

**Confirmed Minutes of the 168<sup>th</sup> Meeting of  
the Advisory Council on the Environment  
held on 8 February 2010 at 2:30 pm**

**Present:**

Prof Paul LAM, JP (Chairman)  
Prof CHAU Kwai-cheong (Deputy Chairman)  
Ms Teresa AU  
Dr Dorothy CHAN, BBS  
Prof FUNG Tung  
Ms Betty HO  
Mr Michael JEBSEN, BBS  
Mr Edwin LAU, MH  
Ir Dr LO Wai-kwok, BBS, MH, JP  
Dr MAN Chi-sum, JP  
Dr Alfred TAM  
Mr TSANG Kam-lam  
Mr Simon WONG, JP  
Dr YAU Wing-kwong  
Dr Ray YEP  
Prof Ignatius YU  
Mr Carlson K S CHAN (Secretary)

**Absent with Apologies:**

Mr Oscar CHOW  
Prof Joseph LEE  
Mr Michael LEE  
Prof WONG Ming-hung

**In Attendance:**

Ms Anissa WONG, JP	Permanent Secretary for the Environment
Mr C C LAY	Assistant Director (Conservation), Agriculture, Fisheries and Conservation Department (AFCD)
Mr C T LING	Acting Assistant Director/Technical Services, Planning Department
Ms Esther LI	Acting Principal Information Officer, Environmental Protection Department (EPD)
Ms Josephine CHEUNG	Chief Executive Officer (CBD), EPD
Ms Loletta LAU	Executive Officer (CBD), EPD
Miss Kim KWAN	Executive Manager (CBD), EPD

**In Attendance for Agenda Item 2:**

Mr T K CHENG	Senior Environmental Protection Officer (Infrastructure Planning)1, EPD
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**In Attendance for Agenda Item 3:**

Dr Lawrence WONG	Acting Assistant Director (Special Duties), EPD
Dr Alain LAM	Principal Environmental Protection Officer (Waste Management Policy), EPD
Mr Wilson TAM	Senior Environmental Protection Officer (Waste Management Policy)3, EPD

**In Attendance for Agenda Item 4:**

Dr Kitty POON, JP	Under Secretary for the Environment
Mr Albert LAM, JP	Deputy Director of Environmental Protection(2), EPD
Ms Margaret HSIA	Assistant Director (Waste Management Policy), EPD
Mr K F TANG	Assistant Director (Environmental Compliance), EPD
Mr ROSS Graham Martin, JP	Deputy Director (Specialist) (Lands Administration Office, Headquarters), Lands Department
Mr M Y TANG	Assistant Secretary (Works Policy)6, Development Bureau
Mr Kelvin CHAN	Chief Town Planner (Central Enforcement and Prosecution), Planning Department
Mr Fedrick KAN	Chief Engineer (Mainland North), Drainage Services Department
Mr CHEUNG Kwok-wai	Senior Conservation Officer (Technical Services), AFCD

**In Attendance for Agenda Item 5:**

Mr C W TSE, JP	Assistant Director (Environmental Assessment), EPD
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Action

**Agenda Item 1 : Confirmation of the draft minutes of the 167<sup>th</sup> meeting held on 12 January 2010**

The draft minutes were confirmed without amendment.

**Agenda Item 2: Matters arising from the minutes of the 166<sup>th</sup> meeting held on 14 December 2009**

**Para. 44(b): IWMF – Technology review and associated facilities**

2. The Chairman informed Members that at the meeting on 14 December 2009, the Council discussed the item on “Integrated Waste Management Facilities (IWMF) – Technology review and associated facilities”. After discussion, the Council had no objection to employing “moving grate” incineration technology as the core thermal treatment technology for the development of IWMF. In respect of the sorting and recycling plant within the IWMF project, the Council recommended the Waste Management Subcommittee (WMSC) to examine the proposal in greater detail taking into account previous discussions and recommendations of the Council. The WMSC discussed the issue at its meeting on 26 January 2010 and would like to report its recommendations to the Council.

3. A Member declared that her company was involved in a consultancy service for the public engagement exercise for the Environmental Protection Department (EPD) on the development of the IWMF. The meeting agreed that she should abstain from the discussion of this item in view of her company’s direct involvement in the IWMF project. The Member left the meeting for this item.

4. As the Chairman of the WMSC could not attend the meeting, a Member reported the WMSC’s recommendations on his behalf as follows –

- (a) at the meeting on 26 January 2010, the WMSC discussed the proposal of whether a sorting and recycling plant should be incorporated in the IWMF project. The WMSC considered the proposal in detail, taking into account previous advice and recommendations by the Advisory Group on Waste Management Facilities in 2002 and by the Council after the delegation’s visit to Europe in 2006;
- (b) recognizing that the Advisory Group on Waste Management Facilities and the Council had recommended the Government to adopt a multi-technology approach to tackle the municipal solid

waste (MSW) problem and that such recommendation was enshrined in the Government’s “Policy Framework for the Management of Municipal Solid Waste (2005-2014)”, the WMSC considered that a sorting and recycling plant should be incorporated in the proposed IWMF so as to align with the vision of developing a multi-technology facility for the treatment of MSW in Hong Kong;

- (c) as regards technology, the Mechanical and Biological Treatment (MBT) option was discussed. The MBT would generally require more land - about two to three times of the footprint required by the incinerator for the treatment of the same amount of waste. Except the recyclables, the availability of suitable outlets for other products coming from the MBT process, such as the low quality compost or refuse derived fuel, was also a concern. The WMSC considered that there was no strong justification in support of adopting the MBT technology in the context of Hong Kong. The WMSC also held the view that the objective of including a non-incineration element in the IWMF project should be carefully considered and conveyed to the public. There should not be misunderstanding that a viable alternative was available to fully replace incineration as the core technology in Hong Kong;
- (e) the WMSC, however, supported in general that the Mechanical Treatment (MT) technology should be adopted. When setting up a sorting and recycling plant with this technology, the WMSC considered that it should be made clear to the community that the purpose of which was to test the operational viability and cost effectiveness of sorting and recovering the recyclables from the MSW prior to the incineration process. Should this arrangement be found viable and cost effective, the Government could consider putting in place a MT process of suitable scale prior to incineration in future phases of the IWMF. By doing so, it would reinforce the Government’s commitment to minimizing the use of incineration and landfilling in MSW management; and
- (f) as regards the scale of the MT plant, the WMSC agreed that it would be appropriate to target at the original capacity of 200 tonnes

per day which should be prudent for the facility to provide local experience and information for further consideration of applying non-incineration technology for MSW management in Hong Kong.

5. The meeting agreed that the recommendations put forth by the WMSC be endorsed.

**Agenda Item 3 : A new Producer Responsibility Scheme for Waste Electrical and Electronic Equipment**

(ACE Paper 2/2010)

6. Dr Lawrence Wong briefed Members on the background of the new producer responsibility scheme (the Scheme) for waste electrical and electronic equipment (WEEE), which might cover television sets, washing machines, refrigerators, air conditioners and computer products as proposed in the Consultation Document. Dr Alain Lam briefed Members on the details of the Scheme.

7. Upon the Chairman's enquiry, Members supported the "polluter-pays" principle underlying the Scheme.

8. A Member shared with Members his observations during a study tour by the Hong Kong Electronic Industries Association to Japan in 2005 regarding implementation of the WEEE scheme. He observed that it was difficult for the WEEE recycling industry to be a viable business as the treatment and recycling costs were relatively higher than the value of materials recovered. Government subsidy in the form of "disposer-pays" system was required. He noted that a major concern of the public on the proposed WEEE Scheme was who should pay the costs.

9. Dr Lawrence Wong explained that the Administration was open-minded on the charging system and some initial analyses were set out in the Consultation Document. Based on research findings, the mainstream charging system adopted by most countries was fee charging at the point of import or at the point of sales. Japan was the only country known to adopt the approach of end-of-life disposal fee. The Japanese officials had admitted that enforcement and illegal disposal of WEEE were areas of concern.

10. In reply to the Chairman's enquiry about the charging system, Dr Lawrence Wong explained that the common charging system included a visible, separate fee paid by consumers when they purchased new equipment; an invisible, "inclusive" fee incorporated into the retail price; and an end-of-life disposal fee.

11. A Member considered that the experience of illegal dumping arising from end-of-life disposal fee over the world showed the difficulties in management and enforcement. Fee charging at the point of sales would make it clear to the importers, distributors, retailers and consumers about their responsibilities. The charging system should be simple and easy to administer. The Administration should be mindful of any loophole and logistic difficulty when preparing the implementation plans. For example, adoption of high environmental standards in Hong Kong would easily give rise to the problem of illegal export of WEEE for substandard treatment. Small retailers would have difficulties in offering take-back services on a "new for old" basis due to the lack of storage areas. Moreover, education would be very important for the implementation of the Scheme which required the change of mindset and behaviour.

12. A Member supported fee charging at the point of sales which was in line with the spirit of producer responsibilities. When the consumers were aware of the charge, they would be more receptive for the product to be recycled at the end of its product life. Moreover, there would be more incentive for manufacturers to use less hazardous components at the design stage of the products. These would cut down the time and costs of recycling.

13. Two Members supported fee charging at the point of sales. One of them considered that from the consumers' point of view, the term "producer responsibility" should cover not only the consumers but also manufacturers who should also share the responsibility and costs.

14. A Member referred to the experience in Japan and observed that the producers also took up some levels of responsibility under the "disposer-pays" system. Some manufacturers even developed advanced technologies for recycling of WEEE products. He was open-minded on the charging system. If fee charging at the point of sales was adopted, he preferred a visible fee stated in the bill so that consumers could have a clear idea of the fee paid.

15. A Member supported fee charging at the point of sales. He suggested providing financial rewards as incentive for proper disposal of WEEE. Another Member considered that incentives could encourage users to transport recyclable waste to collection points. The deposit and refund incentive scheme proved to be successful in encouraging recycling of beer bottles and cans in overseas countries. But the challenge of handling WEEE was their size, weight and hazardous components. Dr Lawrence Wong said that overseas experience showed that incentive schemes such as deposit and refund were not incorporated in WEEE schemes. The WEEE collection system under the schemes would be made an efficient system whereby consumers would be able to channel the WEEE directly to receiving ends. The deposit and refund incentive scheme would cause administrative complexity in the process.

16. A Member supported fee charging at the point of sales which could achieve educational purposes and discourage unnecessary consumption. He observed that the fee level in some countries was based on size of the WEEE and asked why it was not related to the treatment of hazardous components of the WEEE. Dr Lawrence Wong explained that the fee level would depend on a basket of factors, such as collection costs as well as treatment and recycling costs in terms of technological complexity for removing the hazardous components. Under the proposal, the fee level was recommended to reflect the extent of treatment required and this was related more to the size and components of the WEEE rather than the retail price. The exact fee level under the Scheme would be subject to the detailed design of the Scheme.

17. A Member considered that the environmental standards were also another crucial factor in determining the treatment and recycling costs which would greatly affect the fee level. Another Member said that he was more inclined to base the fee level on the complexity of treatment process and a set of yardstick or scale had to be developed for applying to different categories of WEEE.

18. A Member considered that size of the WEEE might not be an appropriate basis for determining the fee level. It would not be fair to charge the same fee level for two refrigerators of similar size but with very different retail

price on account of quality. He asked about the estimated revenue generated from the charging system and means of deploying the revenue collected. Dr Lawrence Wong explained that it would not be possible to provide the estimated revenue at this stage as the fee level had yet to be determined having regard to views collected in the consultation exercise. In line with the “polluter-pays” principle, the Scheme should seek to recover the costs for waste collection, recycling processes and other administrative matters but not for raising government revenue. Based on the reference of some overseas countries in charging about \$100 for small WEEE and about \$200 to \$250 for bulky items, it was envisaged that the Scheme would generate about several hundred millions. One option to make use of the revenue was to finance the investment in developing the collection and processing system. A Member suggested devoting part of the revenue collected to launching of education programmes to let the public understand the rationale of the Scheme.

19. A Member suggested EPD working out different scenarios of fee level in relation to the basket of factors as a reference to facilitate consideration of the public. For the five categories of regulated WEEE proposed under the Scheme, he considered it useful for EPD to provide a list of more specific types of products under these five categories. For example, some television sets were used in cars or sports facilities and there were many types of computer-related products.

20. A Member agreed with the Member’s suggestion of working out different scenarios of fee level as a reference. For background information of the public, EPD could provide information on some studies on the actual costs incurred for collection and processing of WEEE. He considered that the charging scheme should be simple to administer so that the public could understand the rationale. Moreover, careful consideration had to be given to the fee level of WEEE with relatively low retail price. The public would be mindful if a standard fee of \$100 was charged to a small WEEE costing only about \$1,000.

21. Dr Lawrence Wong said that the general approaches and principles of the Scheme were set out in the Consultation Document and details of the mechanisms and implementation would be formulated based on comments collected. The guiding principles in considering the fee level included adherence to “polluter-pays” principle, application of differential rates for products requiring more complicated treatment process to be charged a higher fee, and the charging

system would be simple and easy to understand. They would discuss with relevant trades to collect views, especially on the fee level and mechanisms, as well as the consumer groups to collect information on consumers' sentiments regarding charging system and implications on consumption behaviour.

22. A Member noted that about 80% of the locally generated WEEE were recycled and mostly exported to developing countries. He asked where the WEEE had been exported to. Dr Lawrence Wong explained that not all of the 80% of WEEE recovered were exported. In Hong Kong, there was an active second-hand market. At present, there was no comprehensive export control on all the WEEE. Only products containing hazardous components were regulated. Majority of the WEEE, such as refrigerators and washing machines, were currently not put under control. For computers and television monitors, it would depend on whether the products contained hazardous components. For example, export of waste computer monitors required the application of permits but export of printers and scanners had no such requirement. The Scheme proposed tightening up the import and export controls. On import control, measures would be taken to ensure that Hong Kong would not become a dumping ground for WEEE when treatment and recycling facilities were in place. On export control, it would be necessary to guard against disposal of locally generated WEEE outside the territory.

23. A Member noted that a major criticism of the Scheme was the lack of information on the treatment and recycling process and means to ensure that the WEEE recycling industry would be viable and environmentally-friendly. He asked whether EPD would consider the option of operating its own treatment and recycling plants, as in the case of operating the landfills. He learnt from the industry that they would be more confident if the Government operated the plants. Another Member asked whether government subsidy would be given to the recycling industry at the initial stage. Dr Lawrence Wong explained that overseas experience showed that if high environmental standards were adopted for treatment, revenue collected from recoverable materials would not be sufficient to cover the collection and treatment costs and hence subsidy would be required. This explained the reason for these countries to collect revenue from stakeholders for supporting the collection, treatment and recycling of WEEE. For Hong Kong, it would be necessary to design a scheme applicable to the local context to ensure the industry would be sustainable, no matter the collection and recycling services were operated by government-appointed contractors or by private sector.

At the same time, relevant environmental standards would be imposed to guard against improper processing of WEEE and illegal export for substandard treatment.

24. A Member considered that sustainable development of the recycling industry would require strict import and export controls to ensure sufficient supply of WEEE for local processing. Consultation with relevant trades and stakeholders, in particular second-hand dealers, was important. Based on the observations during the study visit of the Council to Europe in 2006, one of the income sources of the recycling plants was the usable parts such as glass and heavy metal of WEEE which had resalable value.

25. Dr Lawrence Wong explained that majority of the locally generated WEEE were being exported to low-cost centres by some second-hand dealers. The Scheme proposed enhancing the management of flow of WEEE so that the local recycling industry would be able to collect sufficient quantity to support a viable commercial operation having regard to the significant capital and recurrent costs and the volatile commodity prices. The Administration was open-minded in the mode of operating the WEEE recycling industry. Options included appointing contractors by the Government, as in the case of operating the landfills, or maintaining a level-playing field in the market to facilitate private investments to operate local treatment plants on a commercial basis. As a matter of principle, the Scheme should be self-financing in the long term.

26. A Member considered that the success factors for developing the recycling industry were sufficient supply of WEEE as the industry operated on economies of scale as well as proximity to end-users as outlets of the materials recovered. It was also important to tie in with the policies in the Mainland, such as stringent import policy on WEEE. Another Member considered that close collaboration with the Mainland Government, in particular Guangdong Provincial Government, was important in terms of environmental standards to be adopted and export of components recovered from the WEEE. A Member agreed that regional collaboration was important, especially in the flow of materials recovered as a kind of raw material. He noted that the legislation to regulate WEEE in Mainland would take effect in January 2011. Actions had to be taken to speed up the legislative process of the local WEEE Scheme. The experience in Taiwan showed that the WEEE recycling industry could be sustainable. There were about five authorized collectors and recyclers when the WEEE legislation took

effect in 2005 and the number increased to about 200 in 2007.

27. A Member supported the mandatory take-back requirement of the “new for old” scheme. Another Member supported the proposed landfill disposal ban for WEEE as ordinary trash as the components could be recycled or reused and it could help enhance the development of local recycling industry.

28. A Member asked whether control would also be imposed on WEEE products imported through “parallel trading” and whether discussion with the retail association would be held to address their concerns. Dr Lawrence Wong explained that products imported through “parallel trading” as well as authorized distributors should be subject to the same requirements under the Scheme. A meeting with the retailer association was held in January 2010 and EPD had clarified the misunderstanding that retailers had to bear all the collection costs under the mandatory “take-back” proposal. Further discussions with the trade would be held to work out the operational details, such as the mechanism for controlling products imported through “parallel trading”, the labelling and charging system and the role of retailers in serving as an interface between consumers and WEEE Management Contractors.

29. A Member enquired about the implementation timetable of the Scheme. Dr Lawrence Wong said the public consultation period would end on 30 April 2010. The target was to consolidate the views collected and put forth recommendations on the way forward after mid-2010 and then proceed with the legislative procedures. In parallel, they would prepare the tendering arrangements for appointing the WEEE Management Contractors and engage the recycling trade for development of treatment and recycling facilities which would take about one to two years. The Council would be briefed on the outcome of the consultation and updated progress in due course.

30. The Chairman summarized Members’ views as follows –

- (a) the Council supported the proposed mandatory producer responsibility scheme for proper management of WEEE which was in line with the “polluter-pays” principle and strategy of waste management as set out in the “Policy Framework for the Management of Municipal Solid Waste” in improving the

environment in a sustainable manner. WEEE contained hazardous components which were harmful to the environment and human health if not properly treated and disposed of;

- (b) the Council considered that the charging system should be simple to administer and visible for the public to understand. The fee should be charged at the point of sales to minimize the problem of illegal dumping at the time of disposal, discourage unnecessary consumption and encourage better product design. This was in line with the mainstream approach in overseas countries;
- (c) the Council supported that the fee level should reflect the degree of complexity of the treatment process with reference to the size and retail price of the products;
- (d) the Council supported the proposal on managing the flow of WEEE, including the landfill disposal ban on WEEE, mandatory “take-back” by retailers free of charge on a “new for old” basis and permit controls on import and export;
- (e) the Council considered that a viable and vibrant recycling industry would be essential to make the WEEE Scheme a success. Sophisticated treatment technology, stringent environmental standards, licensing system for handling the WEEE and close collaboration with the Mainland would be important elements for a sustainable recycling industry. Government subsidy or support might be considered as one of the options in the initial stage; and
- (f) the Council considered that consultation with trades and stakeholders would be important in mapping out the details of implementation. Public education involving the change of mindset and behaviour was crucial for implementation.

**Agenda Item 4 : Proposal to further enhance the regulation of depositing of abandoned construction and demolition materials on private land**

*(ACE Paper 3/2010)*

31. Dr Kitty Poon briefed Members on the background of the legislative amendment proposal which aimed to enhance the enforcement effectiveness of the Waste Disposal Ordinance (WDO) (Cap 354) to combat illegal depositing of abandoned construction and demolition (C&D) materials on private land. Ms Margaret Hsia briefed Members on details of the proposal.

32. The Chairman informed Members that the Council discussed an item on “Progress of measures to enhance control on the depositing of construction and demolition materials” in September 2009 in view of the increasing concern over the problem of illegal depositing of C&D materials, especially in the New Territories. One of the recommendations made by the Council was to conduct a comprehensive review of relevant legislation in order to provide a legal framework for enforcement actions.

33. A Member asked how the proposal could help prevent illegal depositing of C&D materials. Dr Kitty Poon explained that under section 16A of the WDO, a person would commit an offence if he deposited or caused or permitted to be deposited waste in any place except with lawful authority or excuse, or except with the permission of any owner or lawful occupier of the place. At present, parties intending to carry out depositing activities on private land normally would not inform EPD beforehand. One of the major difficulties in enforcement was that it took considerable time for EPD to locate the landowners to ascertain whether the depositors had obtained the required permission in accordance with the WDO. The amended provisions would require any person who intended to carry out depositing activity on land held under private ownership to obtain the prior written permission of all the landowner(s) concerned, and to carry such written permission or its copy during the depositing activity for inspection at the request of the control authority. Failing to do so would be an offence. The landowner would be required to submit to the Authority the completed permission form together with the relevant documents before the commencement of the intended deposition. If the landowner(s)'s identity tallied with the record of the Land Registry or the Home Affairs Department, and where all the requisite supporting documents were available, the Authority would affix a seal on the form and return it to the person concerned within 15 working days. The proposed amendments would enable the enforcement agent to verify on the spot whether an offence had been committed. This would enhance enforcement effectiveness by speeding up investigation process.

34. A Member said that she appreciated the rationale of safeguarding the interest of private landowners. However, she worried that the proposed legislative amendments and granting of exemptions to depositions that involved an aggregate area of less than 100 m<sup>2</sup> on the same lot over a period of time would send a misleading message to the public that small-scale dumping was acceptable through application or dumping of C&D materials could be allowed with the consent of landowners. Another Member shared the Member's concerns. He considered that it was important to ensure that the land would not be used for purposes other than its intended land use. There were often grey areas in the rural land of the New Territories. He worried that the exemption might prompt illegal depositors to separate their C&D materials on small pieces of land under 100 m<sup>2</sup>.

35. A Member considered that if the problem of illegal depositing of C&D materials was to be tackled, the depositor should not only obtain the consent of landowners, but also a permit from the Planning Department or the Lands Department to ensure that the deposition complied with the permitted land use. The permit should be registered with the Land Registry so that potential land buyers would be aware of the depositing activities. By doing so, it would send a clear message to the public that deposition of C&D materials should be limited to specified zones. Ms Anissa Wong explained that the proposed amendments to WDO did not grant the landowners any permission for depositing activities, but required the landowners to give notification to EPD of an intended depositing activity. The proposal would not legalize any illegal depositing activity. The objective of the proposed amendments was to tackle the difficulties in enforcement and adducing evidence. The notification mechanism would also enable relevant government departments to advise the landowner in an early stage if the intended depositing activity would contravene any legislation and to monitor the depositing activities.

36. The Chairman considered it important to send a clear message that the proposed legislative amendments would not grant any extra right to the landowners in respect of depositing activities even on areas of less than 100 m<sup>2</sup>. Dr Kitty Poon confirmed that the proposed legislative amendments would not grant any extra right to the landowners. Any deposition of C&D materials must

continue to comply with all relevant legislation and lease conditions. For example, landfilling on agricultural land had to observe the height limit of 1.2 m, which was part of the planning control in “Agriculture” zone.

37. A Member enquired about measures to ensure that the C&D materials would be deposited onto the piece of land where consent was given by the landowner as boundaries in the rural areas were difficult to be distinguished. Another Member considered that transparency and simplicity was crucial to the enforcement process. As a number of government departments were involved in the enforcement process, there might be complexities in the approval process and thus affecting the effectiveness of enforcement actions. Dr Kitty Poon explained that problems arising from depositing of C&D materials were complex and cut across the ambit of various government departments. These activities might violate land use and planning control, and might also cause environmental hygiene problems, drainage or watercourse blockage, noise or dust nuisance and pollution. WDO was one of the tools to tackle the problem and could only address the issue from environmental perspective. There was a certain scope of control which EPD could exercise under environmental legislation. The proposed amendments would enhance enforcement effectiveness. Moreover, the proposed new notification mechanism might also serve as the platform for relevant departments to make advance assessment of the information on the intended depositing activities and to take timely actions as appropriate. As the problems often cut across different policy areas, the departments concerned still needed to step up enforcement efforts and adopt more measures to further prevent and combat illegal depositing activities.

38. Mr Graham Ross explained that the proposed notification mechanism would enable Lands Department to get advance information of the proposed depositing activities so that they could check the information against the land leases. It was anticipated that most of the cases would involve agricultural land with land leases granted in the early days where landfilling was not restricted.

39. A Member was concerned about the depositing of C&D materials on private land which was not the original use of the land. Another Member asked whether the depositing of C&D materials on agricultural land with the consent of the landowner considered legal. Mr Kelvin Chan explained that the depositing of C&D materials on a piece of land zoned for agricultural purpose would likely

contravene the zoning restriction. Since 2005, the Town Planning Board had extended landfilling control to the “Agriculture” zone in the rural New Territories. Landfilling activities in the “Agriculture” zone were confined to materials suitable for cultivation purpose. C&D materials, subject to advice of concerned departments, would unlikely be considered suitable for cultivation purpose. Under the proposed notification system, the concerned departments would be informed in advance of the intended depositing activities and would advise the landowners about the restrictions and requirements under the relevant legislations. Detailed arrangements on the mechanism would be worked out to monitor the depositing activities and strengthen enforcement actions.

40. A Member enquired about examples under which deposition of C&D materials was allowed. Ms Anissa Wong said that depositing activities on private land were not necessarily illegal activities. There were legal activities which required depositing of C&D materials on the private land. If the activities were carried out with the consent of the landowners and did not contravene relevant legislation, for example, the permitted land use under the town planning regime, they were not regarded as illegal depositing activities.

41. A Member was pleased to note the initiative taken by EPD in amending the WDO to enhance enforcement effectiveness. He considered that as WDO was only one of the tools to tackle the problem, the Administration should provide a comprehensive picture on the package of measures to be taken by all government departments concerned in combating the problem. Moreover, manpower resources should be strengthened which was crucial to enhance enforcement effectiveness. Another Member shared the Member’s views. He suggested EPD delegating the enforcement power to site staff of other departments to maximize the deployment of manpower resources. A Member suggested setting up a telephone hotline and a reward system to encourage people to report cases to the authority.

42. A Member observed that the problem of illegal depositions without consent of landowners in the New Territories was rather serious. He agreed that strengthening of manpower resources was important for policing and responding to complaints. It was also important for EPD to involve the police in inter-departmental coordination works in tackling the problems as the police was often the first party to arrive at the site and it would be more effective if they assisted in the enforcement process. Dr Kitty Poon explained that the police was

sometimes the first party who received the complaints. For enforcing the WDO and other relevant legislation, it was necessary to collect evidences to prove the depositing activities illegal and the police was involved in most cases. The proposed legislative amendments would help prevent potential cases.

43. A Member anticipated that the amount of C&D materials generated from public and private construction projects would increase in the coming years which would lead to more serious problem of illegal depositions. Moreover, he considered that special attention should be paid to C&D materials generated from demolition of old buildings built in 1960s and 1970s as they might contain asbestos. He also suggested adopting a mechanism to trace the routing of trucks carrying C&D materials. Another Member considered that it was also necessary to consider whether depositing of C&D materials on a site during the process of renovation would be covered under the new arrangement. Dr Kitty Poon explained that the Administration had been liaising with the construction industry closely and had conveyed to them proposals from members of the Legislative Council concerning a number of measures to improve management of C&D waste. Proposals included trip-ticket system currently adopted by public works projects and installation of devices in the trucks to trace their routing.

44. A Member referred to the draft Form at the Annex to the paper. He considered that the design of the Form might cause confusion. The title of the Form was “Written Permission Form” which implied that the actions to be taken would be legal but there might be non-compliance cases. Dr Kitty Poon explained that the purpose of the Form was for the landowner to inform EPD the details of any intended depositions and serve as evidence that the depositor had got the written permission of the landowner. Under Part B “Declaration and signature” of the Form, it was stated that the depositing activity had to be conducted in compliance with the requirements of existing legislation. The seal of EPD only certified that the landowner(s) or lawful occupier(s)’s information on the Form was consistent with the authority’s record and it could not be used as a defence for non-compliance with existing legislation. Having regard to Members’ views, refinement on the Form would be considered to avoid any possible misunderstanding.

45. A Member worried that the EPD seal to be chopped under Part B of the Form might lead to the misconception that approval was granted by EPD for any depositing activity. Dr Kitty Poon explained that the EPD seal only certified

that the information stated by the landowner on the form was in order. Ms Anissa Wong added that the Form would be used in the context of the WDO and it mainly served as a verification document for the depositors when they were being checked by the authority in the process of deposition. Tackling the problem of unauthorized depositing of C&D materials involved a number of legislation. For example, the issue of land use and planning control had to be addressed under the regime of the Town Planning Ordinance.

46. A Member noted the term “construction waste” under WDO was changed to “abandoned construction and demolition materials” in the proposal and suggested that attention be paid on the legal aspect. Another Member also suggested that consideration be given to cases of temporary storage of C&D materials as well as permanent deposition of C&D materials.

47. A Member asked about statistics and complaints relating to cases where landowners admitted that consent was given, cases where consent was not given and dispute cases between landowners and depositors. The information was useful to assess the anticipated benefits of the proposed legislative amendments. Mr K F Tang explained that it was difficult to find out whether the landowners had given consent to the depositors. It usually took considerable time for EPD to locate the landowners. In many cases, either the landowners could not be located or the landowners did not bother to give any response to EPD. Based on experience, they were not able to verify whether the landowners had given consent to the depositors for about 50% of the cases handled. Thus, it was difficult for EPD to prove the depositing activity to be illegal. The proposed legislative amendments could therefore greatly facilitate the enforcement actions.

48. A Member supported the increase in the level of fine to deter illegal depositing activities. Ms Anissa Wong explained that the fine of \$200,000 and imprisonment for six months on first conviction and the fine of \$500,000 and imprisonment for six months on subsequent conviction were the existing maximum level of penalties under section 16A of the WDO. The exact amount of fine to be imposed on an illegal depositor depended on the decision of the court. The Chairman said that the Council had written to the Judiciary in 2008 expressing concern over the level of penalty on illegal dumping and unauthorized development which was too lenient to impose effective deterrence to potential offenders.

49. The Chairman summarized Members' views as follows –

- (a) the Council supported the proposed amendments to the WDO as it was an important step to enhance the legal framework for enforcement actions to further combat the problem of unauthorized depositing of abandoned C&D materials on private land;
- (b) the Council considered it important to let the public understand the comprehensive picture and purpose of the amendments. To avoid confusion or misunderstanding, it was necessary to highlight that the amendments would not grant any extra right to landowners in respect of depositing activities and these activities must still comply with requirements of existing legislation;
- (c) the Council recommended that the relevant “Written Permission Form” be refined to avoid any possible confusion or misunderstanding;
- (d) the Council considered it important to step up policing and deploy more manpower resources to strengthen enforcement actions and respond to complaints, and
- (e) the Council noted that WDO was only one of the tools in tackling the problem. On top of concerted efforts and inter-departmental collaboration among government departments concerned, relevant departments should continue to review other instruments under different legislation to come up with a package of control measures to prevent and address the problem.

**Agenda Item 5 : Report of the Environmental Impact Assessment**

**Subcommittee**

***(ACE Paper 4/2010)***

50. The Chairman informed Members that the paper reported on the recommendation of the EIA Subcommittee on the Environmental Impact Assessment (EIA) report on “Organic Waste Treatment Facilities, Phase I”.

Action

51. The Chairman informed Members that the public inspection period of the EIA report was from 29 December 2009 to 27 January 2010. No public comment was received by the EPD during the period. The written response of the project proponent to some Members' questions and comments was circulated to Subcommittee Members before the scheduled Subcommittee meeting date. The Subcommittee agreed to consider the EIA report by circulation.

52. The Chairman of the EIA Subcommittee, reported on the recommendation of the Subcommittee on the EIA report. The Subcommittee endorsed the report with some conditions by circulation.

53. The meeting agreed the recommendation of the EIA Subcommittee on the EIA report. The Chairman concluded that the Council endorsed the EIA report with the conditions set out in paragraph 9 of the paper.

**Agenda Item 6 : Any other business**

Tentative items for discussion at the next meeting

54. The agenda was being compiled. Members would be informed in due course.

**Agenda Item 7 : Date of next meeting**

55. The next meeting was scheduled for 15 March 2010.

(Post meeting note: The meeting scheduled for 15 March 2010 was cancelled.)

**ACE Secretariat**

**February 2010**