

**Confirmed Minutes of the 145th Meeting of
the Advisory Council on the Environment
held on 15 October 2007 at 2:30 pm**

Present:

Prof LAM Kin-che, SBS, JP (Chairman)
Prof WONG Yuk-shan, BBS, JP (Deputy Chairman)
Dr Dorothy CHAN, BBS
Mr James GRAHAM
Ms Betty HO
Prof Howard HUANG
Prof Paul LAM
Mr Edwin LAU
Dr MAN Chi-sum, JP
Prof POON Chi-sun
Mr TSANG Kam-lam
Mr Eddie WONG
Dr YAU Wing-kwong
Mr Carlson K S CHAN (Secretary)

Absent with Apologies:

Ms Goretti LAU
Dr NG Cho-nam, BBS
Mr Markus SHAW
Mr Simon WONG
Prof WONG Tze-wai

In Attendance:

Ms Anissa WONG, JP	Permanent Secretary for the Environment
Mr C C LAY	Assistant Director (Conservation), Agriculture, Fisheries and Conservation Department
Mr P Y TAM	Assistant Director/Technical Services, Planning 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
Miss Sarah NG	Executive Officer (CBD), EPD

In Attendance for Agenda Item 3 :

Mr Alfred LEE	Assistant Director (Waste Management Policy), EPD
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Mr Patrick LEI

Principal Environmental Protection Officer (Waste Management Policy), EPD

In Attendance for Agenda Item 4 :

Mr Elvis AU

Assistant Director (Environmental Assessment), EPD

Dr Malcolm BROOM

Assistant Director (Water Policy), EPD

Dr H Y YEUNG

Principal Environmental Protection Officer (Sewerage Infrastructure), EPD

Action

Agenda Item 1 : Confirmation of the Draft Minutes of the 144th Meeting held on 10 September 2007

The draft minutes were confirmed without amendments.

Agenda Item 2 : Matters Arising from the Minutes of the 144th Meeting held on 10 September 2007

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

Agenda Item 3 : Proposed amendment to the Waste Disposal (Permits and Licences) (Forms and Fees) Regulation (Cap. 354D)
(ACE Paper 19/2007)

3. Mr Alfred Lee briefed Members on the background and purpose of the proposed amendment to the Waste Disposal (Permits and Licences) (Forms and Fees) Regulation (Cap. 354D) which was part of a package to strengthen the control of imported non-hazardous waste in Hong Kong. He said that a new section 20DA would be introduced under the Waste Disposal Ordinance (Cap. 354) (WDO) to require any person who wished to dispose of imported non-hazardous waste at local designated waste disposal facilities (primarily landfills and refuse transfer stations) to obtain an authorization from the Director of Environmental Protection (DEP). He highlighted that an authorization would not normally be granted unless the applicant could prove that he had exhausted all possible recycling outlets and all means to return the waste to the place of origin. The proposed application fee of \$11,250 was set at the full cost recovery level as a further deterrent against the disposal of such waste in Hong Kong.

4. Upon the Chairman's enquiry, Mr Alfred Lee confirmed that the applicant had to fulfill all the three criteria set out in paragraph 5 of section 20DA under the WDO (contained in the Annex to the paper). The Chairman asked about the follow-up actions in handling cases where the applicants claimed that no outlet could be found for the waste but the DEP did not grant the authorization. Mr Lee said that under such circumstances, the applicants would have to take care of the waste by continuing their effort to find alternative outlets, such as storing them temporarily before identifying recycling outlets. To seek authorization from the DEP, the applicants had to prove that it was not practicable to make alternative arrangements for the waste.

5. A Member asked whether there would be daily charges for the temporary storage of the waste pending re-export or return to the place of origin. She considered that this would impose an additional economic disincentive on disposal of such waste in Hong Kong. Mr Alfred Lee said that for applications which were still under consideration by DEP, the applicants had to bear the costs for commercial storage and finding outlets.

6. In reply to a Member's enquiry, Mr Alfred Lee said that examples of non-hazardous waste included metal scraps, papers and plastics which were common recyclable waste. The anticipated number of applications for the authorization was about one to two a year. The Member wondered whether it would be necessary to charge the applicants the application fee having regard to the anticipated small number of cases and that the waste was not generated locally. Mr Lee explained that the objective of introducing the new fee item was not to generate public revenue but to deter the disposal of imported non-hazardous waste in Hong Kong. It was the consensus of the Legislative Council (LegCo) Members, in considering the Waste Disposal (Amendment) Bill 2005, that stringent criteria and economic disincentives should be introduced to discourage the disposal of such waste in Hong Kong. This was also in line with the Administration's policy that useful resources should be diverted away from the landfills.

7. Upon a Member's enquiry, Mr Alfred Lee explained that the new provision under section 20DA of the WDO to seek authorization from DEP had been approved by the LegCo but not yet came into effect. To support the operation of this new provision, it was necessary to amend the Waste Disposal (Permits and Licences) (Forms and Fees) Regulation (Cap. 354D) to prescribe the

application fee for authorization. The plan was to bring this whole package into effect on 1 April 2008.

8. A Member considered that as the need for application had been established and the new provision under WDO had already been agreed by the LegCo, the focus of the discussion should be on the proposed introduction of the new fee item. The Chairman agreed and considered that the crux of the issue was whether the proposed application fee was set at an appropriate level having regard to the fact that the applicants had to fulfill the stringent conditions stipulated in the WDO.

9. A Member suggested that the previous papers explaining the introduction of the new section 20DA under the WDO be made available to Members for reference.

(Post-meeting note: The relevant ACE paper and LegCo Brief were circulated to Members for reference after the meeting.)

10. In reply to a Member's enquiry, Mr Alfred Lee explained that the charge imposed on the disposal of imported non-hazardous waste included the proposed application fee of \$11,250 for seeking authorization as well as the waste disposal charge at landfills which was currently about \$125 per tonne if authorization was granted.

11. A Member queried whether the proposed level of application fee would be high enough to achieve the deterrent effect. He considered that an element of penalty should be added to the fee level.

12. A Member shared the Member's views and considered that the fee level should be much higher than the full cost incurred in processing the application if it was to serve as an economic disincentive. She was surprised that imported waste could be disposed of at the local precious landfills with only minimal additional charge of application fee. Another Member agreed that the fee level should also include the land cost of the precious landfill sites in Hong Kong.

13. Mr Alfred Lee explained that the stringent conditions laid down under the new section 20DA of the WDO already represented a significant

disincentive against the import of waste into Hong Kong for disposal purposes. The application fee for authorization was intended to serve as an additional deterrent against such disposal. By setting a very high benchmark for considering and approving the applications, not many cases were expected.

14. A Member was concerned about the practicability of enforcement at landfill sites in distinguishing imported waste from locally generated waste. Mr Alfred Lee explained that there was an existing mechanism to guard against illegal import of non-hazardous waste for disposal in Hong Kong. Under the WDO, importers of waste had to apply for import permits. EPD had to be satisfied that the imported waste was not intended for dumping in Hong Kong. Suspicious cases would be intercepted at the control points and importers were responsible for returning the waste to the places of origin. Waste samples would also be taken at the landfill checking points. Over the past three years, about 80 cases were successfully intercepted and all the imported waste was subsequently returned to the places of origin. The objective of the new provision under WDO was to further strengthen the control regime by setting a high benchmark for scrutinizing the applications.

15. A Member considered that severe penalties should be imposed on illegal dumping of imported waste detected at landfill sites in order to achieve effective deterrent effects. Mr Alfred Lee said that disposal of imported waste without a permit was already an offence under existing provisions of the WDO and the offenders would be subject to fine and/or imprisonment upon conviction.

16. A Member enquired about the customs control on imported waste. Mr Alfred Lee said that the Customs and Excise Department would exercise control on the imported waste and invite EPD to conduct joint investigations of suspicious cases at control points.

17. A Member enquired about the timing for waste importers to submit applications. Mr Alfred Lee explained that it would depend on the nature of waste. For hazardous waste, an applicant had to apply for a permit before being allowed to import the waste to Hong Kong. For non-hazardous waste imported for recycling purposes, the importer was not required to apply for a permit. This was in line with international practices in order not to deter genuine recycling activities. However, for non-hazardous waste imported mainly for the purpose of disposal, an import permit had to be applied. If non-hazardous waste was

originally imported for local recycling but subsequently required disposal at local designated facilities, a prior application for authorization would have to be submitted. Normally, an authorization would not be granted unless an applicant could furnish proof of fulfilling all the criteria stipulated in the WDO.

18. A Member supported the introduction of the new provision under the WDO and the proposed application fee as additional disincentives for dumping imported non-hazardous waste in Hong Kong. Regarding the waste disposal charge of \$125 per tonne at landfill sites, he considered that the level of charge was very low when compared with those in overseas countries which were as high as \$500 to \$800 per tonne. There was room for increasing the level of charge for imported waste by including the element of land cost. The number of 80 intercepted cases over the past three years reflected that the Administration should conduct a comprehensive review of the control mechanism against illegal dumping of imported waste at various check points with a view to further tightening up the control.

19. A Member considered that it would send a wrong message to the public and overseas countries that while the landfill sites of Hong Kong were running out, disposal of imported waste was allowed. Thus, it was important to deter the import of waste by effective economic means such as high fees or severe penalties so that it would not be commercially profitable to run the business.

20. Mr Alfred Lee explained that the fundamental principle was to discourage applications for disposal of non-hazardous waste in the first place. As stipulated in the WDO, the authority would not grant an authorization unless the applicant proved to the satisfaction of the authority that all the conditions specified were fulfilled. By setting a very high benchmark, applications under most of the circumstances were discouraged. It was only under very exceptional circumstances that approval would be granted. Waste importers had to plan in detail the whole process of importing, processing, re-using and recycling before submitting applications to the authority.

21. A Member considered that it was important to convey a clear message that the Administration's intention was to control and discourage the import of waste and to avoid sending a misleading message that a fee schedule for the disposal of imported waste was made available for reference by the waste importers.

22. A Member was worried that when the application system was in operation, the public might have a misconception that importers would be allowed to import waste to Hong Kong. Thus, a high level of fee would be important to send a clear message that applications would not be encouraged.

23. A Member said that under the new provision of the WDO, a mechanism was put in place for the Administration to set the application fee and require the applicants to pay such fee. While Members' general sentiment was to set a higher level of fee to deter the import of waste, appropriate measures should also be considered in tackling possible loopholes or irregular practices once a high level of fee was set. It was necessary for the Administration to take into account these considerations before introducing the new fee item to the LegCo.

24. A Member agreed with the Member that while setting the benchmark of accepting applications was important, it was also necessary to ensure that a system would be put in place to monitor the quantity of waste imported, re-exported and returned to the places of origin in order to guard against illegal dumping.

25. Mr Alfred Lee said that records of relevant statistics on import and export of waste were maintained. Last year, the quantity of non-hazardous waste imported was about 5 million tonnes and export of waste was about 6 million tonnes. For the 80 successfully intercepted cases over the past three years, the amount of waste involved was about 1,500 tonnes, which reflected that the problem was not serious. Hong Kong was a busy trading port with active trading activities involving waste, most of which were genuine import and export activities for recycling purposes. The introduction of the new provision and application fee was to strengthen the control of potential irregularities and to make the existing system more robust.

26. A Member asked whether it would be feasible to amend the WDO for imposing a complete ban on the import of waste to Hong Kong in order to ensure no illegal waste disposal at the landfills. Mr Alfred Lee explained that there were active trading activities in Hong Kong involving waste which was imported or re-exported elsewhere for re-use or recycling purposes. Genuine waste recovery and recycling operations should continue to be allowed.

27. A Member considered that it would be useful to understand the nature of the waste import and export business in Hong Kong. There was a large amount of non-hazardous waste, such as waste paper, metal and timber, coming in and out of Hong Kong very quickly for re-exporting to the Mainland for recycling or re-manufacturing purposes. The volume of waste was too large to be consumed in Hong Kong for recycling or re-manufacturing purposes. While not much land space in Hong Kong was required for temporary storage or recycling purposes, Hong Kong enjoyed the economic benefits of such re-export activities. The anticipated small number of applications for authorization reflected that most of the waste just passed through Hong Kong without leading to disposal problem. The authorization system under WDO was to make sure that there was an established mechanism to deal with rare cases in which the waste landed in Hong Kong and required disposal. The proposal was only a minor amendment to the legislation to strengthen the control regime and deter potential cases.

28. On Members' concern about the ability of EPD to discern imported waste from other types of genuine waste, Ms Anissa Wong explained that a checking system was in place at the landfill sites for inspecting the types of waste to be disposed of at the sites. Suspicious cases of unauthorized imported waste would be identified for follow-up actions by the enforcement teams. On the level of charge to be imposed for the disposal of imported non-hazardous waste with an authorization, the Administration proposed to impose the same level of waste disposal charge at landfills to these imported waste for the sake of consistency, without incorporating the land cost. For the application fee, the proposed fee level was based on the recovery of full administrative cost incurred in processing the application. The proposed level was relatively high when compared with other types of application fees. She noted Members' concern about the sufficiency of the fee levels to achieve the deterrent effect. She considered that imposing a penalty component on top of the full cost in the fee items would be an area which required careful consideration bearing in mind that authorization would only be granted to those rare cases that the criteria as laid down in the WDO were met (i.e. the waste imported was originally intended to be recycled and the applicant had exhausted all possible recycling outlets and all means of returning the waste to the place of origin).

29. The Chairman asked the implications in terms of legislative procedures if an additional cost component reflecting the land cost was incorporated into the charge/fee level. Ms Anissa Wong said that it involved

changes to the component and level of charges/fees for both the waste disposal charge and the application fee. Moreover, imposing a different charge level to imported waste, notwithstanding the disposal had been authorized, would mean that it would be treated in a different manner and this would be a new dimension requiring further examination.

30. The Chairman suggested and Members agreed that the Council supported the introduction of the new fee item under the Waste Disposal (Permits and Licences) (Forms and Fees) Regulation (Cap. 354D) to deter the disposal of imported non-hazardous waste in Hong Kong, and a review should be conducted after two years of implementation to assess the effectiveness of the proposal and appropriateness of the fee level in achieving the deterrent effect.

Agenda Item 4 : Report on the 98th Environmental Impact Assessment Subcommittee Meeting
(ACE Paper 20/2007)

31. A Member declared that he was involved in the assessment of formation of chlorination by-products in his consultancy service for the EIA study on the advance disinfection facilities of the Harbour Area Treatment Scheme. The Chairman suggested and Members agreed that the Member could stay at the meeting but should abstain from voting if voting was necessary.

32. The Deputy Chairman of the Environmental Impact Assessment (EIA) Subcommittee reported the recommendation of the Subcommittee on the EIA report on “Harbour Area Treatment Scheme (HATS) – Provision of Disinfection Facilities at Stonecutters Island Sewage Treatment Works”. He highlighted that the Subcommittee recommended that the EIA report could be endorsed with some proposed conditions as stated in paragraph 34 of the paper.

33. A Member considered that there would be practical difficulties to implement the proposed conditions under paragraphs 34(b) and (c) of the paper as it would be impracticable to take the disinfected wastewater samples at the exit of the outfall which would be underneath the sea level and quite far away from the shoreline. He suggested that a simulation pipe loop be used to divert a portion of the disinfected effluent into the pipe loop and water samples could be collected at the end of the pipe loop based on the actual retention time. The Deputy Chairman of the EIA Subcommittee explained that the intention of the said

conditions was to require the project proponent to take effluent samples at the inlet chamber to the submarine outfall before the effluent discharge entered the outfall.

34. A Member enquired about the relationship between the conditions under paragraph 34(c) and (d). He considered that if the condition under paragraph 34(c) was met, there seemed to be no need for setting the condition under paragraph 34(d).

35. A Member considered that control of effluent discharge quality under paragraph 34(c) mainly focused on chemical tests while the monitoring of chemical parameters under paragraph 34(d) mainly focused on eco-toxicity tests to assess the long-term impact of disinfected wastewater on the marine environment. The Deputy Chairman of the EIA Subcommittee said that the monitoring programme under paragraph 34(d) did not limit to the effluent discharge into the inlet of the submarine outfall, it also referred to the collection of environmental samples around the coastal area.

36. Mr Elvis Au said that Members in the Subcommittee noted that the Environmental Monitoring and Audit (EM&A) programme submitted by the project proponent already included a monitoring programme of effluent discharge and marine water quality. In other words, the control of loading of chemicals as well as monitoring of the ambient effect of the chemical concentrations on the marine environment had already been included in the EM&A programme. What the Subcommittee proposed under paragraph 34(d) was to further enhance the monitoring programme by increasing the frequency of tests and making it in line with international best practices.

37. The meeting agreed that the Council endorsed the EIA report with the proposed conditions as set out in paragraph 34(a) to (f) of the paper.

Agenda Item 5 : Any Other Business

Informal Meeting with the Legislative Council Panel on Environmental Affairs

38. The Chairman said that informal meetings were held between the Council and the LegCo Panel on Environmental Affairs in previous years for Members of both parties to exchange views on environmental affairs of mutual

concern. He suggested that an informal meeting with the Panel be arranged, taking the opportunity of the start of the current legislative session. Secretariat

39. On the key issues to be discussed, the Chairman suggested that waste management issue could be an area for discussion. A Member suggested discussing air quality issue. Another Member suggested discussing environmental initiatives in the Policy Agenda that required the support of the LegCo.

40. Ms Anissa Wong said that there were a number of environmental initiatives in the Policy Address 2007-2008 that would require the support of the LegCo in order to take forward the proposals. Legislative proposals included mandating the use of ultra low sulphur diesel in commercial and industrial process, mandating the compliance of the Building Energy Codes as well as introducing the concessionary duty rate for Euro V diesel. Funding proposals included the injection of \$1 billion into the Environment and Conservation Fund (ECF) and allocation of \$93 million to encourage Hong Kong-owned factories in the Pearl River Delta Region to adopt cleaner production technologies and practices.

Environment and Conservation Fund

41. The Chairman welcomed the proposed injection of \$1 billion into the ECF which could provide necessary funding resources for long-term environmental education and improvement projects. Ms Anissa Wong said that the injection of funds into the ECF was a good demonstration of the Government's commitment to raising the community's awareness of environmental protection and conservation with enhanced participation. It also realized the Government's intention to de-link the provision of funding resources for environmental initiatives from the collection of environmental levy as in the case of plastic shopping bags.

42. A Member said that he learnt from both the business and academic sectors that they were quite interested to know how the large amount of fund would be used. In view of the keen interest and concern about the fund, he considered that it was important to formulate good plans in using the fund effectively and meaningfully by engaging different sectors in the community.

43. A Member said that he learnt from green groups that it was not easy to apply funding support from the ECF due to the relatively bureaucratic procedures. He considered that it would be necessary to review the policy and procedures in order to facilitate applications for better use of the fund.

44. A Member shared the Member's comment that it was not easy for green groups to get funding approval for projects from the ECF. Despite the relative large amount of funds available, not many projects were supported. Given the injection of funds to the ECF, it was necessary to review the mechanism on funding policy.

45. Upon the Chairman's enquiry, Ms Anissa Wong said that the broad areas to be considered for the enhanced ECF included territory-wide educational and publicity campaigns for promoting green values; educational, research and technology demonstration projects, including programme-based projects as well as minor works projects; collaboration between academic or research sector with practitioners who would be more ready in taking up green technologies in the production processes; as well as international and regional exchanges on environmental technologies to promote collaboration and raise public awareness. In order to enhance the ECF for the expanded ambit, it was necessary to review the overall funding guidelines, including the criteria, funding limits and project duration so that the ECF could be better utilized. While it would be necessary to facilitate the application of funds, the Administration would have to be mindful of the need to maintain proper control of the public money with the right checks and balance. The Administration was open to suggestions on the use of the fund.

46. In reply to a Member's enquiry, Ms Anissa Wong said that there was no fixed timetable for the injection and spending of the funds. Since the establishment of ECF in 1994, additional funds were injected for three times. The total amount of funds in the ECF was about \$230 million up to present. After the proposed injection of \$1 billion, it would also be open for the Administration to seek further injection of funds should there be a need in the future.

47. A Member said that she had served as a member of the Environmental Campaign Committee (ECC) before. She observed that most of the funds were allocated to research projects and only a small portion was allocated to green groups and institutions for small-scale environmental activities,

such as outings. There was difficulty for green groups to apply for funding from the ECC and ECF as the administrative costs were not subsidized. She considered that there was no concentrated effort in promulgating green values in the minds of the general public. It was essential to have a clear direction to channel efforts to common goals and to facilitate the organizations to carry out meaningful programmes. If the major part of the injected funds was allocated to large-scale research and demonstration projects, it might not be able to achieve the objective of promoting education for the general public. She considered that it was necessary to have some strategies for integrating the efforts in high-level research and technology-related projects with efforts in carrying out public education programmes at the grass-root level.

48. A Member considered that a more innovative approach should be adopted so that the funds could be used more effectively and wisely to achieve the objective of public education. While research projects on a more long-term basis should be supported, education and publicity programmes with more immediate results should be encouraged. As most of the green groups in Hong Kong were relatively small in scale, the funds could also be used to assist them in launching more large-scale creative projects which could create more immediate and impressive impacts in promoting green values.

49. A Member agreed that funds should be used to support more applied-oriented research projects. Another Member suggested that the results of research projects be made known to the public so that the research data and findings could be employed for education projects. The academic sector could collaborate with the interested groups by sharing the research results which would be conducive to the design of education programmes for the general public. Ms Anissa Wong assured Members that promotion of environmental public education was one of the priority areas identified for the use of the fund.

50. A Member considered that ECF was only one of the funding sources from the Government for supporting environmental education and demonstration projects. The ECF provided an opportunity for members of the public and interested groups to seek funding for launching their own programmes. It was important to ensure that the money could be spent meaningfully. From a holistic point of view, the Government would also continue to spend money in other areas for environmental education and demonstration projects. An example was the proposed allocation of \$93 million to encourage Hong Kong-owned factories in

the Pearl River Delta Region to adopt cleaner production and practices.

51. In view of the keen interest of Members in the issue, the Chairman suggested that an agenda item on the enhancement of the ECF be discussed by the Council for Members to make suggestions and exchange views with relevant parties.

(Post-meeting note: An agenda item on the enhancement of the operation of the ECF was planned for submission to the Council in late 2007/early 2008.)

Tentative items for discussion at the next meeting

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

Agenda Item 6 : Date of Next Meeting

53. The next meeting was scheduled for 12 November 2007.

ACE Secretariat
October 2007