

**Confirmed Minutes of the 186th Meeting of
the Advisory Council on the Environment
held on 19 March 2012 at 2:30 pm**

Present:

Prof Paul LAM, JP (Chairman)
Prof CHAU Kwai-cheong, JP (Deputy Chairman)
Ms Teresa AU
Prof FUNG Tung
Ms Betty HO
Mr Edwin LAU, MH
Ir Dr LO Wai-kwok, BBS, MH, JP
Dr MAN Chi-sum, JP
Prof Joseph LEE
Miss Yolanda NG
Dr Alfred TAM
Mr TSANG Kam-lam, JP
Mr Simon WONG, JP
Dr YAU Wing-kwong

Absent with Apologies:

Dr Dorothy CHAN, BBS
Mr Oscar CHOW
Mr Michael JEBSEN, BBS
Prof LI Xiang-dong
Dr Carrie WILLIS
Ms Pansy YAU
Dr Ray YEP
Prof Ignatius YU

In Attendance:

Ms Anissa WONG, JP	Permanent Secretary for the Environment/ Director of Environmental Protection
Mr C C LAY	Assistant Director (Conservation), Agriculture, Fisheries and Conservation Department (AFCD)

Mr LAU Wing Seung	Acting Assistant Director of Planning/Technical Services, Planning Department
Dr Liza TO	Principal Medical & Health Officer, Department of Health
Dr Albert AU	Senior Medical & Health Officer, Department of Health
Ms Esther LI	Principal Information Officer, Environmental Protection Department (EPD)
Miss Evelyn LEUNG	Chief Executive Officer (CBD), EPD
Ms Joanne CHIN	Executive Officer (CBD), EPD
Ms Daicie TONG	Executive Manager (CBD), EPD

In Attendance for Agenda Item 3:

Mr W C MOK, JP	Assistant Director (Air Policy), EPD
Mr S W PANG	Principal Environmental Protection Officer (Air Policy), EPD

Action

Agenda Item 1 : Confirmation of the draft minutes of the 185th meeting held on 7 February 2011

The draft minutes of the last meeting held on 7 February 2012 had been circulated to Members. Planning Department had proposed the following amendments –

- (a) Para. 4 – Delete “,” before “delineating the five urban climatic planning zones.....” in line 15.
- (b) Para. 12 – Delete “and thereby increasing temperature in the vicinity” in line 7.
- (c) Para. 16, line 3 – The word “Sing” should read “Shing”.

2. With no further comments from Members, the draft minutes were confirmed. The secretariat would incorporate the above amendments in the confirmed minutes of the 185th meeting of 7 February 2012 for uploading on the Council website.

Agenda Item 2 : Matters arising from the minutes of the 185th meeting held on 7 February 2011

3. The Secretariat reported the findings and advice from the Environmental Assessment Division (EAD) in EPD on the suggestion of receiving EIA reports in electronic form as raised at the last meeting (paragraphs 27-28 of the minutes). The concern was whether the “copy” under section 7(5) of the Environmental Impact Assessment Ordinance (EIAO) should be in hard copy, or whether the report in electronic format could be accepted. The advice received was that under the EIAO, it was the legal requirement for at least one paper copy of the EIA report to be deposited with the ACE to kick start the 60 days' consultation period. This interpretation was strengthened by Schedule 1 of the Electronic Transactions Ordinance (ETO) (Cap. 553) Exclusion Orders which excluded a submission of “electronic record” of the EIA report. Taking the EIAO and the ETO together, EAD advised that at least one paper EIA report should be forwarded to the ACE under the statutory EIA process. It would then be the administrative matter for the Council to decide on the arrangement of circulation of the report amongst the Members, either in paper form or in e-copy.

4. Having regard to this advice, the meeting agreed that Members should be given an option to choose between receiving a paper copy of the EIA report or an e-copy. The Secretariat would follow up with individual Members on their preference when delivering EIA reports for their reference in future. Secretariat

[Post-meeting notes: The secretariat had collated options from Members regarding their preference on receiving hard copy or e-copy of EIA reports.]

Agenda Item 3 : Update of Air Quality Objectives
(ACE Paper 5/2012)

5. Mr W C Mok briefed Members on the proposed new Air Quality Objectives (AQOs) and the package of air quality improvement measures for achieving the new objectives which the Government announced on 17 January 2012. The implementation of the new AQOs and the transitional arrangements required amendment of the Air Pollution Control Ordinance (APCO) (Cap. 311). The Government would table the Amendment Bill to the Legislative Council (LegCo) in the 2012-2013 legislative session, and the new objectives were

targeted for implementation in 2014. Review would be made every five years on the feasibility of tightening AQOs and the corresponding air quality management plans.

6. A Member enquired on the time frame of implementing the three Interim Targets (ITs) suggested by the World Health Organisation (WHO), possible impact on the electricity tariff particularly on domestic households arising from changing fuel mix to reduce emission, and whether there would be any complementary measures to assist low income groups in the community.

7. In reply, Mr W C Mok said that the time frame of achieving the proposed new AQOs was dependent on such factors as progress of accomplishing the package of air quality improvement measures (e.g. vehicle replacement programme), and joint efforts with the Mainland in reducing the emissions in Pearl River Delta (PRD). It was estimated in the AQOs Review that the proposal for increasing the share of natural gas to 50% of our domestic electricity generation would raise the electricity tariff by at least 20%. So far the measures to tighten control on emissions from electricity generation did not involve subsidy to any specified sector of the consumers.

8. In response to a Member's enquiry on the progress of implementing electronic road pricing (ERP) scheme, Mr W C Mok explained that the scheme was more a re-distribution of traffic flow than a reduction in vehicle emissions, which was critical to tackling roadside air pollution. As such, the AQOs Review did not include ERP scheme in the recommended Phase I improvement measures, which focused more on reducing tailpipe emissions to improve roadside air quality.

9. A Member was supportive in implementing the new AQOs in Hong Kong at the earliest opportunity. He asked whether there were plans to entice more vehicle owners to join the vehicle replacement scheme for their aged vehicles as the current 10% participation rate was at a low end. He also enquired on how the review of AQOs once every five years be mapped out for implementation. Mr W C Mok said that some Members had proposed in past discussions the options to phase out old and polluting vehicles such as more frequent inspections or mandatory retirement for aged vehicles. No matter what the options were, the crux was to get the support of the community

including LegCo for their implementation. The Government would continue exploring effective options to give extra impetus to encourage vehicle owners to give up their aged commercial vehicles. As regards the review of AQOs every five years, Mr Mok said that ACE and LegCo would be briefed in due course on how the review would be conducted and on its findings. Views from ACE Members, LegCo and the community would be sought in the process.

10. A Member enquired about the feasibility of requiring ocean-going vessels (OGVs) to switch to cleaner fuels when they were approaching Hong Kong waters. He asked if the Government had any long-term time table of implementing the new Air Quality Guidelines (AQGs) and whether administrative procedures could be adopted to expedite the process of implementing the new AQGs. He also requested the statistics on the range of engine capacity of vehicles under the Tax Incentives Scheme for Environment-friendly Vehicles and the category of vehicles most benefited from the tax concession scheme.

EPD

[Post-meeting notes: The statistics had been provided to the Member concerned and other Members for reference.]

11. In response, Mr W C Mok explained that the Government had accorded for OGVs a higher priority to the proposed fuel switch at berth than when entering Hong Kong waters, as the latter would involve setting up an Emission Control Area (ECA) which was subject to approval by the International Maritime Organization (IMO). The process of setting up an ECA would be a lengthy process, including completion of a number of studies. Moreover, Hong Kong needed to pursue it jointly with Guangdong because of the small stretch of Hong Kong waters. The consent of the Central Government to apply for Hong Kong was also necessary as Hong Kong was not an official member of IMO. As such, ECA should be a goal of a longer term. Mr Mok stressed that OGVs to switch fuel at berth could also bring significant environmental benefits, particularly to those areas close to the container terminals. The air quality improvements brought about by the Fair Winds Charter were also observed from EPD's Kwai Chung air quality monitoring station.

12. As regards the time frame of achieving the AQGs of WHO, Mr W

C Mok advised that it was not feasible to specify a timeline because the attainment would also be contingent on the joint efforts in improving the regional air quality. He quoted as an illustration that Tap Mun, which was situated far from the urban areas of Hong Kong, could still not attain the AQGs for PM2.5 and PM10. He supplemented that while attaining the AQGs would be a goal in the long term, the Government would focus on delivering the air quality improvement measures for attaining the proposed new AQOs and working with the Mainland to reduce emissions in the whole PRD.

13. Regarding the question on using administrative means to effect the updated AQOs, Mr W C Mok explained that while the Air Pollution Control Ordinance (APCO) had provided for the Government to promulgate the new AQOs by issuing a Technical Memorandum, the promulgation itself was a legal process. Moreover, the legal provision only allowed for promulgation of the new AQOs but not the introduction of the transitional measures, which was essential to safeguard the integrity of the legal framework of the EIA process and to provide certainty to all involved parties to plan their work. The Government would have to amend the APCO in order to establish a clear, transparent and solid legal basis for the transition to the new AQOs.

14. In answering a point raised by a Member, Ms Anissa Wong said that she had previously responded to a question regarding the rationale for devising specific provisions to deal with the transitional arrangement for the new AQOs instead of relying on the exceptional clause under the Environmental Impact Assessment Ordinance (EIAO). Under the EIAO, there was a provision whereby the Chief Executive in Council could exempt certain projects from complying with the EIAO, but that the exemption provision should only be invoked under very exceptional circumstances. By that, the exceptional provision should not be used to deal with situations which could be anticipated, such as where the project proponent had been issued an Environmental Permit (EP) but subsequently had to apply for variation of the EP to deal with inadvertent circumstances which came up during the construction of the project after the proposed new AQOs were enacted. It was more appropriate for such a situation be dealt with in the form of the transitional arrangement rather than by triggering the exceptional clause under the law.

15. A Member was supportive of the new AQOs in Hong Kong. He agreed that the achievement of the AQOs with the improvement package would require support and continuous efforts from the Guangdong authority to enhance air quality on their side. He was concerned if there were wide gaps between the new AQOs of Hong Kong and those of the Mainland counterparts which would impact on our efforts in combating air pollution and cleaning up the air in Hong Kong and across the whole PRD region.

16. Mr S W Pang said that the Mainland had recently revised the national air quality standards for implementation in 2016. Several pilot provinces/cities, including Guangdong, would plan to advance the implementation time frame. The revised air quality standards of the Mainland were comparable to Hong Kong's standards, although a few standards were slightly more lenient than those proposed in Hong Kong, such as the Respirable Suspended Particulates or PM10. Mr W C Mok assured Members that the Mainland had firm commitment to work together with Hong Kong to improve the air quality of the PRD region. In this regard, both sides were working on the post-2010 emission reduction arrangement for the whole PRD region. The Council would be briefed on the arrangement in due course.

17. In view of the notion that Hong Kong's ambient air quality would depend, in part, on the continuous efforts of Guangdong to reduce air pollution, a Member enquired whether the Government had considered the way forward in the event that the PRD region could not keep pace with the emission reduction as envisioned, and thereby contributed to exceedances in AQOs which had not been accounted for when assessing the EIA report. Mr W C Mok reiterated that the Mainland was committed to further reducing emissions from their vehicles, factories and power plants etc. for better air quality in the PRD region.

18. The Chairman enquired about the rationale behind setting the grace period at 36 months after commencement of the legislation during which a project proponent could apply for variation of the EP without having to comply with the new AQOs. Mr W C Mok replied that the 36 months was a balance between applying the new AQOs to all projects and giving certainty to those projects that had already commenced. In response to the Chairman's call for Government's commitment to adopt the new AQOs for those government projects that had not yet started their EIA studies before the corresponding

legislative amendments became effective, Mr Mok explained that the Government would endeavour to do so; and in fact, Transport and Housing Bureau and Hong Kong Airport Authority had already announced that they would adopt the new AQOs when planning the third runway for the Chek Lap Kok International Airport. Concerning the alleged health risks associated with the current AQOs, Mr W C Mok said that the outcome of a health risk estimation depended heavily on its assumptions. However, the underlying factor should be the air pollutant trends. In this regard, there had been a consistent drop in the level of air pollutants in Hong Kong except for Nitrogen Oxides at roadside. The reduction in air pollutant levels should reduce the health risk to the public. Notwithstanding this, the Government would continue every endeavour to reduce the levels of pollutants for public health consideration.

19. The Chairman concluded that Members were supportive of the proposed new AQOs and would like to witness the Government demonstrating its commitment to adopt the new AQOs as soon as practicable. The meeting also supported the Government's commitment to continue working closely with the Mainland to work for further emission reduction and strive for cleaner air for the benefit of the whole PRD region.

Agenda Item 4: Any other business

Public Forum on Sustainable Waste Management – Municipal Solid Waste Charging

20. The Chairman informed Members of the public forum on “Sustainable Waste Management – Municipal Solid Waste (MSW) Charging” to be hosted by ACE on 24 March 2012 at 9:30 am at the Lecture Hall of Hong Kong Science Museum. He thanked Dr Yau Wing-kwong, Mr Tsang Kam-lam and Dr Ray Yep for agreeing to moderate at the forum. Members were encouraged to attend and share their views at the forum.

Deputation session of the LegCo Panel on Environmental Affairs

21. The Chairman informed Members that there would be a deputation session of the LegCo Panel on Environmental Affairs (EA Panel) on

the Government's waste management strategy to be held on 26 March 2012 at 2:30 pm. Members agreed that the Chairman should represent ACE to attend the EA Panel meeting to present the views of the Council before the Panel. A written submission to the Panel had been prepared based on the recorded decisions of the Council on the various waste subjects made in the past years. The draft would be circulated for Members' agreement before issue to the Panel. Ms Anissa Wong supplemented that the discussion of the Panel would include a comprehensive update on the waste management strategy covering latest progress of the waste reduction and recycling initiatives as well as seeking support on waste treatment projects.

Secretariat

[Post-meeting note: The draft (in both Chinese and English) had been circulated to Members for consideration and endorsement on 20 March 2012 before issue to LegCo's EA Panel.]

Tentative items for discussion at the next meeting

22. The Chairman informed Members that the agenda was being compiled. Members would be informed in due course.

Agenda Item 5 : Date of next meeting

23. The Chairman informed Members that the next meeting was scheduled for 23 April 2012.

ACE secretariat
March 2012