

Development of Environmental Law and Policy (No.2)

1. AIR POLLUTION

Hong Kong has been facing two air pollution issues. One is local street-level pollution. The other is the regional smog problem. The main strategies of the government to tackle air pollution problems include implementing a wide range of measures to control emissions from motor vehicles and power plants locally and working closely with Guangdong Provincial Authorities to implement a joint plan to deal with the regional smog problem.

A. The Air Pollution Control (Fuel Restriction) (Amendment) Regulations

- ❖ The new legislation, namely the Air Pollution Control (Fuel Restriction) (Amendment) Regulations, mandates the use of ultra low sulphur diesel, i.e. clean diesel with sulphur content of no more than 0.005% by weight, in industrial and commercial processes. It is expected that the new legislation can reduce local SO₂ emissions by about 2,480 tonnes annually.
- ❖ Subject to approval by the Legislative Council, the new law will take effect from 1 October 2008.

B. Air Pollution Control (Amendment) Bill 2008

- ❖ The government has imposed stringent caps on the emissions of sulphur dioxide, nitrogen oxides and respirable suspended particulates from all power plants since 2005.
- ❖ To ensure that Hong Kong can meet the 2010 emission reduction targets as agreed with the Guangdong Provincial Government in April 2002, the government has recently introduced the Air Pollution Control (Amendment) Bill 2008 to tighten the emissions caps for the above-mentioned pollutants.

❖ The Amendment Bill:

- (a) stipulates the emission caps for sulphur dioxide, nitrogen oxides and respirable suspended particulates from power plants in Hong Kong in 2010 and beyond;
- (b) allows power plants to use emissions trading, including cross-boundary emissions trading with power plants in the Pearl River Delta Region, as an alternative means for achieving the emission caps;
- (c) proposes to bar public officer from serving as a member of an appeal board, to enhance the independence and impartiality of the appeal system under the Air Pollution Control Ordinance; and
- (d) removes the provision in the Air Pollution Control Ordinance which enables the Director of Environmental Protection to refer an appeal board's decision for review by the Chief Executive in Council.

C. Banning Idling Engines

- ❖ The public consultation on a proposal to ban idling vehicles with running engines ended on 31 March 2008. In general, the consultation findings have revealed a broad-based support from the community for banning idling vehicles. Many of the consultees have suggested that due consideration should be given to the operational needs of the transport trades.
- ❖ EPD is considering the views collected and will work out details of the control scheme. EPD aims at finalising the control scheme by end-2008 and implementing the ban within 2009.

D. Pearl River Delta Regional Air Quality Management Plan Mid-term Review Report

- ❖ The Hong Kong and Guangdong Provincial Government reached a consensus in April 2002 to reduce, in their best endeavours, the emissions of sulphur dioxide, nitrogen oxides, respirable suspended particulates and volatile organic compounds by 40%, 20%, 55% and 55% respectively in 2010 in the Pearl River Delta Region ("PRD"), using 1997 as the base year.
- ❖ The EPD of Hong Kong and the Environmental Protection Bureau of Guangdong Province announced the findings of the report on the Mid-term Review of the Management Plan ("the

Mid-term Review”) on 8 January 2008.

- ❖ The main conclusions of the Mid-term Review are summarized as follows:
 - (a) The emission reduction and control measures adopted by both sides under the Management Plan could bring about positive impact on abating air pollutant emissions in the region, and are therefore conducive to achieving the agreed 2010 emission reduction targets by both sides;
 - (b) Upon implementation of the current and committed emission reduction measures under the Management Plan, Hong Kong should be able to fully meet the mutually agreed emission reduction targets by 2010; and
 - (c) In respect of the PRD Economic one, with its significant socio-economic developments which well exceeded the original estimates, the emission reduction targets could be achieved by 2010 upon implementation of additional enhanced control measures as recommended in the Mid-term Review report.

E. The Arrangements for the Implementation of Clean Development Mechanism Projects

- ❖ The People’s Republic of China is a Party to the United Nations Framework Convention on Climate Change (“the Convention”) and the Kyoto Protocol (“the Protocol”). The Convention and the Protocol was extended to Hong Kong with effect from May 2003.
- ❖ Under the Convention and the Protocol, Hong Kong is required to work jointly with the Mainland to fulfill the obligations imposed upon Parties not included in Annex I to the Convention (non-Annex I Parties).
- ❖ Clean Development Mechanism (CDM) is a mechanism under which Parties included in Annex I to the Convention can fulfill part of their greenhouse gas reduction obligations through cooperation with Non-Annex I Parties on project activities.
- ❖ The Arrangements for the Implementation of CDM Projects set out the specific process and procedures for Hong Kong companies to collaborate with foreign institutions to conduct CDM projects in Hong Kong. These projects will help further reduce Hong Kong’s greenhouse gas emissions, support the sustainable development goal, and also contribute to achieving the ultimate objective of the Convention to stabilize greenhouse gas concentrations in the atmosphere at a level

that would prevent dangerous anthropogenic interference with the climate system.

2. WASTE POLLUTION

Hong Kong, like many developed places, has seen its wasteloads grow as its economy has grown. The continued growth in wasteloads means Hong Kong is running out of landfill space far earlier than expected. The remaining landfill space will last only for 6 to 10 years if waste levels continue to increase at current levels.

A. Tighter Control on Disposal of Imported Non-hazardous Waste

- ❖ New provisions under section 20DA of the Waste Disposal Ordinance to tighten control on the disposal of imported non-hazardous waste came into effect on 1 April 2008.
- ❖ Anyone intending to dispose of any imported non-hazardous waste at the designated waste disposal facilities, such as landfills, must apply for an authorization from the Director of Environmental Protection.
- ❖ Authorization will not normally be granted unless the applicant can prove that the waste was originally imported for recycling and he has exhausted all possible recycling outlets and all means to return the waste to the place of origin.
- ❖ A person who disposes of any imported non-hazardous waste without authorization is liable to a fine of \$200,000 and 6 months' imprisonment for a first conviction, and a fine of \$500,000 and 2 years' imprisonment on a second and subsequent conviction.

B. Building (Refuse Storage and Material Recovery Chambers and Refuse Chutes) (Amendment) Regulation 2008

- ❖ The government published in the Gazette on 16 May 2008 the Building (Refuse Storage and Material Recovery Chambers and Refuse Chutes) (Amendment) Regulation 2008. Subject to approval by the Legislative Council, the amendment regulation will impose a mandatory requirement for provision of a refuse storage and material recovery room on every floor of new domestic buildings and the domestic part of new composite buildings from 1 December 2008.

- ❖ The aims of the new requirement are to:
 - (d) provide sufficient space on every floor to facilitate implementation of the source separation of domestic waste programme; and
 - (e) help prevent potential fire hazards and hygiene problems posed by improper placing of refuse storage and waste separation facilities in lift lobbies, corridors and staircases of buildings.
- ❖ The mandatory requirement will not be applicable to hotels, guest-houses, boarding houses, hostels, dormitories and floors not designed for habitation, such as clubhouse or car park.

C. Voluntary Recycling Programmes

- ❖ The government and the business sector are joining together to launch voluntary producer responsibility schemes to encourage the public to recycle used computer items and fluorescent lamps.

3. WATER POLLUTION

Our water quality has improved within some parameters in recent years after the introduction the polluter pays principles. To achieve the ultimate goal of full-cost recovery, the government has been constantly reviewing the law and regulations to control water pollution in Hong Kong.

Trade Effluent Surcharge Scheme Reviewed

- ❖ The government announced on 9 May 2008 in the Gazette the Sewage Services (Trade Effluent Surcharge) (Amendment) Regulation 2008 with a view to updating the trade effluent surcharge (“TES”) scheme according to a trade-specific effluent survey completed by the EPD and the Hong Kong Productivity Council in 2007.
- ❖ Under the amendment regulation, 3 of the TES trades, namely (1) Bleaching and Dyeing of Garments; (2) Textile Stencilling and Printing; and (3) Laundry, will be removed from the scheme as the quality of their trade effluents is comparable to or not stronger than that of domestic sewage.

- ❖ In addition, the TES rates for 13 trades, representing about 92% of all TES accounts, will be reduced from 1 August 2008. TES rates for these trades are being adjusted downwards to reflect the fact that their effluents have become less polluting and the resultant costs of treating these effluents has reduced. For example, the restaurant trade, which accounts for three-quarters of the TES accounts, will enjoy a 19% reduction in TES rate from \$3.78 to \$3.05 per cubic metre.
- ❖ The TES rates for the remaining 14 trades will be increased because their effluents were found to be stronger than the values presently prescribed. These 14 trades will face two increases in 2008-2009 and 2009-2010. For the majority of these accounts, the annual increase in the monthly bill will be less than \$200.

4. RESOURCES AND ENERGY CONSERVATION

As a member of the Asia-Pacific Economic Co-operation forum, Hong Kong pledged to reduce energy intensity by at least 25% by 2030, with 2005 as the base year. As voluntary compliance does not appear to be effective, a mandatory energy saving scheme is considered to be necessary.

Proposed Mandatory Implementation of the Building Energy Codes

- ❖ On 28 December 2007, the government launched a 3-month public consultation on a proposal to introduce mandatory implementation of Building Energy Codes (BECs) for certain new and existing buildings, to improve energy efficiency of buildings, alleviate global warming and combat air pollution.
- ❖ The consultation document contained proposals as follows:
 - (a) new commercial buildings and the communal areas of new residential and industrial buildings in both the private and public sectors as well as major retro-fitting works in existing buildings should comply with the BECs promulgated by the Electrical and Mechanical Services Department (EMSD). Certificates of Compliance will be issued to buildings complying with the BECs. The list of buildings with Certificates of Compliance issued will be made available for public inspection;
 - (b) to enhance energy efficiency, energy audits are required for certain buildings once every 10 years; and

- (c) to complement the proposed legislative scheme, buildings that have exceeded the minimum building energy efficiency standards by a prescribed percentage will be recognised by an energy mark through a voluntary administrative scheme.
- ❖ Results of the consultation exercise reveal a general support from the public and various stakeholders on the proposed mandatory scheme. The government is now preparing the relevant legislative proposal, with a view to introducing a legislation into the Legislative Council in 2009.
 - ❖ The Mainland and some overseas countries, including Australia, Singapore, the United Kingdom and the United States, have already implemented minimum energy efficiency requirements for buildings.

5. CONCLUSION

A clean environment is core to our quality of life and the competitive edge of Hong Kong as a world class city. The government's approach in addressing environmental issues is to strengthen the legislation and to adopt the polluter pays principle to require polluters to bear the social costs. Furthermore, the government also strives to enhance co-operation with the Guangdong Provincial Government to solve cross-border pollution problems and raise public awareness to encourage people to pollute less.

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