

**Confirmed Minutes of the 105<sup>th</sup> Meeting of  
the Advisory Council on the Environment  
held on 14 April 2003 at 2:30 p.m.**

**Present:**

Prof. LAM Kin-che, JP (Chairman)  
Prof. Peter HILLS  
Prof. HO Kin-chung  
Mr. Peter Y. C. LEE  
Mr. LIN Chaan-ming  
Dr. NG Cho-nam  
Mrs. Mei NG  
Mr. Otto L. T. POON  
Ms. Iris TAM, JP  
Prof. WONG Tze-wai  
Prof. WONG Yuk-shan, JP  
Ms. Jessie WONG (Secretary)

**Absent with Apologies:**

Prof. LUNG Ping-yee, David, SBS, JP  
Mr. Michael J. D. RUSHWORTH

**In Attendance:**

Mrs. Rita LAU, JP	Permanent Secretary for the Environment, Transport and Works (Environment and Transport)
Ms. Doris CHEUNG	Deputy Secretary (E)1, Environment, Transport and Works Bureau (ETWB)
Mr. Thomas CHOW	Deputy Secretary (E)2, ETWB
Mr. Rob LAW, JP	Director of Environmental Protection
Mr. C CLAY	Assistant Director (Conservation), Agriculture, Fisheries and Conservation Department
Miss CHU Hing-yin	Acting Assistant Director/Technical Services Planning Department
Mrs. Belinda HUI	Secretariat Press Officer (Environment, Transport and Works), ETWB
Ms. Polly LEUNG	Principal Information Officer, Environmental Protection Department (EPD)
Miss Petula POON	Chief Executive Officer (E), ETWB
Mr. Eddie CHENG	Executive Officer (E), ETWB

**In Attendance for Agenda Item 3 :**

Mr. Raistlin LAU	Principal Assistant Secretary for the Environment, Transport and Works (Environment & Transport)E1, ETWB
Mr. Gordon LEUNG	Principal Assistant Secretary for Commerce, Industry and Technology (Commerce & Industry)7, Commerce, Industry and Technology Bureau (CITB)
Mr. Francis HO	Assistant Secretary for Commerce, Industry and Technology (Commerce & Industry) 7A, CITB
Mr. S W PANG	Principal Environmental Protection Officer (Air Management), EPD

**In Attendance for Agenda Item 5 :**

Ms. Annie CHOI	Principal Assistant Secretary for the Environment, Transport and Works (Environment & Transport)E2, ETWB
Mr. T K CHENG	Acting Principal Environmental Protection Officer (Facilities Development), EPD
Mr. T F LEUNG	Senior Engineer/Barging Point Civil Engineering Department

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Action

The Chairman welcomed Ms. Doris Cheung who had replaced Mr. Donald Tong as Deputy Secretary for the Environment, Transport & Works (Environment & Transport)E1. The Chairman also thanked Miss Alex Yau who had resigned from the Council with effect from 31 March 2003 for her contributions in the past five years.

**Agenda Item 1 : Confirmation of Minutes of the 104<sup>th</sup> Meeting held on 10 March 2003**

2. A Member proposed that the third last sentence of paragraph 31 of the draft minutes should be amended to read “A Member pointed out that the increase in MSW was probably due to the flourishing of fast food business and therefore great increase in disposable utensils in recent years”.

3. A Member proposed that lines 11 and 12 of paragraph 8 of the draft minutes should be amended to read “The Country and Marine Park Board held open meetings and had been working very well free from stakeholder disturbance although not many people were interested in attending as observers.”

4. The draft minutes of the last meeting were confirmed subject

to the proposed amendments.

**Agenda Item 2 : Matters Arising**

Para. 4: Hospital Authority's briefing on green management and handling of clinical waste

5. The Chairman informed Members that due to the urgent commitments and heavy workload arising from the fight against atypical pneumonia, the Hospital Authority would like to postpone their briefing on green management tentatively to June 2003.

Para. 32: Report on the monitoring of the effectiveness of ECF-funded projects

6. The Chairman said that the report would be forwarded to Members once available.

Para. 40: Cost figures for collecting plastic bottles from housing estates

7. The Chairman informed Members that the cost figures were being compiled by ETWB and would be sent to Members once available.

**Agenda Item 3 : Proposed amendments to the Ozone Layer Protection Ordinance (Cap. 403) to introduce a combined import and export licence**  
*(ACE Paper 12/2003)*

8. The Chairman welcomed the presentation team. Mr. Raistlin Lau briefed Members on the proposed legislative amendments.

9. Upon a Member's enquiry, Mr. S W Pang explained that in line with the spirit of the Montreal Protocol on Substances that Deplete the Ozone Layer, a licence would be required for the import and export of ozone depleting substance listed in the Schedule to the Ozone Layer Protection Ordinance. Under the Protocol, Hong Kong could import Hydrochlorofluorocarbons (HCFC) and six types of substances listed in the Schedule to the Ozone Layer Protection Ordinance, viz Chlorofluorocarbons (CFC), Halons, Methyl Chloroform, Carbon Tetrachloride, Methyl Bromide and other fully halogenated CFC could be imported and re-exported to other countries. As regards the Member's question on the quota for substances that could be imported, exported and/or re-exported, Mr. Pang said that there was a quota of 138.98 tonnes per year on the quantity of HCFC that could be imported into Hong Kong. As regards the re-export of other substances listed in the Schedule, the quantity would be counted against the quota of the

country which imported those substances.

10. The Chairman concluded that the Council supported the proposed legislative amendments.

**Agenda Item 4 : Report on the 77<sup>th</sup> meeting of the Environmental Impact Assessment Subcommittee**  
(ACE Paper 13/2003)

11. The Subcommittee Chairman briefed Members on the report of the EIA Subcommittee.

12. A Member pointed out that during the discussion of the EIA report on the submarine gas pipelines, the project proponent undertook to provide compensation to fishermen who suffered loss as a result of the proposed project. In his view, the project proponent should compensate the fishermen directly without involving the Government. In response, Mr. C C Lay explained that AFCD was usually involved in the negotiation process in such cases to ensure that the compensation level was fair to both sides.

13. The Chairman informed the meeting that the Secretariat received from EPD a public comment on the EIA report on the submarine gas pipelines after the EIA Subcommittee meeting had been held. The Council pointed out that the Director of Environmental Protection was responsible for considering public comments on EIA reports under the EIA Ordinance. On that basis and with the agreement of the Subcommittee Chairman, the public comment and the response of the project proponent had been circulated to Subcommittee Members for information in accordance with the usual practice.

14. The Council endorsed the two EIA reports without conditions as recommended by ACE Paper 13/2003.

**Agenda Item 5 : Proposed Landfill Charging Scheme – Associated Arrangements**  
(ACE Paper 14/2003)

15. The Chairman welcomed the presentation team. Ms. Annie Choi briefed Members on the paper.

16. In response to the Chairman's enquiry on the control of flytipping after the implementation of the proposed landfill charging scheme, Ms. Choi said that the Government would strengthen education against flytipping and step up prosecution on flytipping offences. There had also been proposals to strengthen legislation control against flytipping.

However, the Department of Justice advised that such were not consistent with the Bill of Rights and did not commensurate with the severity of the offence.

17. A Member considered that the landfills and the sorting facilities might not necessarily be managed by the Government. Stakeholders might be reluctant to accept the fee level of the sorting facilities if the mechanism for setting the level was unclear. Given that the private sector was usually more cost conscious, the proposed sorting facilities could be privatized. Ms. Choi agreed that the sorting facilities could be operated by private companies. In that regard, the Government would invite “expressions of interest” on operating the sorting facilities in due course. As regards the proposed charge of \$100 for the sorting facilities, it was only an estimated figure which had taken into the capital as well as the recurrent costs of the facilities. The key issue was that it should not be higher than the landfill charge so as to provide an incentive for using the sorting facilities.

18. A Member pointed out that landfills would be used up in the near future and the replacement cost would be very high and indeed even much higher than the cost of the existing facilities. The landfill charge of \$125 per tonne which covered only the capital and the recurrent cost of the facilities did not reflect the residual value and replacement cost of the landfills. Ms. Choi said that the proposed landfill charge was originally set at \$43 per tonne in 1995 which represented 50% recovery of the capital and recurrent costs at that time, when the scheme was first proposed. The currently suggested level of \$125 had been put forward since 1998, and represented roughly full recovery of the recurrent costs. The proposed charge had not taken into account the replacement costs of the landfills which could only be arbitrary figures. In addition, inclusion of the replacement cost would run contrary to the user-pay principle as current users would need to subsidize future users.

19. A Member asked whether the land cost of the landfills had been taken into account in setting the proposed landfill charge which in his view was too low. Ms. Choi replied in the negative as land cost did fluctuate with the property market. She also pointed out that while some supported the inclusion of land cost and replacement cost, others requested that only the recurrent cost should be considered as they considered that landfills should be regarded as infrastructure development and hence, the capital cost should be borne by the Government. The currently suggested charge represented a balance of the various considerations and was in line with the normal costing and accounting principles of the Government.

20. In response to the Chairman’s enquiry, Ms. Choi said that the

landfill charges of many countries were much higher. For instance, most European countries charged about HK\$400 per tonne and USA charged about HK\$200 per tonne. For Singapore, the charge was about HK\$280 per tonne. However, some European and Asian countries levied a lower landfill charge than Hong Kong. The level of fee depended on the economic conditions of the countries concerned and the way the landfill charging scheme was implemented.

21. In response to a Member's enquiry, Ms. Choi said that it was not a mandatory requirement for the waste producers to use the sorting facilities. They might choose to sort the waste themselves. Since the landfill site staff had the power to turn away trucks with inappropriate waste content, there was a certain degree of control over the type of wastes being transported to those facilities. She also confirmed that the sorting charge would be applied to the waste before sorting.

22. A Member remarked that the proposed 50% benchmark for determining the acceptance of waste transported to landfills and sorting facilities was quite arbitrary and judgment by visual inspection was too subjective. Such arrangements might also increase the possibility of corruption. The rationale for setting the 50% benchmark had to be made transparent if it was to be accepted by the waste haulers. In response, Ms. Choi said that the setting of the benchmark was not easy. The Administration had to strike a balance having regard to the capacity of the sorting facilities and the landfills. Nonetheless, the proposed benchmark was only a starting point and it could be revised if necessary. As regards visual inspection, since thousands of trucks would use the landfill facilities each day, only a very short turnaround time was available for each truck. There was no other practicable method to judge the content of the waste except by visual inspection. The ICAC had been consulted and had agreed to the proposed arrangements. Furthermore, a comprehensive management and monitoring system including staff rotation and installation of close circuit television would be in place to prevent corruption.

23. In response to a Member's enquiry on the sorting procedures and payment arrangements, Ms. Choi explained that the waste after sorting would be divided into inert and non-inert waste and would be transported to the public fill reception facilities and landfills respectively. The operator of the sorting facilities would be required to pay the relevant charges.

24. A Member said that the cost for transporting inert waste to public fill reception facilities was considerable. He considered that instead of charging the construction industry for disposal of inert waste, the Government should compensate them for the transportation expenses because the inert waste would be used for reclamation projects. In

response, Ms. Choi explained that imposing a charge on the disposal of construction and demolition waste would encourage the construction industry to adopt methods that would reduce the generation of inert public fill

25. In response to a Member's enquiry, Ms. Choi confirmed that Government projects would also be subject to landfill charge.

26. A Member remarked that the site staff of the sorting facilities might encounter difficulties in turning away waste haulers. He therefore suggested that all incoming waste transported to the sorting facilities should be accepted but they should be charged differently if the inert content fell below a certain level. In response, Ms. Choi explained that because of the large number of trucks using the sorting facilities each day, it would be impossible to wait for the result of the sorting before deciding and collecting the charge. Another Member suggested that the waste haulers could offload their waste first and a charge for secondary handling could be levied if the waste content was inappropriate. She also suggested setting up an arbitration mechanism to deal with disputes. Ms. Choi explained that due to the space and cost constraints, the suggestion of allowing waste haulers to offload the waste first might not be feasible.

27. A Member also expressed concerns about the potential conflict between waste haulers and site staff of the sorting facilities and asked whether a mechanism could be set up to resolve such conflict, especially if the facilities were to be run by private companies. In response, Ms. Choi said that if the sorting facilities were operated by private operators, they would have the rights to set their own admission criteria. The exact operational plan would depend on the proposals that the private operators would come up with during the "expression of interest exercise".

28. A Member suggested that instead of relying on visual inspection by site staff, waste producers should be asked to make declarations on the content of the waste and a penalty would be imposed if they made false declarations. Ms. Choi pointed out that administrative arrangements involving both the construction sites and the waste haulers would be required. In addition, it would be difficult for the waste haulers who carried waste from ad-hoc renovation works to declare the content of the waste because they usually gathered waste from different sources before going to the landfills. Another Member did not support the above Member's suggestion, as it would affect the operation of the waste haulers and increase their operation cost.

29. In reply to a Member's suggestion of setting up an award system for contractors who had properly handled their waste, Ms. Choi

pointed out that there were already awards such as the Considerate Contractors Award and Green Contractors Award for contractors who performed well on environmental management. The Bureau would consider providing other incentives for the contractors.

30. Having regard to the level of the proposed charges for the landfills and the sorting facilities, a Member feared that no private operators would be interested in running the sorting facilities. Ms. Choi noted her concerns but pointed out that it was generally felt that private operators would be able to run business at a lower cost than the Government. The Bureau would thus invite “expressions of interest” from the private sector. The Member asked whether the landfill charge and the charge of the sorting facilities would be the same if the latter facilities were eventually run by the Government. In response, Ms. Choi said that the actual fee charged would depend on the cost of the sorting facilities but it should be lower than the landfill charge so as to provide an incentive for waste producers and haulers to use the sorting facilities.

31. In response to a Member’s enquiry, Ms. Choi said that a claim lodged to the Small Claims Tribunal by the waste haulers would be accepted as sufficient evidence that the waste producers had failed to pay them.

32. A Member pointed out that waste haulers would usually demand payment from customers, particularly first-time customers, before carrying out the work. Furthermore, failure to obtain payment from customers should be regarded as business risk. In his view, there was not much ground for suspending the demand for payment of the landfill/sorting charges. In response, Ms. Choi said that according to the waste haulers, it was quite common for them to collect payment after transporting the waste. Hence, failure to obtain payment would add to the risk of bad debt. Furthermore, the suspension mechanism was set up at the request of the Legislative Council to protect the waste haulers.

33. In response to a Member’s question, Ms. Choi explained that the operator of the sorting facilities would be responsible for transporting the sorted waste to the landfills and public fill reception facilities. The transportation cost would unlikely be substantial since the proposed sorting facilities would be near to landfills and fill banks.

34. In response to a Member’s query on the handling of fallen leaves and grass collected in country parks, Mr. C C Lay clarified that in country parks, such type of biodegradable waste would be left on the soil surface and would decay into fertilizer in a natural way.

35. The Chairman thanked the presentation team. He said that



the Council fully supported the landfill charging scheme and hoped that the scheme could be in operation as soon as possible. Mrs. Rita Lau expressed gratitude for Members' constructive comments and hoped that the Council would continue to support the Bureau in implementing the scheme.

### **Agenda Item 6 : Any Other Business**

#### **Tentative items for discussion at the next meeting**

36. The Chairman informed the meeting that two items were tentatively scheduled for the next meeting, namely legislative amendments to the Waste Disposal Ordinance to facilitate control over management of clinical waste and the 2002 implementation report of the Waste Reduction Framework Plan.

37. A Member suggested the following topics for discussion at future Council meetings-

- (a) indoor air quality;
- (b) total water management;
- (c) quality of environmental monitoring and auditing during the EIA process; and
- (d) quality of consultancy studies.

The Secretariat

The Chairman thanked the Member for her suggestions. While accepting the first two topics, he considered it more appropriate for the EIA Subcommittee to discuss the topic at (c) and that the last topic seemed to be outside the Terms of Reference of the Council. Members agreed.

#### **Opening up of Council meetings to the public**

38. The Chairman informed Members that Ming Pao had reported the Council's discussion on opening up of meetings to the public at the last meeting. He pointed out that while the draft minutes of meetings should be restricted to Members only it appeared from the news report that the reporter had got the draft minutes of the last meeting. He also understood that the reporter concerned had contacted individual Members to verify their views expressed at the meeting. While he respected the right of individual Members to make known his/her own view, he was concerned about the possibility that other Members' viewpoints were also released without their consent.

39. A Member clarified that the reporter had contacted her and asked for her views expressed at the meeting. She therefore handed a summary of her own viewpoints to the reporter but she had not mentioned

other Members' names during the exchange with the reporter. She undertook to circulate the summary to Members for reference. Another Member agreed that draft minutes should not be released to the public and the viewpoints of other Members should not be mentioned to a third party without their consent. A third Member remarked that the Council had thoroughly discussed the issue on opening up of meetings to the public and the decision to maintain the status quo was reached by voting. The use of the word "shame" to describe the decision of the Council as quoted in the news report was inappropriate. A fourth Member declared that the reporter had contacted him but he had not disclosed the draft minutes nor had he mentioned the views of other Members to the reporter. Another Member informed the meeting that when the reporter contacted him, his views were already known to the reporter and he was upset about that. A different Member said that he received an e-mail from the reporter and was asked whether he had threatened to resign from the Council if meetings were to be opened up to the public. He was upset because his viewpoints were distorted by the reporter. In his view, no individual Member should have the right to reveal other Members' views to a third party. In response to a Member's enquiry about the status of the draft minutes, Ms. Jessie Wong, the Secretary, explained that the Council decided in 1998 that the names of individual Members should be removed from the confirmed minutes before they were uploaded on the Internet for public viewing. Members' names were retained in the draft minutes only to facilitate confirmation and provision of comments by Members and the draft minutes should be classified as restricted. Starting from last year, the draft minutes had been stamped "restricted". Noting that the minutes of the last meeting did not show the "restricted" sign, she said that she would remind all Secretariat staff to make sure that the draft minutes were properly classified in future.

#### **Agenda Item 7 : Date of Next Meeting**

40. The next meeting, originally scheduled for 12 May 2003, was rescheduled to 16 May 2003 (Friday).

**ACE Secretariat**  
**April 2003**