retail level, whether a product will be subject to payment of recycling levy under the proposed mandatory PRS will not be affected by the type of retail outlets at which they are sold; and any acts relating to the selling of regulated articles including providing service for transporting the articles within the territory of Hong Kong by logistics companies will not be subject to payment of the levy.

34. Referring to the PSB Scheme in which exemption is granted such that the mandatory charge does not apply to PSBs that contain unpackaged goods or are specifically designed for containing goods, Mr WONG Ting-kwong has queried whether it is justified to impose a recycling levy on glass beverage containers most of which are essential for holding the beverages concerned. The Administration has responded that the levies/charges in question are

different in that the PSB charge is meant to disincentivize excessive use of PSBs while the recycling levy on beverages held in glass containers seeks to recover the full PRS costs incurred for the collection and treatment of waste glass beverage containers. As such, it is not appropriate to draw a comparison between them.

*Registration of suppliers*

35. The Bills Committee has enquired about the time required for processing an application for registration as a registered supplier of regulated articles, and whether the Administration will expedite the processing of such applications under special circumstances, for example, where a supplier originally imported certain regulated articles into Hong Kong solely for export and thus initially had not applied for registration as a registered supplier, but subsequently has to distribute the regulated articles in Hong Kong instead due to cancellation of the export order concerned.

36. The Administration advises that it will finalize the operational details of the registration process at the stage of preparing the subsidiary legislation. It is envisaged that when an application is made, it should be accompanied with any such supporting information that DEP may require. DEP will accordingly determine whether the application should be approved or rejected. The procedures will be similar to those adopted for the first phase of the PSB Scheme, and an application for registration under the latter can normally be determined within 21 days upon receipt of the case, with the actual time required depending on whether all the supporting information is available at the time of submission.

*Definition of "consume"*

37. A registered supplier must pay a recycling levy to DEP for a regulated article if the supplier distributes the article in Hong Kong; or consumes the article in Hong Kong. The Bills Committee notes that "consume" is defined under the Bill to mean, in relation to a regulated article:

- (a) use the product constituting part of the article; or
- (b) abandon the article.

38. Given that "product", as specified in column 2 of Part 2 of the new Schedule 6 to PERO, refers to "beverage" and hence in effect does not include the container holding the beverage, the Bills Committee queries whether the policy intent is not to regard using the container holding the product as a kind of consumption under the said definition. Taking into account the Bills Committee's observation, the Administration has advised that it will move CSAs

to revise the definition of "consume" to better reflect the policy intent that "consume", in relation to a regulated article, means:

- (a) open the container that constitutes the article for the first time after the container is sealed; or
- (b) abandon the article.

39. The Administration has also confirmed that it is the legislative intent to require a registered supplier to pay the recycling levy if the supplier "consumes" a regulated article in such a manner as stipulated in the proposed revised definition of "consume".

#### *Determination of levy level*

40. According to the Administration, it will prescribe the level of the recycling levy by subsidiary legislation in due course after ascertaining the full PRS costs, i.e. after completion of the open tendering for the required GMC services. As an initial reference, the Administration advises that overseas experience suggests an indicative recycling levy of around \$1 per one litre-container volume.

41. The Bills Committee has sought 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. The Bills Committee has also enquired whether the levy will be charged at a full rate or on a pro-rata basis if the beverage in question is held in glass container with a volume of less than one litre. Ms Cyd HO queries that glass weight and recycling costs may not correlate with the volume of glass containers (e.g. the weight of a 1.5-litre glass bottle can be less than that of two 500-millilitre glass bottles together).

42. The Administration advises that the relevant trades welcome the suggestion of computing the recycling levy on the basis of the volume of beverage distributed because such information is readily available and can be retrieved conveniently from their product inventory system. On the other hand, they do not consider it practicable to report the quantity in terms of container weight. This may incur substantial compliance cost because container weight is not commonly measured in the operation of the trade. As the per-litre approach will also have taken care of waste glass containers of different sizes (i.e. the larger the container volume, the more levy will have to be paid), a tiered charging system is not necessary. As the levy payable by a registered supplier will be calculated based on the total container volume reported in the periodic returns submitted by the registered supplier and subject to audit, it will not be an issue if the volume of each glass container is under one litre.

43. Mr Andrew LEUNG has expressed concern that as the specific levy amount is not specified in the Bill, it is difficult for members to consider the proposed mandatory PRS in totality and its impact on the business sector or consumers. Mr Tommy CHEUNG has indicated that he may not support the Bill if the specific levy level is not prescribed at this stage. Mr WU Chi-wai, on the other hand, doubts whether a recycling levy of \$1 per one litre-container volume can achieve recovery of the full PRS costs. There is a concern among members as to whether the costs involved in the collection of glass containers other than glass beverage containers by GMCs will affect the level of recycling levy.

44. The Administration stresses that the indicative levy level of \$1 per one litre-container volume is only a reference drawn from overseas experience for the purpose of conducting the relevant public consultation in 2013. The specific levy amount can only be determined upon completion of the open tendering for the required GMC services. The Administration will consult the trade on the matter when appropriate. As the specific levels of the recycling levy will be prescribed by way of subsidiary legislation to be introduced, which is subject to LegCo's positive vetting procedure, the Administration assures members that the determination of the recycling levy will be transparent.

45. The Administration further advises that GMCs will undertake both collection and treatment services. If properly rinsed glass food/sauce containers are deposited at the contractors' collection points, they will not be rejected, and the relevant costs will be absorbed by the recurrent expenses of the Environmental Protection Department. Suitable arrangements will be made in the GMC contracts such that the costs for the treatment of non-beverage glass containers will not be taken into account in estimating the recycling levy.

*Periodic returns submitted by registered suppliers and compliance costs*

46. In view of the possible variance between the Administration and registered suppliers in determining whether a product is "beverage", some members are concerned about how the Administration will ensure that returns submitted from registered suppliers are complete and accurate. The Administration has responded that it will engage the relevant trades when developing the operational details and will continue to maintain close liaison with them during the implementation stage so as to provide necessary guidance or assistance to facilitate compliance. Further, registered suppliers have to engage an independent auditor to conduct annual audits on the periodic returns to ensure factual accuracy and to keep records to facilitate future inspection. The Administration will monitor the types of products available in the market, and if necessary, conduct inspections for enforcement purposes under section 7 of PERO.

47. Some members of the Bills Committee have expressed concerns about the potential compliance costs incurred by registered suppliers as a result of implementation of the proposed mandatory PRS, in particular the requirements on the submission and auditing of periodic returns for computation of levy payment.

48. The Administration advises that based on the findings of the Business Impact Assessment Study, small volume traders are more likely to be concerned about the potential compliance cost of periodical returns and annual audit requirements while the major players in the market should have no major difficulties in complying with the requirements. The Administration will further assess the impact and hence the need for any mitigation measures when operational details are ironed out at the stage of preparing the subsidiary legislation. If necessary, it will consider suitable relaxation in the auditing requirements for registered suppliers manufacturing or importing a small amount of beverages in glass containers.

*Exemption from recycling levy*

49. The proposed mandatory PRS incorporates an exemption mechanism such that a registered supplier may apply by submitting a container waste reduction plan setting out the operational details of how their glass beverage containers will be recovered, reused and ultimately recycled. Subject to meeting certain performance standards and other terms and conditions, beverages held in glass containers that are covered by an environmentally sound container reuse/recycling plan will be exempted from the recycling levy. The exemption will be subject to an application fee (to be set at full-cost recovery level) under the new section 40(2)(a) of PERO and renewal at appropriate intervals. The Administration will engage the trade and draw up the detailed requirements at the next stage. The initial thinking is to grant the levy exemption to a registered supplier if its glass beverage containers can be recovered/reused for five times or more on average, excluding containers with contamination or damages.<sup>11</sup> The exact number of times of reusing glass beverage containers by a registered supplier will not be specified by legislation.

50. To assess the appropriateness and implications of granting such exemptions, and the viability of glass container collection services to be provided by GMCs, the Bills Committee has sought information on the distribution in terms of alcoholic beverages and non-alcoholic beverages held in glass containers in Hong Kong, and the rates and average number of times of

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<sup>11</sup> According to the Administration, glass beverage containers will normally be recovered and reused for five times or more under a typical reuse scheme. This has in effect reduced container waste by at least 80% or more as compared to the amount of container waste generated from the consumption of the same amount of beverage held in single-use containers.

recovery/reuse of glass containers of the respective beverage categories. Mr Andrew LEUNG opines that the threshold for granting levy exemption to beverage suppliers with waste container reduction plans should not be too high. Besides, a transitional period should be allowed to facilitate beverage suppliers to change to reusable glass containers for their beverages. He urges the Administration to discuss with the beverage suppliers a viable approach, including allowing a phased approach if necessary, to achieve the required number of times of reusing their glass beverage containers. Mr Christopher CHUNG suggests putting in place more measures to encourage or mandate the reuse of glass containers by beverage manufacturers. Some members are concerned about how the Administration will verify whether a registered supplier has complied with the relevant requirements stated in its container waste reduction plan and the penalty for non-compliance.

51. The Administration advises that it is unable to provide a breakdown of waste glass containers by alcoholic beverages as opposed to non-alcoholic beverages under the waste composition surveys. However, according to the Business Impact Assessment Study, it is estimated that the waste glass beverage containers generated in Hong Kong comprise about 80% of alcoholic beverage containers and about 20% of non-alcoholic beverage containers. The proposed levy exemption will take account of the current situation that glass beverage containers will normally be recovered and reused for five times or more under a typical reuse scheme of a local beverage manufacturer.

52. The Administration further advises that in considering an application for levy exemption in future, it will not be bound by the current reuse arrangements adopted by some local beverage manufacturers under which containers are reused for five times or more but will flexibly consider whether the container waste reduction plan submitted is practicable and may ensure the recovery and reuse or recycling of the containers concerned in an environmentally sound manner. The exemption will be subject to any terms and conditions relating to the duration and implementation of the container waste reduction plan; auditing, reporting and record-keeping; and any other matter DEP considers appropriate, with a view to ensuring effective execution of the recovery/reuse plan. DEP may refuse an application for exemption if he or she considers that that the plan is impracticable, or cannot ensure the recovery and reuse or recycling of the containers concerned in an environmentally sound manner. At the request of the Bills Committee, the Secretary for the Environment, in addressing the Council on the resumption of the Second Reading debate, will mention the Administration's policy stance towards the reuse of glass beverage containers and the approach to be adopted in granting exemptions.

53. On the amount of the application fee under the new section 40(2)(a) of PERO in respect of exemptions for registered suppliers with container waste reduction plans, the Bills Committee has asked whether the fee is refundable if

the application concerned is refused by DEP. The Administration advises that the application fee is meant to recover the full costs incurred in handling an application for exemption. As the handling costs will have been incurred irrespective of whether the application is approved, the fee is not refundable even if the application is eventually refused by DEP.

*Impact on packaging of glass beverage containers and on consumers*

54. Some members are worried that beverage suppliers may, as a result of the collection of recycling levy for glass beverage containers, switch to using plastic bottles or paper cartons for packing their beverages, thus giving rise to other environmental issues. The Bills Committee has requested the Administration to provide an assessment in this regard.

55. The Administration advises that about 80% of waste glass containers are generated from alcoholic beverages, which are not commonly packed in plastic bottles or paper cartons, and for which glass containers are generally preferred for preservation of product quality. For water and juice products, other packaging methods such as plastic bottles or carton boxes are indeed more common. There are marketing or other commercial reasons such that most products currently packed in glass containers will continue to be so packed even after the implementation of the mandatory PRS. In sum, the Administration considers that a phased approach for the proposed mandatory PRS will not have any significant "switching effect".

56. As regards members' concerns about the financial impact of the recycling levy on the consumers, the Administration emphasizes that the proposed mandatory PRS is developed along the "polluter pays" principle. How a registered supplier may recover the levy wholly or partially along the supply chain and ultimately from consumers will be determined by market forces.

Treatment of waste glass containers

*Licensing control for disposal of waste glass containers*

57. The Bill amends section 16 of WDO to extend the waste disposal licensing control to the disposal (including storage, treatment, reprocessing and recycling) of container waste (which is judged by its appearance, to be a container specified in column 3 of Part 2 of the new Schedule 6 to PERO and has been abandoned). The proposed licensing requirement seeks to ensure that these operations are compatible with the PRS system which will put in place a circular economy for turning waste into reusable resource. The licence will only be issued after a recycler has demonstrated the deployment of a recycling process that is sound from safety, health as well as environmental perspectives,

and that the recycled glass materials produced from this process can satisfy the technical specifications for their reuse in subsequent manufacturing processes. The GMCs to be appointed by open tender to provide the glass containers collection services will have to be properly licensed under WDO to undertake the treatment of waste glass containers as and if appropriate.

58. Under the new section 16(2A) which is added to WDO under the Bill, a person may apply to DEP for a licence to use any land or premises for the disposal of container waste despite the person has satisfied any of the criteria in the new section 16(2)(ea) to (ec) in relation to exemption from the relevant licensing requirements. The Bills Committee has enquired about the circumstances to which the said section 16(2A) will be applicable.

59. The Administration explains that some practitioners in the recycling industry may undertake part of the treatment process, for example simple crushing of regulated container waste for logistic handling or small-scale stockpiling. Such process, if conducted on a small scale, does not cause material adverse environmental impacts. In order to avoid undue impact on such small-scale operations, the Administration has therefore proposed that the prohibition under section 16(1) of WDO does not apply to the use of land or premises for the disposal/depositing activities referred to in section 16(2) (including those under the new section 16(2)(ea) to (ec)). A person may wish to apply to DEP for a waste disposal licence for other business considerations, even though he or she is not prohibited to use land or premises for the disposal of regulated container waste without licence. This will provide an avenue for small-scale recyclers who are not subject to the licensing requirement to operate as licensed container waste recyclers after completing the necessary application procedures and meeting all relevant terms and conditions.

60. As regards whether a fee is payable in respect of the application for a waste disposal licence, the Administration points out that under the existing section 21(3) of WDO, the application must be accompanied by the fee prescribed in item 2 in Schedule 2 to the Waste Disposal (Permits, Authorizations and Licences) (Fees) Regulation (Cap. 354D). Thus, a fee is payable for applications under section 21(2) for the waste disposal licences referred to in section 16(1) or the new section 16(2A). The Administration will determine operational details after further engagement with the trades and, on that basis, consider whether the existing fee level is applicable or a new fee should be prescribed, in which case amendments to Cap. 354D will be required.

#### *Control for import and export of waste glass containers*

61. To ensure that any waste glass containers traded through Hong Kong will not increase the territory's waste burden or cause environmental hazards in other jurisdictions, the Bill amends sections 20A and 20B of WDO to impose

permit control so that the import and export of container waste will require a permit. No waste glass containers can be exported unless it can be demonstrated that they will be properly reused or recycled through processes which are no less competent than those conducted at a licensed treatment facility in Hong Kong. Imports of waste glass containers into Hong Kong will also be subject to control to ensure that if there is such shipment, there will be a licensed local recycler undertaking proper treatment. The Administration has advised that it will examine whether and how the permit control on import/export of glass containers should apply to the reuse operation of registered suppliers if their production lines are in the Mainland.

62. Referring to the incident of the Administration's inaccurate estimation of waste plastic recovery rate due to mistakes made by the relevant traders and exporters in customs declarations, the Bills Committee has enquired about how the Administration can ensure that similar problem will not recur in the case of waste glass containers. The Administration has responded that unlike waste plastic, the import and export of waste glass containers will be subject to permit control under the Bill and the quantity can be verified against the quantity of waste glass containers stated in the relevant applications for the permits.

#### *Glass container collection services*

63. The Bills Committee notes that the Administration plans to support glass container recycling on a territory-wide scale by hiring up to three GMCs, serving the catchment regions of Hong Kong Island, Kowloon and the New Territories respectively. Within its responsible catchment region, a GMC will be required by contract to:

- (a) coordinate with Community Green Stations ("CGSs") to manage the glass container collection services provided to residential buildings/estates in the catchment region so that the glass containers gathered by CGSs will be efficiently delivered to the collection/recovery facilities of the GMC;<sup>12</sup>
- (b) maintain a sufficient network of collection points so that waste producers (mainly pubs and bars and other catering services) may conveniently participate in waste glass container recycling;

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<sup>12</sup> The Administration is developing CGS in each of the 18 districts. The objectives of setting up CGSs are to promote environmental education on one hand and to support recycling at the community level on the other. Apart from collection services, it is also a priority of CGSs to promote the "clean recycling" concept in the community such that members of the public will not only separate recyclables (including waste glass containers) from waste but will also properly rinse such recyclables before depositing them into recycle bins.

- (c) accept all properly rinsed waste glass containers (including food/sauce containers) with a view to meeting a recovery target which will ramp up over time to ultimately a territory-wide total of about 50 000 tonnes per year;<sup>13</sup> and
- (d) arrange gainful reuse of the waste glass containers, or properly treat them in its own plant or through outsourcing until they become reusable materials.

64. The Bills Committee has enquired about the terms and conditions to be included in the tender documents for GMCs, the information required to be provided by tenderers in their tender submissions, and the major considerations and criteria for selecting GMCs. The Bills Committee has sought clarification on whether the GMC contracts can incorporate incentive payments to waste producers or private recyclers, with a view to boosting the supply of waste glass containers to GMCs. There are also concerns as to how the Administration can monitor effectively the implementation of the recovery plans/strategies laid down in the GMC tender submissions, and the consequences in case of non-performance of GMCs.

65. The Administration advises that preparation of the open tenders for hiring GMCs is under planning. In general, each tenderer will be required to submit a technical proposal and a price proposal. For the technical proposal, it should detail the tenderer's plan on how it will perform the role as GMC if appointed as such.<sup>14</sup> As regards the price proposal, the tenderers should complete the price schedules following the requirements in tender documents. A GMC will in general be paid with reference to the quantity of waste glass containers collected and treated. A minimum recovery amount of glass containers (holding beverages and other products) will be prescribed in the GMC contracts. The Administration will consider prescribing, among others, relevant requirements to ensure that GMC will not reject non-beverage glass containers that have been properly rinsed. In line with other similar tendering exercises, the contracts will be awarded after taking into account the price proposals, on the principle that the tender submission with the highest combined score of technical and price proposals will normally be recommended for acceptance. When considering the PRS costs, it will take into account the relevant costs incurred by GMCs for offering incentive payments, if any. GMCs may also collaborate with private glass recyclers to build up a network of collection points with a view to increasing the supply of waste glass containers while bringing down the operating costs.

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<sup>13</sup> The Administration has advised that one tonne of waste glass is roughly equivalent to 2 000 red wine bottles of 0.75 litre in volume.

<sup>14</sup> Please refer to paragraph 63 of this report for the role of GMCs.

66. The Administration assures members that it will exercise due diligence in vetting the tender submissions from potential GMCs to ensure that their recovery plans/strategies can positively support the proposed mandatory PRS. The effectiveness of the PRS will mainly be assessed on the basis of the amount of glass containers which have been recovered. The relevant statistics can be compiled directly from the records that will be submitted by GMCs, and such information must be audited by certified auditors before submission. The Environmental Protection Department will also vet the relevant information for monitoring of contract performance and for taking necessary actions under the contract provisions.

#### Costs and benefits of the proposed mandatory producer responsibility scheme

67. A major issue of concern to the Bills Committee is whether the proposed mandatory PRS is cost effective for the proper management of waste glass containers. In this connection, the Bills Committee has sought information on the potential cost items and levels, annual levy collectible, costs, values and outlets of materials recycled from glass beverage containers, as well as the quantifiable economic/environmental benefits that the PRS will 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. The relevant deliberations of the Bills Committee are set out in paragraphs 68 to 77 below.

#### *Costs*

68. According to the estimation of the Administration,

- (a) the average costs for the existing voluntary glass collection programmes/services funded under the Environment and Conservation Fund and other sources range from \$800 per tonne to \$6,300 per tonne, with the median standing at \$2,100 per tonne as they vary in the detailed components of the programmes;<sup>15</sup> and
- (b) the estimated treatment cost is in the range of \$800 to \$1,000 per tonne for crushing the glass containers into cullet to be used in the manufacturing of eco-pavers and in reclamation and other earthworks in place of aggregates that are available free of charge in the public fill banks.

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<sup>15</sup> According to the Administration, such operating costs are not comparable due to differences in service content, scale of service and cost structure. For instance, some programmes involve publicity and public education service in addition to glass collection service.

69. The Administration advises that, according to the Business Impact Assessment Study, the total volume of beverages held in glass containers that are distributed in Hong Kong is in the region of 120 million litres per year. In relation to the proposed mandatory PRS for the glass beverage containers, expenses for hiring GMCs to collect the waste glass containers from waste producers after the regulated articles are consumed and to properly treat or arrange for proper reuse of such waste glass containers will be in the order of \$120 million per year on the basis of an annual collection target of 50 000 tonnes or 50% of the waste glass containers generated, though the actual contract sum will be determined by open tender.

70. The Administration further advises that in accordance with the "polluter pays" principle, the recycling levy will be fixed at an appropriate level by way of subsidiary legislation in due course to generate revenues that will be sufficient for recovering the costs of the proposed mandatory PRS. There are other factors that may affect the recycling levy. For instance, inflation, participation rate in glass container recycling, contamination of the recovered glass containers, and fluctuations in the sales volume of regulated articles. There will also be related expenses in the administration of the PRS, such as staff costs, departmental expenses, accommodation costs, depreciation, costs of services provided by other departments and central administrative overhead that may be incurred under the PRS.

*Savings in terms of avoidance of landfill space*

71. The Administration points out that Hong Kong generates an average of 100 000 tonnes of waste glass containers per year in recent years. It is the Administration's target that the proposed mandatory PRS will ramp up over time to ultimately a territory-wide total of about 50 000 tonnes per year which is equivalent to 1.4% of the annual MSW disposal in 2014. The avoidance of landfill space will likely be 31 000 m<sup>3</sup> annually. Currently, the full costs incurred by the Government in providing waste collection, refuse transfer and landfill disposal services is in the region of \$620 per tonne. The recycling levy will help internalize the environmental costs in the life-cycle of glass beverage containers, and help alleviate the pressure of the existing landfills by turning waste glass containers into useful materials.

*Savings for manufacturing of glass from raw materials and reduction in construction costs*

72. The Administration advises that the proposed mandatory PRS will help promote reuse of waste glass beverage containers, which is beneficial to the environment because it can save energy used in the manufacturing of glass from raw materials. Exemption will be granted under the PRS so as to encourage the continuation of the existing reuse arrangements. The Administration will

also keep other suppliers of regulated articles closely engaged and will flexibly consider their plans in developing similar reuse arrangements.

73. The Administration points out that a mandatory PRS will better ensure economy of scale for collection and treatment of waste glass containers, and producers of construction materials with recycled glass content will no longer face a significant cost difference arising from the collection and treatment of waste glass. For public works projects that use products manufactured with recycled glass, the Administration envisages that the cost impacts will be insignificant particularly in the context of the overall project costs. However, feasible applications in these projects can help ensure that there will be sufficient outlets for recycled glass materials thus assuring the long term viability of the circular economy that is intended to be established under the proposed mandatory PRS. In this connection, the Environmental Protection Department has collaborated with the Development Bureau for alternative applications by which waste glass containers can be crushed into cullet for use as construction materials. The commercial values and environmental benefits of such applications are:

- (a) *to replace aggregates in the manufacturing of eco-partition blocks (under research/trial) or as fill materials in reclamation and other earthwork (under research/trial):* These applications can expedite the implementation of the proposed mandatory PRS or expand the outlets of the recycled glass materials, thus enabling the diversion of waste glass containers from the landfill on a long term basis. Prior to the implementation of the PRS, as aggregates are in abundant supply free of charge at the public fill banks, the total manufacturing costs of such eco-materials will most likely be higher than those made from conventional materials in view of the additional costs for collection and treatment of waste glass containers. The situation will change when the PRS is implemented as the collection and treatment of waste glass containers will be covered by the recycling levy, which will remove the abovementioned additional costs as compared with the use of aggregates for production of construction materials.
- (b) *to replace river sand in the production of eco-pavers (implemented) or cement mortar for building and refurbishment works (under research/trial):* This application may reduce the demand for the natural materials being substituted (i.e. river sand) which is under limited supply and is commercially of a higher value. For ease of reference, the general cost of river sand in the past five years ranges from \$100 to \$150 per tonne.

- (c) *to replace marine sand fill in reclamation (implemented)*: The environmental benefits are similar to (a) and (b) above. For ease of reference, the average raw material cost of marine sand fill imported in recent years is about \$20 per tonne.

74. Notwithstanding the Administration's explanation of the potential benefits and viability of the proposed mandatory PRS, some members remain skeptical of the cost-effectiveness of the scheme. Mr Andrew LEUNG considers that reuse of glass beverage container is more environmentally friendly than turning waste glass into recycled glass materials (e.g. glass cullet). Mr Tony TSE expresses concern about the lack of emphasis of the proposed mandatory PRS on involving public participation particularly in waste reduction by giving priority to the reuse of glass beverage containers.

75. The Administration stresses that it supports the reuse of glass beverage containers and has devised relevant measures in this regard. Apart from the exemption arrangements proposed under the Bill to encourage registered suppliers to recover/reuse their glass beverage containers, the Administration will specify in the tender documents of GMCs that they may accord priority to sourcing outlets for reusing the waste glass containers they have recovered. The Administration also points out that most waste glass beverage containers will not be reused as beverage containers, given beverage products are mostly imported instead of manufactured in Hong Kong. As such, treating and recycling waste glass materials for reuse as construction materials is a pragmatic solution.

*Alternative mechanism to operate the proposed mandatory producer responsibility scheme*

76. Mr WU Chi-wai criticizes that the collection of recycling levy from registered suppliers will not help minimize or change wasting behaviour of the consumers in respect of glass containers, and there may be possible loss of economic efficiency by financing GMCs to collect waste glass containers from waste producers or private recyclers. Mr WU has urged the Administration to consider alternative mechanisms whereby consumers will be paid along the recycling chain for their return of waste glass containers. This will help mobilize the public to participate in the proposed mandatory PRS and return waste glass containers to recyclers. The Bills Committee also notes that some deputations, making reference to the PSB Scheme, suggest that a small charge at points of sale can be more effective in creating economic incentive to reduce the excessive use of certain products.

77. The Administration stresses that the key objective of the proposed mandatory PRS is not to discourage the consumption of beverages held in glass containers. The Administration has considered the pros and cons of collecting

the levy at different points of the supply/recycling chain, and on balance, come to the view that it is more feasible and cost effective to collect the levy from registered suppliers. Besides, hiring GMCs can better support recycling on a territory-wide scale. There will also be operational difficulties in directly financing private recyclers or paying waste producers for depositing waste glass containers. In particular, collecting recycling levy at the retail level is far less cost effective having regard to the vast number of catering and retail establishments.

### Complementary measures

78. Some deputations have raised concerns about the readiness of Hong Kong in launching the territory-wide PRS considering that the recovery rate the Administration can now achieve remains significantly below its target of 50 000 tonnes of waste glass containers per annum. Members in general agree that the Administration should adopt a holistic approach to promote the reuse and recycling of glass containers, and enhance environmental education with a view to encouraging "clean recycling" of glass containers, so as to complement implementation of the proposed mandatory PRS. Specifically, the following suggestions have been made by some members/deputations on enhancing recovery of glass containers:

- (a) providing incentives to encourage beverage suppliers/consumers to recover/return glass beverage containers through a deposit-and-return system, which is currently adopted by some members of the trade;
- (b) introducing reverse vending machines that accept glass containers and in return dispense redeemable coupons to persons disposing of the containers into the machines;
- (c) mandating the submission of a proper recycling plan for liquor licence applications;
- (d) facilitating collaborations among GMCs and other operators of waste treatment facilities developed by the Government (e.g. the Waste Electrical and Electronic Equipment Treatment and Recycling Facility and the Organic Waste Treatment Facilities for food waste); and
- (e) imposition of a landfill disposal ban or higher landfill charges for waste glass beverage containers.

79. Taking note of the suggestions raised by members and deputations, the Administration points out that since the public consultation on the mandatory PRS conducted in 2013, considerable progress has been made in various complementary measures to facilitate glass container collection, including recycling programmes in collaboration with residential estates, shopping centres, pubs, bars and other catering outlets, increasing the number of collection points in residential estates and other premises and public places, and publicity and education programmes. As at September 2015, there was a total of 1 250 residential collection points, equivalent to an approximate population coverage of 70%, and some 500 collection points in other premises and public places. The Administration assures members that it will further mobilize more public participation in putting the concept of "clean recycling" into practice through the progressive implementation of CGSs and other publicity and public education initiatives. It will also continue to expand the collection services to restaurants and food premises so as to help enhance the effectiveness of its recycling efforts.<sup>16</sup> In addition, the Environment and Conservation Fund will continue to support programmes that access different sectors of the community and the trades on collection and treatment of waste glass beverage containers.

80. Regarding the suggestion of imposing a landfill disposal ban or higher landfill charges for waste glass beverage containers, the Administration has advised that separation of waste at source is not widely practised in the community. The way that waste is currently collected for disposal and the present volume of glass containers disposed of at landfills may pose operational challenges to an effective implementation of the suggested measures. In particular, if a landfill ban is to be implemented, the Administration needs to duly consult the refuse collection trades on important issues like what will be the "penalty" in case of contravention and who is to be liable. The Administration does not consider that it is opportune now to pursue a statutory landfill ban on container waste. The Administration has indicated that it may revisit this issue as and when it considers expanding the proposed mandatory PRS.

### Other issues

#### *Timing of reviewing the proposed mandatory producer responsibility scheme*

81. The Administration advises that subject to the timing of implementing the proposed mandatory PRS upon completion of all legislative procedures, a review may be conducted after the scheme has been in operation for some time.

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<sup>16</sup> For instance, the Administration launched in October 2015 the "Clink, Drink then Recycle" glass container recycling programme which now covers 18 major shopping malls and commercial buildings to encourage restaurants and food premises located there to join glass container recycling.

At the request of the Bills Committee, the Administration agrees to report the progress of implementation and the outcome of review to the LegCo Panel on Environmental Affairs when appropriate.

*Issues arising from legislative amendments under the Promotion of Recycling and Proper Disposal (Electrical Equipment and Electronic Equipment) (Amendment) Bill 2015*

82. The Bills Committee notes that Part 4 and Schedule 6 are proposed to be added to PERO by both the current Bill and the EE Bill (which was passed at the Council meeting of 16 March 2016), and the same sections of WDO are also proposed to be amended under the two bills. The Administration advises that it will move CSAs to repeal or amend certain provisions which will become redundant or require adaptations in view of commencement of operation of similar provisions under the EE Bill first. It will also move CSAs to achieve consistency with similar provisions under the EE Bill.

### **Committee Stage amendments to be moved by the Administration**

83. The Bills Committee has examined and raised no objection to the CSAs to be moved by the Administration, which have been mentioned in paragraphs 17, 38 and 82 above. A full set of the CSAs is in **Appendix III**. The Bills Committee will not propose any CSAs to the Bill.

### **Resumption of Second Reading debate on the Bill**

84. The Bills Committee has no objection to the resumption of the Second Reading debate on the Bill at the Council meeting of 20 April 2016.

### **Advice sought**

85. Members are invited to note the deliberations of the Bills Committee.

Council Business Division 1  
Legislative Council Secretariat  
7 April 2016

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

**Membership list**

**Chairman** Ir Dr Hon LO Wai-kwok, SBS, MH, JP

**Members** Hon Tommy CHEUNG Yu-yan, GBS, JP  
Hon Vincent FANG Kang, SBS, JP  
Hon Andrew LEUNG Kwan-yuen, GBS, JP  
Hon WONG Ting-kwong, SBS, 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

(Total: 14 members)

**Clerk** Ms Angel SHEK

**Legal Adviser** Miss Evelyn LEE

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

**List of deputations and individual  
who have given views to the Bills Committee**

1. ALBA Integrated Waste Solutions (Hong Kong) Limited
- \*2. Business Environment Council
- \*3. Civic Party
4. Construction Industry Council
- \*5. Consumer Council
6. Designing Hong Kong
7. Environmental Contractors Management Association
8. Federation of Hong Kong Industries
9. Green Sense
10. Greeners Action
11. Hong Kong Catering Industry Association
12. Hong Kong Dumper Truck Drivers Association
13. Hong Kong Environmental Industry Association
- \*14. Hong Kong Waste Management Association
15. K. Wah Construction Materials
16. Liberal Party
17. Mr CHAN Kai-ming
- \*18. The Chartered Institution of Water and Environmental Management Hong Kong
19. The Conservancy Association
20. The Hong Kong Association of Property Management Companies
22. The Hong Kong Beverage Association Limited
22. The Hong Kong Food, Drink & Grocery Association
- \*23. The Hong Kong Institution of Engineers
24. Wine Association of Hong Kong
25. World Green Organisation

\* views given by written submission only

Promotion of Recycling and Proper Disposal (Product Container) (Amendment) Bill 2015

Committee Stage

Amendments to be moved by the Secretary for the Environment

<u>Clause</u>	<u>Amendment Proposed</u>
2	By deleting “3” and substituting “4”.
3	By deleting the clause.
4	In the proposed definition of <i>regulated article</i> , in paragraph (a), by deleting “Schedule 6” and substituting “Schedule 8”.
5	By deleting everything after the heading and substituting— “Section 4— <b>Repeal</b> “and regulated electrical equipment” <b>Substitute</b> “, regulated electrical equipment and regulated articles”.”.
6	By deleting everything after the heading and substituting— “Section 5(1)— <b>Repeal</b> “or 44” <b>Substitute</b> “, 44 or 55”.”.
7	In the heading, by deleting “ <b>Part 4</b> ” and substituting “ <b>Part 5</b> ”.

7 By deleting “Part 3” and substituting “Part 4”.

7 In the proposed Part 4, by deleting—

““**Part 4**”

and substituting—

““**Part 5**”.

7 In the proposed section 31—

(a) by deleting the heading and substituting—

“**47. Interpretation of Part 5**”;

(b) in the definition of *consume*, by deleting paragraph (a) and substituting—

“(a) open the container that constitutes the article for the first time after the container is sealed; or”;

(c) in the definition of *distribute*, by deleting paragraph (c) and substituting—

“(c) give the article to another person as a prize or gift, but does not include any such act done with a view that the article is to be exported in the course of business;”;

(d) in the definition of *registered supplier*, by deleting “33” and substituting “49”;

(e) in the definition of *Regulated Articles Regulation*, by deleting “39” and substituting “55”;

(f) in the definition of *return*, by deleting “36” and substituting “52”;

(g) in the definition of *supplier*, in paragraph (b), by deleting “causes the article to be imported” and substituting “imports the article”.

7 In the proposed section 32—

(a) by deleting the heading and substituting—

**“48. Prohibition of distributing regulated articles without registration”;**

- (b) in subsection (1), by deleting everything after “section” and substituting “49, the supplier distributes regulated articles.”;
- (c) by deleting subsection (2).

7 By renumbering the proposed section 33 as section 49.

7 In the proposed section 34—

- (a) by renumbering the section as section 50;
- (b) by deleting “no longer carries on a business mentioned in section 32(1)” and substituting “is no longer a supplier”.

7 In the proposed section 35—

- (a) by renumbering the section as section 51;
- (b) in subsection (1)(a) and (b), by deleting “in Hong Kong”;
- (c) in subsection (2), by adding “under this section” after “once”.

7 In the proposed section 36—

- (a) by renumbering the section as section 52;
- (b) in subsections (2)(a) and (3), by deleting “35” and substituting “51”.

7 By renumbering the proposed section 37 as section 53.

7 In the proposed section 38—

- (a) by renumbering the section as section 54;
- (b) in subsection (1)(a), by deleting “32(1)” and substituting “48(1)”;
- (c) in subsection (1)(b), by deleting “as a registered supplier.”;
- (d) in subsection (1)(b), by deleting “35” and substituting “51”;

- (e) in subsection (3)(a), by deleting “35” and substituting “51”;
- (f) in subsection (3)(a), by deleting “32(1)” and substituting “48(1)”;
- (g) in subsections (3)(b), (4)(b) and (7), by deleting “35” and substituting “51”;
- (h) in subsection (11)(b), by deleting “total amount of container recycling levy and the surcharge mentioned in paragraph (a) that are” and substituting “amount of container recycling levy or the surcharge mentioned in paragraph (a) that is”.

7 In the proposed section 39—

- (a) by deleting the heading and substituting—  
**“55. Secretary may make regulations for Part 5”**;
- (b) in subsection (1)(a), by deleting “33” and substituting “49”;
- (c) in subsection (1)(b), by deleting “34” and substituting “50”;
- (d) in subsection (1)(i), by deleting “40” and substituting “56”.

7 In the proposed section 40—

- (a) by renumbering the section as section 56;
- (b) in subsection (1), by deleting “35, 36 or 37” and substituting “51, 52 or 53”.

7 In the proposed section 41—

- (a) by deleting the heading and substituting—  
**“57. Secretary may amend Schedule 8”**;
- (b) in subsection (1), by deleting “Schedule 6” and substituting “Schedule 8”.

8 In the heading, by deleting “**Schedule 6**” and substituting “**Schedule 8**”.

8 By deleting “Schedule 5” and substituting “Schedule 7”.

8 In the proposed Schedule 6—

(a) by deleting—

**“Schedule 6** [ss. 3 & 41]”

and substituting—

**“Schedule 8** [ss. 3 & 57]”;

(b) in Part 1, in section 1, by deleting the definition of *beverage* and substituting—

“*beverage* (飲料) means—

(a) a ready-to-serve drink, including—

(i) alcoholic drink;

(ii) water (carbonated or non-carbonated) or water-based flavoured drink (carbonated or non-carbonated);

(iii) milk or dairy-based drink;

(iv) soybean-based drink;

(v) fruit or vegetable juice or nectar;

(vi) coffee, coffee substitute, tea or herbal infusion; and

(vii) cereal grain drink; or

(b) a product that—

(i) is a liquid or consists of liquid; and

(ii) is commonly served as a drink after being diluted or reconstituted.”.

10 By deleting subclause (1) and substituting—

“(1) Section 2(1), definition of *disposal*—

**Repeal**

everything after “includes treatment, reprocessing and”

**Substitute**

“recycling;

- (b) in relation to e-waste, includes storage, treatment, reprocessing and recycling, but does not include repair; and
- (c) in relation to container waste, includes storage, treatment, reprocessing and recycling, but does not include reuse;.”.

- 10(2) By deleting “construction waste” and substituting “e-waste”.
- 10(3) In the proposed definition of *container waste*, in paragraph (a), by deleting “Schedule 6” and substituting “Schedule 8”.
- 11(1) By deleting “16(2)(e)” and substituting “16(2)(ec)”.
- 11(1) By renumbering the proposed paragraph (ea) as paragraph (ed).
- 11(1) By renumbering the proposed paragraph (eb) as paragraph (ee).
- 11(1) By renumbering the proposed paragraph (ec) as paragraph (ef).
- 11(2) By deleting “16(2)” and substituting “16(2B)”.
- 11(2) In the proposed subsection (2A)—
- (a) by renumbering the subsection as subsection (2C);
  - (b) by deleting “(2)(ea), (eb) and (ec)” and substituting “(2)(ed), (ee) and (ef)”.
- 11(2) In the proposed subsection (2B)—
- (a) by renumbering the subsection as subsection (2D);
  - (b) in paragraph (a), by deleting “(2)(ea)” and substituting “(2)(ed)”;
  - (c) in paragraph (b), by deleting “(2)(eb)” and substituting “(2)(ee)”.

- 12 By deleting subclause (1).
- 12(2) By deleting—  
 ““Sixth Schedule,”  
**Substitute**  
 “Sixth Schedule; or””  
 and substituting—  
 ““Sixth Schedule; or”  
**Substitute**  
 “Sixth Schedule;””.
- 12 By adding—  
 “(2A) Section 20A(1)(c)—  
**Repeal**  
 “(b),”  
**Substitute**  
 “(b); or”.”.
- 12(3) By deleting “20A(1)(b)” and substituting “20A(1)(c)”.
- 12(3) By renumbering the proposed paragraph (c) as paragraph (d).
- 13 By deleting subclause (1).
- 13(2) By deleting—  
 ““Sixth Schedule,”  
**Substitute**  
 “Sixth Schedule; or””  
 and substituting—  
 ““Sixth Schedule; or”

**Substitute**

“Sixth Schedule;””.

13 By adding—

“(2A) Section 20B(1)(c)—

**Repeal**

“(b),”

**Substitute**

“(b); or”.”.

13(3) By deleting “20B(1)(b)” and substituting “20B(1)(c)”.

13(3) By renumbering the proposed paragraph (c) as paragraph (d).

14 By deleting the clause and substituting—

**“14. Section 21A amended (circumstances under which waste disposal licence for chemical waste, clinical waste or e-waste is to be granted)**

(1) Section 21A, heading—

**Repeal**

“or e-waste”

**Substitute**

“, e-waste or container waste”.

(2) Section 21A—

**Repeal**

“or e-waste” (wherever appearing)

**Substitute**

“, e-waste or container waste”.”.