

**Confirmed Minutes of the 157<sup>th</sup> Meeting of  
the Advisory Council on the Environment  
held on 15 December 2008 at 2:30 pm**

**Present:**

Prof LAM Kin-che, SBS, JP (Chairman)  
Prof WONG Yuk-shan, BBS, JP (Deputy Chairman)  
Dr Dorothy CHAN, BBS  
Dr MAN Chi-sum, JP  
Dr NG Cho-nam, BBS  
Prof POON Chi-sun  
Mr Markus SHAW  
Mr TSANG Kam-lam  
Prof WONG Tze-wai  
Dr YAU Wing-kwong  
Mr Carlson K S CHAN (Secretary)

**Absent with Apologies:**

Mr James GRAHAM  
Ms Betty HO  
Prof Howard HUANG  
Prof Paul LAM, JP  
Mr Edwin LAU  
Ms Goretti LAU  
Mr Eddie WONG  
Mr Simon WONG, JP

**In Attendance:**

Ms Anissa WONG, JP	Permanent Secretary for the Environment
Mr P Y TAM	Assistant Director/Technical Services, Planning Department
Mr C C LAY	Assistant Director (Conservation), Agriculture, Fisheries and Conservation Department
Ms Monica KO	Principal Information Officer, Environmental Protection Department (EPD)
Ms Josephine CHEUNG	Chief Executive Officer (CBD), EPD
Mr KWAN Chung-kit	Office Manager (CBD), EPD
Ms Loletta LAU	Executive Officer (CBD), EPD

### **In Attendance for Agenda Item 3**

Mr CHENG Yeung-ming	Chief, Maritime Policy, Marine Department
Mr MOK Wai-chuen	Acting Assistant Director (Air Policy), EPD
Mr Tony LEE	Senior Environmental Protection Officer (Mobile Source Control)2, EPD

### **In Attendance for Agenda Item 4**

Mr Albert LAM, JP	Deputy Director of Environmental Protection (2), EPD
Mr Alfred LEE	Assistant Director (Waste Management Policy), EPD

### **In Attendance for agenda Item 5**

Mrs Shirley LEE	Acting Assistant Director (Environmental Assessment), EPD
-----------------	---

\*\*\*\*\*

Action

### **Agenda Item 1 : Confirmation of the draft minutes of the 156<sup>th</sup> meeting held on 10 November 2008**

A Member referred to paragraph 43 of the draft minutes of the last meeting and would like to make a supplementary comment that “he had reservation that the additional information re-confirmed the conclusion made in the EIA report that the overall ecological value of the site was a low one”. The meeting agreed that the draft minutes of the last meeting were confirmed without amendment.

### **Agenda Item 2 : Matters arising from the minutes of the 156<sup>th</sup> meeting held on 10 November 2008**

2. There were no matters arising from the minutes of the last meeting.

### **Agenda Item 3 : Control of ship-sourced pollution within Hong Kong waters**

*(ACE Paper 30/2008)*

3. The Chairman informed Members that in the context of discussing

a paper on revision of fees and charges relating to prevention and control of pollution from merchant shipping at the meeting held in March 2008, Members requested that the Council be briefed about the broader picture on the overall environmental-related issues regarding pollution from ships as there were increasing concerns about pollution caused by the marine sector. The current paper briefed Members about the issue.

4. Mr Mok Wai-chuen briefed Members on the strategy of Hong Kong to control ship-sourced pollution within Hong Kong waters. He highlighted that the Marine Department (MD) had been enforcing maritime pollution control through various international conventions. Complementing the work of MD, the Environmental Protection Department (EPD) had been monitoring air and water quality to provide a basis for planning control strategies and working out new control measures to strengthen efforts in reducing marine pollution in Hong Kong. Actions were already in hand to conduct a trial on the use of ultra low sulphur diesel (ULSD) by local ferries.

5. The Chairman enquired about the contribution of local vessels and ocean-going vessels to the air pollution in Hong Kong. Mr Mok Wai-chuen said that the marine sector was the second largest source of sulphur dioxide (SO<sub>2</sub>) emissions after power plants. For nitrogen dioxides, the marine sector was the third largest source, after power plants and vehicles. For respirable suspended particulates, the marine sector was the fourth largest source after power plants, vehicles and industrial sources.

6. A Member considered that the fuel quality of vessels and ferries was very poor and one of the major sources of SO<sub>2</sub> in Hong Kong was from maritime emissions. Mr Mok Wai-chuen said that according to the International Maritime Organization (IMO), the average sulphur content of ocean-going vessels was about 2.9% which was much lower than the sulphur limit (4.5%) stipulated in MARPOL Annex VI. Recently, the Annex VI had been revised and adopted by IMO in order to tighten the standard of fuel sulphur content to 3.5% by 2012 and, subject to feasibility reviews and availability of supply of low sulphur fuel, to 0.5% by 2020. The relevant local authorities were closely monitoring the development.

7. A Member said that he was surprised to learn that IMO's standard for sulphur content of vessel fuel was as high as 4.5%. Mr Mok Wai-chuen

explained that the standard had taken into account the mode of operation of ocean-going vessels which mainly moved at a distance away from the land. Nonetheless, with the increasing awareness of emissions from the marine sector, the IMO had drawn up plans to gradually tighten up the standard to 0.5% by 2020.

8. A Member queried that while the use of ULSD was a mandatory requirement for land transport, the trial scheme for the use of ULSD by local ferries would only be introduced next year. Mr Mok Wai-chuen explained that the Government vessels had been using ULSD since 2001. However, some local ferry operators were still concerned about the technical feasibility of using ULSD as ULSD was new to them. A trial scheme would be introduced in 2009 to ascertain the feasibility of using ULSD by local ferries, in particular those equipped with two-stroke engines. The information collected in the trial, such as pattern of fuel consumption, maintenance requirement and logistics for supplying ULSD for refill, would be useful to map out the way forward.

9. A Member said that he was pleased to note that the Government vessels had been using ULSD and a trial scheme would be conducted for local ferries. He asked whether there was any alternative measure in case the trial scheme was not successful. A Member asked whether assistance would be offered to ferry operators to provide incentives in view of the relatively old age of most of the ferries. Mr Mok Wai-chuen said that alternative measures, such as the use of alternative technologies, and incentives would be worked out based on the findings and information collected in the trial.

10. In response to the Chairman's enquiry, Mr Mok Wai-chuen confirmed that the ULSD for ferries was the same as that for motor vehicles. The major problem of supplying ULSD to ferries was that the existing oil supply infrastructure for vessels, such as oil piping, was geared towards supplying marine light diesel.

11. A Member said that he was a bit disappointed that the current approach was basically the compliance with relevant international conventions. Nonetheless, international conventions did not necessarily mean that they were the best practices. Being one of the world's top ports, Hong Kong should take a more proactive approach and be at the forefront in setting the international standards. He only noticed other large ports, such as Singapore, Seattle and

Long Beach, being mentioned in the international scene of port operations. Mr Mok Wai-chuen said that the Government was committed to control and maintain a clean marine environment in Hong Kong waters. Hong Kong had been proactively pursuing measures beyond the requirements of international conventions, such as using ULSD for all Government vessels and promoting the use of ULSD to local ferries. However, like other ports, Hong Kong had to follow international conventions in controlling the emissions from ocean-going vessels. Apart from controlling the emissions from these vessels, some container terminal operators had also taken steps to reduce emissions from their equipment. For examples, some diesel gantry cranes had been converted to electric gantry cranes and hybrid ones. EPD was working on a proposal to control emissions from off-road vehicles and mobile machinery operating within container terminals. Its plan was to put forth a proposal for consultation next year. To keep abreast of the latest development in controlling emissions from ocean-going vessels and port-related operations, Hong Kong had been actively participating in international conferences and seminars.

12. A Member said that there were foreign practices requiring ocean-going vessels to switch the fuel from a higher sulphur content to a lower sulphur content when the vessel was within a certain distance from the port. Mr Mok Wai-chuen explained that such practice was adopted in Sulphur Oxides Emission Control Areas (SECAs) set up under MARPOL Annex VI. Within a SECA, vessels had to use fuel with a sulphur content not exceeding 1.5%. There were only two SECAs, one in the Baltic Sea and the other in the North Sea. However, unless an area covered a large stretch of waters, it would not be meaningful to set up a SECA as the environmental benefit brought about by fuel switch would be very small. In view of the small territory of the Hong Kong waters, it would not be practical to set up a SECA without including the neighbouring ports in the Mainland or even other ports on this side of the Pacific Ocean. He learnt that the USA was contemplating setting up a SECA together with Canada in the west coast of North America for similar considerations.

13. A Member asked whether marine pollution control, in particular air pollution control, was on the discussion agenda with the Mainland authorities. Mr Mok Wai-chuen said that EPD had sounded out with the Mainland counterparts in the Pearl River Delta Region about its interest in exploring the feasibility of setting up of a SECA in this region. However, the setting up a SECA was a lengthy process. At this stage, Hong Kong would

accord top priority to implementing the proposed new measures to control ship-sourced pollution within Hong Kong waters.

14. A Member learnt that some ports had installed onshore power supply (OPS) facilities at the terminals to minimize emissions from vessels when berthing. Mr Mok Wai-chuen explained that OPS was not yet a common application and had been installed only in a few ports. The main problem of promoting OPS was that international standards for OPS had not yet been drawn up. Hong Kong, like many other major ports such as the ports of Los Angeles and Singapore, was closely watching the development and promulgation of the international standards for OPS. Moreover, not too many vessels had the necessary facilities onboard for hooking up to OPS. Mr Cheng Yeung-ming added that it was difficult to encourage ship-owners to take the initiative to install the expensive facilities onboard before the OPS standards were finalized. Furthermore, as not many terminals in the world had installed OPS, the ship-owners were reluctant to install OPS facilities onboard, which might not be used on a frequent basis.

15. In response to the Chairman's enquiry about the number of prosecution cases relating to excessive smoke from vessels, Mr Cheng Yeung-ming said that he did not have the information in hand and would provide it after the meeting. Nonetheless, there were only a few prosecution cases in the past in view of the need to establish the case of causing nuisance to the public. The MD had been reviewing the provisions in the Shipping and Port Control Ordinance (Cap. 313) and the Merchant Shipping (Local Vessels) Ordinance (Cap. 548) with a view to using a quantifiable system of Ringelmann Chart to facilitate enforcement and prosecution.

16. In reply to a Member's enquiry about the Smoky Vessels Spotter Cadre Scheme, Mr Cheng Yeung-ming said that the MD launched the Scheme in November 2007 with over 100 volunteers up to present. Under the Scheme, volunteers were trained to assist in detecting excessive smoke emissions from vessels in Hong Kong waters. He agreed to provide more information about the Scheme for Members' information.

(Post-meeting note: The information about prosecution cases relating to excessive smoke from vessels and the Smoky Vessels Spotter Cadre Scheme provided by the MD was circulated to Members after the meeting.)

17. On the detection of oil spills from vessels for enforcement actions, a Member suggested that the enforcement team should monitor oil spills from the air level rather than the sea level. From his experience, it would be much more effective to identify the source of the oil spills and estimate its scale from the air level.

18. On the Chairman's enquiry about the International Convention for the Control and Management of Ship's Ballast Water and Sediments, 2004 (BWM), Mr Cheng Yeung-ming said that Hong Kong was not one of the members of the 16 Contracting Governments under the BWM. The extension of the BWM requirements to Hong Kong had to be made through the Central Government. The BWM Convention was developed in recent years and had not yet entered into force internationally. Hong Kong had been advising and encouraging the shipping industry to follow the guidelines relating to the implementation of BWM.

19. A Member was concerned about the problem of water-borne rubbish in the territory, in particular styrofoams from fishing boats. He considered that the problem had to be tackled at source. He suggested that the Council be briefed about the issue of water-borne rubbish at a future Council meeting. The Chairman supported the suggestion as he also observed the serious problem of water-borne rubbish on beaches during his visit to Sai Wan in Sai Kung a few months ago. Mr Cheng Yeung-ming said that there was no specific scheme to tackle the problem of discarded styrofoams in the waters but they would be collected by the refuse collection teams as other marine refuse.

(Post-meeting note: The parties concerned were informed and would brief Members on the subject in due course.)

20. In response to a Member's enquiry about the services provided to remove garbage, sewage or oil/chemical wastes from incoming ocean-going vessels, Mr Cheng Yeung-ming confirmed that with the exception of domestic garbage, the collection service of all other wastes including cargo garbage, sewage and oil/chemical wastes from the vessels was charged by relevant authorities.

21. The Chairman summarized Members' views as follows –
- (a) being one of the major ports and cities in the world, Hong Kong had the obligation not only to protect the environment within its harbour, but also to contribute towards preserving the oceanic environment by adopting the latest and best practices;
  - (b) a clean harbour, in terms of air quality and water quality, was important for the development of tourism in Hong Kong;
  - (c) the Council was supportive of the new measures to improve the problem of ship-sourced pollution within Hong Kong waters, including the trial scheme of the use of ULSD by local ferries and providing OPS, which would be conducive to preserving a clean harbour; and
  - (d) the Council encouraged the relevant authorities to adopt the latest measures of the international conventions and take proactive measures to control maritime pollution.

**Agenda Item 4 : Implementation details of the environmental levy scheme on plastic shopping bags under the proposed Product Eco-responsibility (Plastic Shopping Bags) Regulation**  
*(ACE Paper 31/2008)*

22. Mr Albert Lam briefed Members on the background pertaining to the preparation of the Product Eco-responsibility (Plastic Shopping Bags) Regulation (the Regulation) pursuant to section 29(1) of the Product Eco-responsibility Ordinance (Cap. 603) (the Ordinance). Mr Alfred Lee briefed Members on the implementation details of the environmental levy scheme on plastic shopping bags (the Scheme).

23. The Chairman of the Waste Management Subcommittee informed Members that the Subcommittee was briefed about the details of the Scheme at the meeting in early December. The Subcommittee supported the proposed implementation details and urged the Government to implement the Scheme as soon as possible. The Subcommittee noted that there were calls from some sectors of the community for postponing the implementation of the Scheme in

light of the economic downturn. However, the Subcommittee considered that the Scheme would not cause undue hardship as the public could avoid the environmental levy by bringing their own shopping bags at all time. After launching the environmental levy scheme, the Government should start planning other producer responsibility schemes, such as those for waste electrical and electronic equipment as well as packaging materials as soon as practicable. Vigorous efforts were needed to deter waste generation in order to meet the targets set in the “Policy Framework for the Management of Municipal Solid Waste (2005-2014)”. Mr Albert Lam assured Members that actions were being taken in parallel to roll out producer responsibility schemes with the support of the trade on a voluntary basis, and to develop and implement statutory schemes where necessary.

24. In reply to a Member’s enquiry about voluntary participation of non-prescribed retailers in the Scheme, Mr Albert Lam said that “prescribed retailers” were legally defined in the Ordinance. While the non-prescribed retailers could not join the statutory Scheme, they could still help discourage the indiscriminate use of plastic shopping bags on a voluntary basis or even institute charges on the bags, as if they were one of the goods for sale. Yet, non-prescribed retailers should make it clear that the charges collected were not part of the statutory Scheme and would not be credited to the general revenue of the Government. He also confirmed that the retailers could submit the registration forms and get responses online.

25. A Member made the following suggestions in respect of the implementation details –

- (a) to amend the “name of the outlet manager” in Part B of the registration form (Annex II of the paper) to more commonly applicable terms, such as “name of responsible contact person”;
- (b) to provide more detailed guidelines for completion of the part on “exemption arrangement” in Part B2 of the registration form; and
- (c) to consider registration arrangements for time-limited operations, such as trade fairs during the festival periods, by specifying the time-frame or setting an expiry date for registration to save resources for applying cancellation of the registration.

Mr Albert Lam said that the suggestions would be taken into account when fine-tuning the details, where appropriate.

26. A Member noted that a prescribed retailer was one who carried on a retail business at five or more qualified retail outlets in Hong Kong. She asked whether any retailer with four qualified retail outlets who wanted to open an additional outlet with time-limited operation, such as those in the trade fairs or exhibitions, would become a prescribed retailer under the Ordinance. Mr Albert Lam said that the retailer would be a prescribed retailer under section 1(1)(a) of Schedule 4 to the Ordinance as the number of outlets was five in total. It should be noted that in the original draft of the legislation, the number of retail outlets for a prescribed retailer was proposed to be two or more. Having regard to the impacts on the small and medium enterprises, the number of outlets for a prescribed retailer was increased to five or more.

27. The Chairman said that a Member, who could not attend the meeting, had conveyed his comments before the meeting. His views and suggestions were as followings –

- (a) registered/qualified retailers and retail outlets –
  - (i) it would not be easy to monitor the number of registered outlets as shops might open or close and even vary in sizes. If a prescribed retailer closed one of his outlets which became four instead of the prescribed five, he would need to apply for deregistration; and then if again opened an outlet in the near future, he would then have to register again. He questioned if there was any other simpler and effective method to monitor such;
  - (ii) regarding franchise operations, most franchisees might use an independent company name to operate the business under the franchiser's brand, and in certain cases, the franchiser might allow some rooms for the franchisees to operate their business, which could cause some confusion in this regard;
- (b) the Administration had meetings with the Business Facilitation

Advisory Committee and Hong Kong Retail Management Association as major retailers would be affected by the levy scheme, but it seemed to him that the regulations prescribed would bring adverse impacts to the small retailers who did not have much resources in dealing with the very complicated regulations, including record keeping, returns and payments of levies. He could foresee that small prescribed retailers would harbour a great deal of grievances as they had to incur high administration cost to comply with the regulation;

- (c) small and medium enterprises were very concerned about the current financial situation in Hong Kong, and were worried about the cost and manpower involved. He asked what and how could the government help them in this regard; and
- (d) he would suggest having a simpler and direct ordinance which would involve less manpower and administration cost.

28. Mr Albert Lam explained that small and medium enterprises would not be directly affected by the Scheme at this stage as the first phase of the Scheme would only cover “prescribed retailers” which were mostly chain or large supermarkets, convenience stores, and personal health and beauty stores. On the other hand, the Legislative Council Panel on Environmental Affairs had urged the extension of the coverage of the Scheme as soon as possible. On balance, the Administration would adopt a pragmatic approach in extending the Scheme in light of experience and impacts on different sectors. On the franchise business, Mr Alfred Lee said that under Schedule 4 to the Ordinance, the franchiser would be deemed the person who carried on the retail business. That notwithstanding, section 28 of the Ordinance also provided that the franchisee would be liable for certain acts under the Scheme, such as distribution of plastic shopping bags without charging. In case a registered retailer would close down one of the five retail outlets but would open another outlet soon, the registered retailer had the discretion of not applying for de-registration.

29. On the definition of prescribed retailers, a Member sought clarification on the definition of “food” excluding any “drink” in section 2(b) as against “drink” in section 2(a) under Schedule 4 to the Ordinance. Mr Albert

Lam explained that the purpose of defining “food” excluding “drink” in section (b) was to make sure that there was no double-counting of the category of items in defining the qualified retail outlets. A Member considered that health care products, such as food supplements and vitamins, which were commonly found in chain stores should be included in the categories of goods for qualified retail outlets. Mr Albert Lam said that for retail outlets selling only health care products, they would not be regarded as qualified retail outlets as a qualified retail outlet should offer all the three categories of goods set out in section 2 of Schedule 4 to the Ordinance.

30. A Member was concerned about the complications in the administration and enforcement of the Scheme arising from the granting of exemptions to certain areas within a registered retail outlet. The consumers might ask for more plastic shopping bags on a floor with exemption, such as the fashion section, for use when shopping on a floor requiring the charging of levy, such as the supermarket. Moreover, he considered that the Scheme should not only cover plastic shopping bags but all types of shopping bags in order to discourage the indiscriminate use of shopping bags for reduction of waste.

31. Mr Albert Lam explained that the exemption arrangements had taken into account the request from the trade for maintaining a level-playing field among retailers as far as practicable. For example, some members of the trade had indicated that a department store which happened to have a supermarket should not be covered by the Scheme in whole. Upon implementation, registered retailers would have a number of means to differentiate exempted counters within a registered outlet, such as by means of stickers, signs and clear layout plans. As regards the reporting system, the quantity of plastic shopping bags distributed from the registered outlet should include those bags distributed from both the exempted counters and non-exempted counters. The enforcement teams would observe the pattern of consumption and might request further information if anomalies were detected.

32. A Member supported the Scheme and considered that it should be implemented as soon as possible. He considered that the current economic downturn should not be a reason for delaying the implementation of the Scheme but instead would offer a good opportunity of making a change to the culture by encouraging the habit of bringing one’s own bag to save money. The implementation details could still be refined and further improved, if necessary,

in light of experience.

33. The Chairman agreed that the implementation of the Scheme was necessary for behavioural change. Similar schemes had been implemented in many overseas countries and the Mainland, and were proved successful. It had been a norm for people to bring along their own shopping bags.

34. The Chairman summarized Members' views as follows –

- (a) the Council fully supported the implementation of the Scheme, which was in line with the polluter-pays principle, and urged that the Scheme be rolled out as soon as possible. The producer responsibility schemes had been long overdue and the one on plastic shopping bags was the first important step in its implementation. The scope of the producer responsibility schemes should be extended to other products as soon as possible;
- (b) the Council noted that the Administration had taken into account the views of the trade and conducted site visits in working out the implementation details. Necessary amendments had also been made in providing a level-paying field of the business and ironing out ambiguities to facilitate implementation;
- (c) the Council considered that the Scheme should not cause undue hardship to the general public as people could bring their own shopping bags to avoid the levy. In the long run, the burden on the tax payers would be reduced for containing the increasing amount of waste; and
- (d) the suggestions of some Members on the implementation details of the Scheme should be taken into account, where appropriate.

**Agenda Item 5 : Report on the 106<sup>th</sup> Environmental Impact Assessment Subcommittee meeting**  
*(ACE Paper 32/2008)*

35. The Chairman of the Environmental Impact Assessment (EIA) Subcommittee reported on the recommendation of the Subcommittee on the EIA

report on “West Island Line”.

36. Mr P Y Tam said that the project proponent had not submitted any documents or drawings on the ventilation shafts for the Planning Department to assess the visual impacts. The Chairman of the EIA Subcommittee said that the issue of visual impacts of ventilation shafts was discussed at the Subcommittee meeting. The Subcommittee considered that it was not desirable to impose detailed requirements on the design of the ventilation shafts in order to allow more flexibility for the project proponent to discuss with the local community on the appropriate design to suit their needs and to blend with the surroundings. The Subcommittee recommended that the project proponent should set up community liaison groups to facilitate communications. Mrs Shirley Lee clarified that some drawings and photomontages, including ventilation shafts, were included in the EIA report and found acceptable by the Planning Department. She further added that the project proponent had been liaising with the local community on refining the design of the ventilation shafts and some details had to be sorted out with further discussion.

37. Mr P Y Tam said that in view of the limited provision of open space in the Western District, it was important that the project proponent would adequately re-provision the affected open spaces within the district during the construction period and after completion of the project. Mrs Shirley Lee referred to paragraph 31 of the paper and said that about 13,500 m<sup>2</sup> open space would be affected by the project. The project proponent had undertaken to re-provision the open space and there would be an overall increase in public open area of a few hundred square metres after completion of the project. The Chairman considered that the issue should also be addressed in the stage of town planning process.

38. The Chairman concluded that the Council endorsed the EIA report with the conditions set out in paragraph 33 of the paper.

#### **Agenda Item 6 : Any other business**

39. As the meeting was the last one of the current term, the Chairman took the opportunity to thank Members for their contribution to the Council.

40. Ms Anissa Wong extended her gratitude, on behalf of the Secretary

for the Environment and colleagues of the bureau/department, to the support and invaluable advice of the Members.

**ACE Secretariat**  
**December 2008**