

## Convictions under environmental legislation: April—June 2005

[Note: the EPD no longer classifies second (and subsequent) offences.]

The EPD's summary of convictions recorded and fines imposed during the period April to June 2005 is as follows:

### *April 2005*

Fifteen convictions were recorded for breaches of anti-pollution legislation.

Five of the convictions were under the Air Pollution Control Ordinance, five under the Noise Control Ordinance, three under the Waste Disposal Ordinance and two under the Water Pollution Control Ordinance.

The heaviest fine in April was \$50,000, assessed against a company that used powered mechanical equipment in contravention of permit conditions, contrary to the Noise Pollution Control Ordinance. The lowest fine was \$2,000 for disposing of waste without a licence.

### *May 2005*

Forty-eight convictions were recorded for breaches of anti-pollution legislation.

Thirty of the convictions were under the Air Pollution Control Ordinance, nine under the Noise Control Ordinance, five under the Water Pollution Control Ordinance and four under the Waste Disposal Ordinance.

The heaviest fine in May was \$50,000. Two companies were fined \$50,000 each for contravening the provisions of a licence under the Water Pollution Control Ordinance

The lowest fine was \$750 for non-compliance with an asbestos abatement notice.

### *June 2005*

Twenty-seven convictions were recorded for breaches of anti-pollution legislation.

Ten of the convictions were under the Noise Control Ordinance, six under the Air Pollution Control Ordinance, five under the Waste Disposal Ordinance, five under the Water Pollution Control Ordinance and one under the Dumping at Sea Ordinance.

The heaviest fine in June was \$40,000, assessed against a person who imported controlled waste without a permit.

The lowest fine was \$800 for open-burning without a permit, contrary to the Air Pollution Control Ordinance.

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URBAN PLANNING AND ENVIRONMENTAL LAW QUARTERLY

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簡家驄律師行 · 城規環保簡訊

Official and corporate attitudes to marine conservation have again come under public scrutiny as a result of newspaper articles concerning two separate issues: proposed new regulations to prevent food poisoning from the consumption of imported coral reef fish, and the reluctance of business and government leaders to take steps to ban shark’s fin soup from the menu. Our feature article considers this topic, concluding that Hong Kong’s conservation rhetoric is not matched by its deeds in the context of playing a responsible role in global marine conservation.

The Editors

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WHEN WILL HONG KONG ACCEPT RESPONSIBILITY TO ASSIST MARINE CONSERVATION GLOBALLY?

In our October 2004 edition, we wrote about the Hong Kong government’s shallow and disingenuous marine conservation regulations relating to protection of certain shark species, which we chose as the “species indicator” of the government’s and community’s attitude to global marine conservation. The article pointed out that our fondness for shark’s fin soup sums up Hong Kong’s general attitude to marine conservation: we might (occasionally) talk the talk of protecting endangered species, but we certainly do not walk the walk of realistic and resolute marine conservation (or terrestrial conservation, for that matter).

During the past three months or so, several news media stories have once more raised for public scrutiny the marine conservation credentials of Hong Kong’s corporate and government leaders. Hong Kong has a vital part to play in the world’s stuttering programmes for protecting threatened marine species. This is not simply a local issue. Our actions have a far wider effect. It is well worthwhile, therefore, to return to the vexed question of: what action is the government and/or business taking to discharge the

responsibility to help, rather than hinder, global marine conservation.

Sharks: a sadly true indicator

Shark’s fin soup has once again provided a telling indication of Hong Kong’s collective lack of political- will to favour conservation above traditional eating habits. First, there was Hong Kong Disneyland’s initial refusal to drop shark’s fin soup from its restaurants’ menus. To their credit, a number of environmental NGOs, as well as individual citizens, raised publicly in letters to newspapers and by other means their opposition to any restaurant serving shark’s fin soup, particularly in a high-profile tourist destination such as Disneyland will be.

The Disney Company responded to this criticism by lamely arguing that it had to honour local cultural practices, which include using shark’s fin soup as a special occasion dish.

This response was illogical. There are many traditional practices in this region-and in other parts of the world-which we now realise are environmentally destructive, and should cease to be followed. Regrettably, China has traditionally fostered many such practices. Even today, body parts of highly endangered species are trafficked for their perceived medicinal properties, for example. Bears are caged and their bile milked, in a cruel pursuit of medical cures. Presumably, Disney

Company would not approve or aid and abet such anti-conservation practices. Nor should they do so in respect to sharks.

Not only are shark's fins usually harvested in a barbaric way-with the fin hacked off, after which the live shark is left to drift to a slow and painful death-but sharks are now a vulnerable species on a world-wide basis, with some sub-species, such as the Great White, endangered. We cannot continue to kill millions of sharks per year without affecting the species' long-term viability.

Disney Company's stance is a sad but fair reflection of the low priority Hong Kong business leaders attach to environmental issues. True, there are now company directors speaking out on some environmental issues, such as air pollution. Often this is expressed, as usual, in economic terms. Identifiable, local air pollution will deter talented people from settling in Hong Kong and thereby reduce Hong Kong's business competitive edge.

However, on conservation issues rarely do the captains of industry speak out for pro-conservation policies and programmes, or use their considerable influence to encourage the government to be more proactive in that field.

In the case of Disney Company, the early decision to retain shark's fin on the menu was not only plainly wrong, but was hypocritical, in view of the company's declared environmental policy, which includes the pledge to "promote wildlife and habitat conservation through partnerships with the scientific communities, and organizations committed to preserving the Earth's biodiversity".

Eventually, Disney Corporation did an about-face and declared that shark's fin will not be served in any of the park's restaurants. Credit must go to the company for that decision. However, the decision seems to have been based on the wrong ground, in that the company said that it reversed its initial decision to serve shark's fin only because it had determined that no sustainable source of supply exists. But this is precisely what Disney's critics had put forward as a main reason for dropping shark's fin soup from the menu (cruelty of harvest methods being the other major reason). Anyone with even a passing knowledge of the parlous state of the world's shark populations would realise that there is no such thing as a sustainable supply of fins harvested from wild sharks.

Unlike some other major fish species consumed by human beings, it is not practical to farm sharks, so wild populations are the only source of fins. However, no country presently regulates shark fishing in a sustainable way. A number of species are totally protected in a few countries, but that small safety-valve does not render shark fishing sustainable.

In 2002 at the *Shark Conference* in Taiwan, the Hong Kong Trade Association opposed a proposal that the shark fishery should be regulated or made subject to environmental conventions so as to conserve the species. This self-centred attitude is mirrored by Hong Kong's fishing industry's reluctance to support the government's recently mooted expansion of marine reserves.

In the context of our species-indicator, the shark, we refer you to the earlier article *Shark's Fin Soup Reflects Hong Kong's Marine Conservation Credentials* (October 2004).

More recently, it was suggested that the Secretary for the Environment should take the lead in helping to protect sharks by asking all

government departments to ban shark's fin soup from government banquets. The Secretary's spokesperson responded with apparent incredulity that such a suggestion could be made. She said it was up to each department to make its own decision (which was stating the obvious), but that there was no need for such a ban because sharks "are not endangered". This official response is deplorable for at least two reasons.

Firstly, the statement that sharks are not endangered is simply wrong; a number of species are listed under *CITES* and our own inadequate endangered species legislation. Secondly, the position taken by the Secretary reflects the government's lack of knowledge of best environmental and conservation practices. Effective conservation requires that you do not wait for a species to become so depleted in numbers that it is declared endangered. Enlightened conservation measures should be taken well before that point is reached. As a species, sharks are vulnerable (to extinction), as is widely accepted by the world's leading conservation agencies. Vulnerable species need protection to assure their long-term viability just as much-if not as urgently-as do endangered species. If our environmental protection executives cannot recognise this, Hong Kong will continue its poor conservation record.

*The government has shown no determination to adopt a marine conservation programme more appropriate to the 21st century.*

### *Coral reef- fish*

The government has announced the introduction of regulations to regulate importation of reef-fish. Conservation of the world's fast dwindling stocks of reef-fish is not the motivation for this long overdue step, however. Rather, the government has been activated by increasing cases of ciguatera poisoning in Hong Kong, resulting from consumption of imported tropical fish.

Hong Kong, Taiwan and southern China, are the world's major consumers of reef-fish, such as the much prized *napoleon wrasse*. Excessive demand has not only made reef-fish an expensive delicacy, but also has been a significant contributing factor to the rapid destruction of fish stocks and coral reefs in all parts of the world, in at least two ways.

Hong Kong's culinary preferences have significantly contributed to over-fishing, so fish stocks have been drastically depleted during the past 15 years or so, a process which is continuing because few countries have adequate laws or means of enforcement to prevent over-exploitation. Secondly, fishing fleets from Hong Kong and elsewhere, as well as local people themselves, have resorted to destructive fishing methods in order to increase fish catches. Such methods include blasting reefs with dynamite and pouring cyanide into reefs so as to stun fish, after which the reefs are ripped open with crowbars to get to the trapped fish.

The destructive methods not only exacerbate over-exploitation of reef-fish, but directly destroy reefs, which are critical habitat for numerous marine species. Coral reefs grow extremely slowly. Destroyed or damaged reefs do not self-repair quickly. Where the ecosystem is substantially destroyed, the reef will probably never recover.

Coral reefs are as biologically diverse and valuable as rainforests. Like rainforests, they also provide a hugely important resource for medicines and similar substances, which we are only just learning to identify and apply to human needs. As well, reefs are the sole source of income and protein for a large number of people. Nevertheless, indigenous

people and foreigners resort to destructive fishing methods, driven mainly by high prices offered in Hong Kong and elsewhere.

The well-respected *National Oceanic and Atmospheric Administration* of the United States' Department of Commerce has repeatedly warned that the world's coral reefs are being destroyed. NOAA assesses the states of health of the world's reefs today as:

- 10% - totally destroyed
- 30% - in critical danger of destruction
- 30% - threatened
- 30% - stable condition

Nowhere is the tragic destruction of reefs more evident than in the Philippines, which has only 7% of its once extensive reef systems in a healthy condition.

Destructive fishing methods are not the only cause of the loss of our reefs, but they are a significant and easily preventable one. After all, these fishing methods are used purely because of the greed of the perpetrators. Hong Kong's affluent diners are a stimulus of that greed, regrettably.

In recent years calls have been made for the Hong Kong government to licence tropical fish importers, and to control the volume of imports with the aim of assisting world-wide action to eliminate wanton reef destruction and to conserve tropical fish species. However, the government has always rejected that idea, usually on the basis that a control system would be too hard to monitor. It has taken ciguatera toxins to change the government's mind, it seems. Nevertheless, the change is to be welcomed if in fact it means reduced imports of tropical fish, which probably will not be the case, judging from the government's public statements that it is reluctant to interfere with the volume of supply.

Regulation of fish imports should, however, address environmental issues as well. Importers—who would include fishers themselves—should be subject to licence conditions which impose severe penalties—such as forfeiture of licence—for using destructive fishing methods or fishing in protected waters (also a major problem in under-developed countries in the Pacific, for example).

Monitoring and enforcement of such conditions would be difficult, but not impossible, especially with the assistance of the source-countries. If penalties were made realistically severe, fishers/ importers might think twice before taking the chance of not being detected.

But, in reality there is little likelihood of the government taking a belated, pro-conservation stand in respect to tropical fish

and saving coral reefs. The prospect of upsetting Hong Kong fish lovers will be sufficiently unpalatable to prevent reform of our fish import system.

### Trawling

Conservationists and marine scientists have also alerted the government to the environmentally damaging practice of trawling, which many local fishing boats still engage in, both in Hong Kong waters and elsewhere. Trawling the seabed is much the same as running a huge vacuum cleaner over it. Everything in the path of the net is disturbed, or wrenched up from the seabed entirely. Obviously, this process severely damages the affected ecosystem. This is especially the case for delicate, underwater coral gardens, of which Hong Kong still has some good examples.

Why our conservation agencies will not eliminate, or at least severely limit, this long-discredited practice is not clear, except for the usual consideration of a reluctance to interfere with the income-making activities of a section of the community.

However, at times, if not always, realistic conservation measures require some form of human activity to be abandoned, or curtailed. In the context of marine conservation, it is past the time when our regulatory agencies should recognise this, and have the political will to proceed with meaningful programmes and protection measures, notwithstanding the objections of vested interests, who are usually the very people exploiting and damaging the environment.

## LEGISLATION DIGEST

### Public health and Municipal Services (Amendment) Bill (No. 16 Vol. 9 - Legal Supplement 3)

Date of Gazette: 22 April 2005

Summary:

The objects of the Bill are to amend the Public Health and Municipal Services Ordinance to confer additional powers on the government to deal with the problem of mosquitoes by: -

- (a) empowering the government to deal with the mosquito breeding problems arising from the presence of articles capable of causing accumulation of water which allows the breeding of mosquitoes (and creating a related offence);

- (b) empowering the government to issue notice to the persons responsible for management of premises to do certain acts to prevent the breeding of mosquitoes;
- (c) empowering the government to take all necessary actions for preventing the breeding of mosquitoes without notice where there is mosquito-related health hazard, and to recover the associated costs.

Section 27 of the *Public Health and Municipal Services Ordinance* is amended accordingly:

- (a) adding before subsection (1) -  
“(1AA) For the purpose of this section—  
“the appointed contractor”, in relation to any site, means -  
(a) the person who is the registered contractor appointed in respect of the site in accordance with the Buildings Ordinance (Cap. 123); or  
(b) where the site is owned by the Government, contractor in respect of the site, if he has entered on the site at the relevant time;

“mosquito-related health hazard” means any circumstances that -

- (a) create favourable condition for the transmission of mosquito-borne diseases which constitute a danger to human health; or
- (b) are likely to create such a condition if immediate remedial action is not taken;

“the person responsible for the premises”, in relation to any premises, means -

- (a) any one or more of the following persons -  
(i) the occupier of the premises;  
(ii) the owner of the premises;  
(iii) the person responsible for the management of the premises; or
- (b) where the premises consist of a building site, the appointed contractor of the site.”

- (b) in subsection (1) —  
(i) by repealing “cause a notice to be served upon the occupier, or, where the occupier is absent from Hong Kong or cannot be readily found or ascertained by the Authority or is under disability, upon the owner, of such premises, or, where the premises consist of a building site or a building under construction, upon the appointed contractor in respect of the site, requiring” and substituting “by a notice served on

- the person responsible for the premises, require”;
- (ii) in paragraph (b), by repealing “or any further such accumulation of water upon premises” and substituting “accumulation of water upon the premises”;
  - (iii) in paragraph (c), by repealing “such premises” and substituting “the premises”;
- (c) by adding —
- “(1A) Where it appears to the Authority that there is upon any premises any article capable of causing accumulation of water which allows the breeding of mosquitoes, the Authority may, by a notice served on the person responsible for the premises, require him to take such steps within such time as may be specified in the notice to prevent the breeding of mosquitoes upon the premises.
- (1B) If the Authority has reasonable cause to believe that upon any premises any accumulation of water or any article poses a mosquito-related health hazard, the Authority may -
- (a) take such action as he considers necessary to —
    - (i) remove such accumulation of water or the article; or
    - (ii) prevent the breeding of mosquitoes upon the premises; and
  - (b) where such hazard is attributable to any act, default or sufferance of any person, recover from the person any costs incurred by the Authority in the taking of such action.”
- (d) by repealing subsection (2) and substituting —
- “(2) Any person who without reasonable excuse
- (a) fails to comply with the requirements of a notice served on him under subsection (1); or
  - (b) fails to comply with the requirements of a notice served on him under subsection (1A), shall be guilty of an offence.
- (2A) If a person is charged with an offence under subsection (2) for failure to comply with a notice served on him under subsection (1) in relation to a requirement referred to in subsection (1)(a), it shall be a defence for him to prove that he has taken all reasonable steps to comply with the requirement.
- (2B) If, in relation to any premises -
- (a) any requirement of a notice served under subsection (1) on

a person is not complied with, the Authority may -

- (i) remove any accumulation of water upon the premises;
  - (ii) take such other action as he considers necessary to prevent any accumulation of water upon the premises;
  - (iii) recover from the person any costs incurred by the Authority in the taking of the action under subparagraph (i) or (ii); or
- (b) any requirement of a notice served under subsection (1A) on a person is not complied with, the Authority may -
- (i) take such action as he considers necessary to prevent the breeding of mosquitoes upon the premises; and
  - (ii) recover from the person any costs incurred by the Authority in the taking of the action under subparagraph (i).”;
- (e) by repealing subsection (3) and substituting -
- “(3) If -
- (a) any larvae or pupae of mosquitoes are found on any premises; and
  - (b) the existence of such larvae or pupae on the premises is attributable to any act, default or sufferance of any person,
- such person shall be guilty of an offence.
- (3A) Without prejudice to subsection (3), if any larvae or pupae of mosquitoes are found on any premises which consists of a building site, the appointed contractor of the site shall be guilty of an offence.”;
- (f) in subsection (4), by repealing “subsection (1) and (2)” and substituting subsection “this section”;
  - (g) by repealing subsection (5);
  - (h) in subsection (6), by repealing “subsection (1) or (3)” and substituting “this section”.

## TOWN PLANNING

### *Yau Tong Bay likely to be halted by reclamation concerns*

Although the \$10 billion Yau Tong bay redevelopment plan has received approval from the Environmental Protection Department with respect to land reclamation, it still requires a green light from the Town

Planning Board.

Under the redevelopment plan, the heavily polluted Yau Tong Bay would be transformed into a 22-hectare residential and commercial development by reclaiming a total of 12.5 hectares of land from the sea. The site is owned by a Henderson Land Development-led consortium of more than 10 developers. The redevelopment plan envisages 38 residential blocks with a gross floor area of 9.7 million square feet.

As the public is strongly opposed to further reclamation of Victoria Harbour, the developers are pessimistic as to the progress of the redevelopment plan. The vice-chairman of Henderson Land said the redevelopment plan will face more obstacles as the developers have to demonstrate an “overriding public need” to justify reclamation, according to the Court of Final Appeal decision in 2003.

[SCMP, 7/5/05]

### *Save Our Shorelines issues alert over Lantau reclamation*

The Lantau Concept Plan, issued by the government, completed a 3-month consultation period at the end of February 2005. However, a green group, Save Our Shorelines (SOS), has criticised the Plan on the grounds that: (i) the Plan does not mention there will be an extra site allocated between Tai O and Tung Chung Bay, and (ii) the government has included a proposed Container Terminal 10 in the reclamation site shown in the Plan. SOS maintains that the government has deliberately concealed these facts so as to play down the extent of the proposed reclamation.

SOS also fears that the Plan will damage the island’s ecology and lead to deterioration in the quality of life for residents. The situation would be even worse if the Container Terminal 10 were to be built, as severe pollution caused by ships would adversely affect fish and water currents. The pink dolphins population—of which over 80% make their home in the waters off North Lantau—has dropped dramatically in recent years to only 150-200 animals. Building Container Terminal 10 would represent a further threat to the future of this rare species.

Legislators commented that the government should explain why the reclamation was necessary, as it would otherwise be impossible to obtain an endorsement of the Plan from Legco or even the Town Planning Board.

[SCMP, 8/5/05]

### ***Doubters question tourism plan for Wong Chuk Hang***

In view of the proposed \$5.5 billion revamp of Ocean Park, the government and some property developers want to transform Wong Chuk Hang and Aberdeen into a tourism hub.

The Town Planning Board has approved plans to replace nine industrial buildings in Wong Chuk Hang with hotels. Interested developers hold an optimistic view of hotel redevelopment in Wong Chuk Hang, owing to the site's proximity to some other tourist attractions, such as Repulse Bay and Deep Water Bay.

Developers are now negotiating land premiums with the government. Property consultants are of the view that the future of Wong Chuk Hang will depend on not only a strong tourism inflow, but also the outcome of the land premium talks.

However, some property analysts maintain a more reserved attitude to the potential of developing Wong Chuk Hang into a tourism destination. They pinpoint the absence of any supporting facilities, such as shopping malls and offices, to substantiate a customer base. A development relying solely on hotels would not be very profitable.

[SCMP, 18/5/05]

### ***Consultation on harbour's future re-launched***

A Victoria Harbour advisory committee has re-opened public consultation on improving waterfront road links connecting Wan Chai and Causeway Bay. To supplement the public consultation, a booklet titled *Harbour-front Enhancement Review - Wan Chai, Causeway Bay and the Adjoining Areas* was published by the Harbour-front Enhancement Committee. In fact, this booklet replaced an earlier version, which had been highly controversial due to the lack of consultation with members of the Committee in the course of its preparation.

One member of the Committee has expressed satisfaction with this latest version of the booklet, which now includes in its options the possibility of *no* additional harbour reclamation.

Whilst the government's objective is to resolve traffic jams in the Central business district, the principle that any harbour reclamation must be supported by "overriding public need", established by the Court of Final Appeal, must be adhered to.

The Committee says the current public consultation will be concluded in July. It will

be followed by a mapping out of more concrete options for the public to choose from, after which a master plan will be drafted for the approval of the Town Planning Board.

[SCMP, 23/5/05]

## **WEST KOWLOON CULTURAL DISTRICT**

### **West Kowloon Cultural District: an icon for culture and leisure**

#### ***Hong Kong's new cultural district***

According to the government, the West Kowloon Cultural District (WKCD) will be a landmark development that enhances Hong Kong's position as a world city of culture. The government believes the new cultural district will bring together a vibrant mix of performing and visual arts, and that the 40-hectare waterfront site will be both a showpiece for urban design and a meeting point for the local and international arts communities.

#### ***The core facilities***

The core facilities of the WKCD include:

- Three theatres with at least 2,000, 800 and 400 seats respectively;
- A performance venue with at least 10,000 seats;
- A cluster of four museums at least 75,000 square metres in size;
- An art exhibition centre at least 10,000 square metres in size;
- A water amphitheatre;

A canopy covering at least 55% of the development area is another core feature which was a pivotal influence, in February 2002, in the international jury's selection of the Norman Foster design from over 160 entries as the winner of an international concept plan competition. The Foster concept design was adopted as the basis for inviting proposals from the market in September 2003. By June 2004, five proposals had been received, three of which met the government's basic requirements. These three proposals are now being assessed.

#### ***Other highlights***

The District will integrate commercial and residential development with arts, cultural and leisure facilities. It will have at least 20 hectares of parkland and public open space, an area larger than Victoria Park. The waterfront promenade will be 50% longer than the promenade from the Tsim Sha Tsui clock tower to the Hong Kong Coliseum. An

automated people mover will link the major facilities within the District.

#### ***What happens next?***

The government has announced that it will take into account public views in selection of a preferred proposal out of the three short-listed proposals. It will then consult the Legislative Council (Legco) and the Town Planning Board (TPB) on the preferred proposal and seek approval from the Executive Council before signing a provisional agreement with the proponent. Next, the government will submit the agreed development parameters for the proposal to the TPB for incorporation into the draft Outline Zoning Plan (OZP). This will be gazetted for public inspection and comment under the *Town Planning Ordinance*. The TPB will then make its decision, after considering all representations received, and submit the amended Draft OZP to the Executive Council for approval. The Project Agreement will only be finalised and executed after completion of this statutory planning procedure and other relevant statutory procedures and approval by the Executive Council.

Once selected, the successful proponent will design, finance and complete the development of the project and operate, maintain and manage the core arts and cultural facilities for 30 years. Construction is expected to begin in April 2007, with the first phase of the project opening in 2011.

#### ***Single-development approach***

After weighing the pros and cons of single versus split tendering, the government believes that having a single developer to co-ordinate the project is the best option. The government considers a single-development is conducive to centralised planning and co-ordination, leads to smoother operation, economies of scale and lower costs, and provides for a shorter construction lead-time. On the other hand, splitting the contract could cause problems in aligning the design, construction and schedule of the infrastructure, such as the canopy and the automated people mover. Split tendering would also create additional costs and delays by forcing the government to sell separate parcels of land, which could take years, and by increasing the risk of litigation over separate land leases.

#### ***Public consultation***

To help the public to understand the screened-in proposals and to facilitate an informed discussion, the government is

staging a consultation exercise with exhibitions, and discussion forums for the public. In response to the request of Legco, and having reviewed progress made in the public consultation exercise, the government has decided to extend the consultation period to the end of June, 2005.

([www.hplb.gov.hk/wkcd](http://www.hplb.gov.hk/wkcd))

### Population cap mooted for cultural district

A limit on the number of people allowed to live in the WKCD is being considered as part of a government plan to dampen public criticism of the project. The proposal is one of several being considered in an effort to defuse opposition to the plan.

The project, on which the public is being consulted until June, has come under severe criticism from law-makers and the arts community over its single-developer approach and its giant canopy - the centre-piece of Lord Foster's winning blue print for the \$24 billion arts hub. Critics say the project could turn into just another property development, with the developer making a huge profit. The developer will manage the WKCD - including museums, performance venues and tenanted premises - for a guaranteed period of 30 years.

All three short-listed bidders in the tender have proposed a much higher population density for the 40-hectare site than the government's suggested plot ratio of 1.81. A move to cap the plot ratio might counter the widely held impression that the project is a property development in disguise.

[SCMP, 6/4/05]

### Surveyors call for scaled-down WKCD

The controversy over the WKCD could be resolved by the government by scaling back the project and leaving part of the 40-hectare site for public land auction, according to the Hong Kong Institute of Surveyors.

The Institute says the government owed the public an explanation as to why it had decided to give the cultural hub development to the private sector. However, it disagreed with suggestions from some critics that the project be scrapped altogether.

The Institute is preparing a number of alternative development models in an effort to resolve the controversy arising from the government's intention to award the project to single developer.

One of the Institute's proposed solutions is to scale back the 40-hectare project and put the remaining land up for public auction, which it believes will satisfy small developers, who have complained that they have been denied a role in the development.

The surveyors say the government should pick out the good parts from the three short-listed proposals and come up with a preferred master plan under a "mix and match" model. It should then tender the project on the basis of the preferred master plan. Only the three short-listed developers would be invited to compete for the contract.

Under the public-private partnership (PPP) system, the government could have an architectural design competition for individual buildings and facilities after the preferred master plan had been selected.

The Institute says that governments around the world used business case studies, or private sector comparators, to determine if a particular project should adopt a PPP approach. The Hong Kong government has to explain why it is not following this practice with the WKCD.

Despite its concerns, the Institute is convinced the cultural hub project should go ahead.

[SCMP, 6/4/05]

### Democrats fail to get arts hub site re-zoned

An attempt by the Democrats to impose stricter planning controls of the controversial WKCD project has been struck down by the Town Planning Board (TPB).

The Democrats' application was one of three seeking to re-zone the site from the existing "Other Specified Uses" (OU), relating to "Arts, Cultural, Commercial and Entertainment Uses", to the more narrow definition of a "Comprehensive Development Area" (CDA). The TPB rejected all three applications, stating:

"Members reaffirm that, given the unique nature and large scale of the development, a broad OU zone setting out an overall planning framework for various intended uses was considered sufficient in order to reflect the broad land uses and planning intention of the WKCD. A CDA zoning, while providing maximum planning control, might not be appropriate given the need to allow flexibility in drawing up the development proposals before finalising the development parameters for the WKCD."

Under a CDA zoning, the developer must

provide a master layout plan and any changes to the design would need the TPB's approval. An OU zoning does not require this.

A Democrat bid to have the TPB consider its re-zoning request in an open hearing was also turned down, on the ground that the proponent's request would have implications on other re-zoning requests submitted to the TPB.

[SCMP, 9/4/05]

### 'Unfeasible' canopy report sparks cultural hub row

A new row is brewing over the WKCD project after release of a report saying that the giant canopy concept insisted on by the government was considered unfeasible by a government-appointed expert panel four years ago. The allegation has prompted the Democrats to call for urgent discussions, in an attempt to force the government to disclose relevant papers.

"The canopy is not just a concept, as it involves \$7 billion to \$10 billion. It also guarantees a single-bidder approach and we need to know clearly what principles the government used for choosing to protect the public interest," medical sector legislator Kwok Ka-ki, who has written to the Legislative Council House Committee calling for a discussion to invoke the Council's special powers to obtain government documents relating to the project.

Democratic Party chairman Lee Wing-tat accused the government of not studying the design in detail before making the canopy concept mandatory for bidders, despite it being branded as structurally problematic by the technical panel.

In 2001 a government-appointed panel of technical experts expressed reservations about the giant canopy. The technical report was compiled by a government-appointed technical team to advise the judging jury on different designs submitted in the international WKCD competition. Their confidential report found that the panel—which studied the feasibility of the entries in an open competition conducted that year—selected 21 designs, but Lord Foster's was not among them. However, the jury selected Lord Foster's concept. The report stated that maintenance costs of the canopy were too expensive, and it was also an obstacle to opening the project to small developers.

Amid strong pressure from legislative councillors, the government on 18 April 2005 belatedly released the technical report, which

revealed that the technical team divided the 161 entries into three categories, with the jury only needing to consider those in the first two. The Foster design was listed in the second category, meaning it had striking features but posed challenges in construction.

Senior government sources stressed that the Foster design was in the second category because the design also involved the construction of a lagoon, which is prohibited under the Harbour Protection Ordinance. The lagoon has already been replaced by a water amphitheatre in the latest design.

[SCMP, 12/4/05, 19/4/05 and 23/4/05]

## HONG KONG BRIEFING

### Tax on plastic bags won't cut use, makers say

The Hong Kong Plastic Bags Manufacturers' Association is standing firmly against the imposition of a tax on plastic bags. They say that a levy would not be an effective way to reduce excessive use of plastic bags. Manufacturers also suspect that government officials are over-estimating the volume of plastic bags used in Hong Kong, which the government has quoted as an average of 33 million per day.

The Association, representing over 100 manufacturers based mainly in Guangdong, maintains that a tax might lead to fewer bags used by stores, but it might not reduce the overall volume of such waste. They point to the example of Ireland where a nine-pence "plastax" levied since 2002 has not reduced the overall use of bags. People take fewer bags from stores, but their use of bought plastic bin liners has increased.

The Association also criticised officials for not doing enough to promote the re-use and recycling of plastic bags within the community. Robert Yan Zhaojia, the Association's Technical Consultant, said that there was no effective mechanism to recover used plastic bags, and he suggested that the government should take a lead in recycling.

Regarding the use of degradable plastic bags, Mr. Yan said that such bags were normally 20 to 30 per cent more expensive and usually unattractive to buyers. Further, degradable plastic bags are not necessarily environmentally beneficial, as they cannot be recycled or re-used.

A spokesman for the Environmental Protection Department defended the government's estimate of plastic bag waste, saying that it was based on a survey of

landfills. Also, campaigns have been launched since 1994 to encourage people to reduce use of plastic bags and a separate scheme was introduced in 2002 to recover used plastic bags.

On average, 200,000 plastic bags are collected from 24 supermarkets and 36 housing estates each month for recycling. The average Hong Kong resident uses 1,800 plastic bags a year, compared with an average of 300 in Ireland.

[SCMP, 9/4/05]

### Plastic bag plans come in three sizes

The first option to reduce use of plastic bags is having consumers pay for the plastic bags they use. Taipei city is cited as an example. Its government prevents vendors from offering bags to shoppers without first asking if they want them, and those shoppers who want bags must pay for them.

The Secretary for Environment, Transport and Works said that the most important thing was that there to be a change of public attitude to the use of plastic bags. It was hoped that the number of bags used could be reduced first. The Secretary admitted that it would be difficult to enforce a charge-scheme, and there might be possible collusion if businesses were allowed to charge those who opt to use bags.

The second option is based on an Irish scheme, under which plastic bags importers are taxed. Implementation of this scheme would be difficult, however, as Hong Kong has more than 500 importers.

The third option is a direct tax on the bags consumers use. This is politically difficult, as it will be like introducing a sales tax when there is not yet one in Hong Kong. The Secretary did not commit to introducing a plastic bag tax, instead emphasising educating the public not to waste bags. The issue will be put to public consultation in March next year.

Friends of the Earth (FOE) says that the government must act soon. The number of plastic bags thrown away in Hong Kong each day has more than doubled from 15.5 million in 1999 to 33 million today. FOE suggests implementing the plastic bags tax first at supermarkets and convenience stores, before extending it to corner shops and wet markets. A 50-cent tax per bag would be a good starting point. FOE also advocates recycling programmes for plastic bags, and the introduction of larger, reusable bags.

[SCMP, 12/4/05]

### Minister denies rail project to blame for drier wetland

A small group of farmers claims that parts of the Long Valley wetland have become drier since construction of the Lok Ma Chau rail line extension began in 2003. Some farmers, who have been growing vegetables in the valley for many years, said that their monthly earnings had been reduced by half to about \$5,000.

The Secretary for Environment, Transport and Works responds that the shortage of rainfall was to blame for the problem, and that the environmental protection scheme has been very thorough in the Long Valley wetlands. However, the whole region has experienced a second year of dry weather, and it is a natural phenomenon that the water level in the wetland changes.

The Long Valley wetlands are the largest freshwater wetlands in Hong Kong after Mai Po, and are a haven for 210 species of birds.

The Conservancy Association says that the government should not jump to a quick conclusion without first sending experts to the site to assess the situation. The Association doubts such a large rail line construction project could have had no effect on the water level. Rather, the construction of the rail line could have changed the flow and the amount of water in the wetlands.

[SCMP, 12/4/05]

### Minister takes aim at plastic bags

The government is considering forcing retailers to charge customers for plastic bags. A continuing government study aimed at reducing use of plastic bags would also consider the implementation of the requirement. Similar restrictions have been introduced in some parts of Taiwan and South Africa. The legislation in Taipei restricts giving out plastic bags as freebies.

The Secretary for the Environment, Transport and Works has said that a charge on bags would be a very good deterrent to wasteful use of bags. However, it will take time for the government to decide how to implement a charge-scheme, whether that be by administrative or legislative means.

The supermarket chain Welcome says that any measure to restrict the use of plastic bags should be "equitable" to all retailers. Welcome has launched a campaign in which discounts on selected items are offered to customers if they elect not to use plastic bags. The Welcome chain is also selling its own environmentally friendly shopping bags.

[SCMP, 21/5/05]

### Opponents say incinerator would be world's biggest

Hong Kong's proposed mega-incinerator, capable of burning one tonne of waste every four minutes, will be the world's largest incinerator.

Friends of the Earth (FOE) criticised the government for relying on incineration of waste, rather than increasing the recycling of solid waste. The government is spending too much on getting rid of waste, rather than collecting and separating it at source, says FOE. Ironically, some incinerator operators in Taipei are facing problems of insufficient waste to burn, after the city adopted more vigorous measures to increase recycling and waste separation.

FOE has questioned why government officials could not divert their determination and efforts away from building the world's largest incinerators and instead strive for the world's best performance in recycling. FOE urged legislators not to consider incineration before there was a comprehensive policy for waste reduction and recycling in place. The Conservancy Association agreed that there was room for Hong Kong to increase recycling of waste.

However, Professor Poon Chu-sun, of Polytechnic University, said that the recycling rate could not simply be raised at any cost. It is difficult to go beyond an effective 50% recycling rate, and it is almost impossible to achieve 80% to 100% recycling. He warned that excessive recycling could create unwanted recycled waste, which might need to be dumped overseas.

Under the government's proposal, the recycling rate would increase from 40% of solid waste now to 50% by 2014. About 40% of rubbish would be incinerated. The rest would be treated biologically and buried in landfills. The government needs to plan large-scale waste treatment facilities because Hong Kong's landfills will be full in 10 years.

[SCMP, 24/5/05]

### Scientists call for war against invasion by nature's pests

Experts warn that up to 1,000 invasive pest species, from microscopic worms to parasitic snails and red fire ants, may exist in Hong Kong. New laws and resources are urgently needed to stop the introduction of any more new species and control existing ones before they become unmanageable or dangerous to

humans.

Richard Corlett, an Associate Professor of the Ecology and Biodiversity Department of The University of Hong Kong, said that species introductions were usually irreversible and thus care had to be taken. Dr. Corlett commented that legislation alone was not sufficient and resources had to be provided to the Agriculture, Fisheries and Conservation Department for monitoring and control.

Invasive species or pests include plant, animals and insects, which can pose a threat to local populations and mainland agriculture. Some examples are microscopic roundworm pinewood nematode, mile-a-minute vine creeper, house crow, feral dogs, red imported fire ant, brown or Norway rats, mosquito fish, the giant African snail and silver-eared mesia.

Dr Corlett said, for instance, the pinewood nematode had killed almost all Hong Kong's native pine trees in the 1980s and 1990s and the crow was potentially dangerous. The crow is a big problem in Singapore as the number of crows is more than 100,000, causing public health problems and raiding the nests of native birds.

An overseas study, analyzing 170 extinct species, showed that invasive foreign species were a major cause of many native species' extinction in recent decades. It was found that invasive species had been a contributing factor in 54 per cent of the cases and the main cause in the rest of the cases.

[SCMP, 24/5/05]

### HK's 'hot' dressers get a green dressing down

Friends of the Earth (FOE) suggests that Hong Kong office workers should dress casually for the office in summer to help cut down the need for air-conditioning in the interests of the environment. FOE says that the government and the Chief Executive should take the lead and set the pace in sartorial environmentalism so as to allow indoor temperatures to be kept at no lower than 25 degrees Celsius.

A survey of 17 office premises conducted by the Hong Kong Polytechnic University found that summer indoor temperatures of most offices were around 21C and 22C, with the coolest a winter-like 17.6C. It is common practice in Hong Kong to keep indoor temperatures low, with staff often having to wear jackets in summer.

Mei Ng, the Director of FOE, said that air-

conditioning accounted for 60 percent of the city's electricity consumption in summer. She pointed out that every one-degree Celsius rise in indoor temperature equated to a 3 percent saving in electricity consumption.

If everyone in Hong Kong maintained offices and homes at 25C or more, it would save about 330 million units of electricity and cut emissions of carbon dioxide by 2.5 million tonnes a year. It requires a forest eight times the size of Hong Kong to capture that amount of carbon dioxide in a year.

Ms. Ng urged people to make more use of electric fans, which consumed much less power, in order to keep indoor temperatures at comfortable levels. She also said that suits and ties were totally unsuitable for Hong Kong's hot and humid sub-tropical weather. Office workers should dress casually, with unbuttoned collars and short shirtsleeves, instead of relying on air-conditioning.

[The Standard, 30/5/05]

## ADVISORY COUNCIL ON THE ENVIRONMENT (ACE)

(ACE Paper 8/2005)

### Harbour Area Treatment Scheme (HATS) Stage 2

Results of public consultation show public support for early implementation of *HATS Stage 2* and the polluter-pays principle in respect to domestic and commercial waste discharge. The government is preparing to seek funding approval from the Finance Committee of the Legislative Council towards the end of 2005 so as to deal with the immediately time-critical elements of implementation and to remain on track for completing *Stage 2A* by 2013. The government and the community are keen to clean up the harbour, which will allow major water events, such as cross-harbour swimming contests, to take place again.

The Director of Environmental Protection ("DEP") explained that although the government was very keen on proceeding with *Stage 2* and was prepared to meet the capital costs of the entire project, it was not appropriate for the government to absorb the operating costs in an open-ended manner. Therefore, the implementation of *Stage 2A* and *2B* of such an essential, large-scale capital infrastructure project will depend heavily on public acceptance that recurrent costs should be met through sewage charges

imposed on domestic and industrial users.

In response to a member's question on the possibility of meeting the operating costs of the project from the government's General Revenue, the DEP emphasised that it was important to uphold the polluter-pays principle; the level of charges should reflect the level of usage or discharge, in order to encourage the public to reduce the generation of wastewater. This charging principle was similar to the charging policy for water supply.

A member of ACE said that the proposed implementation programme was reasonable and technically sound. However, the implementation of biological treatment under *Stage 2B* might not be necessary at this stage because *HATS Stage 1* is able to remove 65-70% of organic pollutants, whilst the added value of secondary biological treatment would only be 20-25% but the cost would be 3 to 4 times higher than that of the Chemically Enhanced Primary Treatment. Moreover, in addition to labour and electricity costs, the government should take into account the costly maintenance of the treatment plant and costs related to disposal of biological sludge.

However, it is believed that the water quality of the harbour would be improved with the implementation of *Stage 2A*. So the government should proceed with *Stage 2A* as soon as possible and closely monitor the water quality of the harbour. Before proceeding with *Stage 2B*, gradual degradation of the accumulated sludge at the seabed should also be closely monitored.

A member pointed out that South China Sea was seen as the basin of sewage effluent. Nutrient removal was necessary as a means of fulfilling Hong Kong's and the global responsibility for protecting the marine ecology. Nutrient removal was related to complicated biological reactions within the eco-system and the triggering threshold of the nutrient concentration in seawater. Efforts should be made to study the correlation between nutrient concentration and the formation of harmful algal blooms, by conducting biological monitoring of the water quality in the harbour as well as coastal waters of the South China region. *Stage 2B*, including the adoption of nutrient removal, will be reviewed in November 2010.

Through consultation with stakeholders, a number of criteria have been established and applied during the original assessment of the various HATS options and phasing of the project. A modeling exercise showed that most of the established criteria would be met

in 2013/14, based on the projected population growth. However, with further growth in the volume of effluent in the long term, it was predicted that there would be a large "footprint" of toxic ammonia, which would breach the established criteria. Similarly, it was predicted that there would be unacceptably low levels of dissolved oxygen along the shoreline of West Kowloon. For these reasons, *Stage 2B* would be necessary at some point in time.

A member enquired whether the target of completing *Stage 2A* in 2013 could be further advanced. An engineer in the Drainage Services Department explained that the critical part of the works was the construction of the sewage conveyance system which involves the construction of deep underground tunnels over 20km long and 130m deep. Before commencing construction, a long lead-time is required for a series of critical preparations, including site investigation, detailed planning and statutory procedures.

### Chlorination disinfection

A member re-capped some environmental specialists' concerns about the possible harm of chlorination disinfection raised at the ACE's open meeting. Most of the pathogenic organisms would die off if they were left in the natural environment. Studies also showed that chlorination disinfection might cause a mild health risk to swimmers. Therefore, he considered chlorination unnecessary. On the other hand, a desk-top assessment of the application of the chlorination / de-chlorination process indicated that environmental impacts were likely to be extremely low. Therefore, it was concluded that a very low level of chlorine dosage would be required to achieve the target of re-opening the beaches in Tsuen Wan.

A member expressed concern that the impact of chlorination on the marine environment and eco-system, in particular the adverse impact on fish and their habitats. The impact on fishermen's livelihood should also be taken into account. Another member considered that the potential harmful effects of chlorination would be minimal because chlorine would combine with ammonia in the waste water immediately at a speed of at least 1000 times faster than the reaction between chlorine and organic matter. Chlorination disinfection had been used relatively safely in the United States for 3 to 4 decades. However, it was a matter of government policy as to whether investment in chlorination disinfection for re-opening the beaches is justified. In conclusion, he

suggested that chlorination should only be applied during the swimming season so that the impact on marine ecology was minimised.

A member noted that according to medical and biological research, bacteria such as *E. coli* would degenerate rapidly in open sea water. Therefore, the *E. coli* standard of 610/100 ml currently adopted by the government as the water quality standard for beaches might not be accurate for open sea area and discharging points, which would lead to an unnecessary or increased application of chlorination disinfection. Therefore, he supported another member's suggestion of conducting more pathogenic studies at the effluent discharging points.

The DEP said that in view of overseas disinfection practices, the Administration found that chlorination was a cost-effective method of effluent treatment. He assured members that the government would move very cautiously on disinfection and would carefully assess the possible impacts of disinfection - in particular, the toxicity of chlorination and its impact on the environment - and alternatives to disinfection.

A member queried the cost-effectiveness of investing \$700 million in the disinfection facilities, with an annual recurrent cost of \$80 million, just for re-opening the beaches, which would benefit only a small number of people. Other members observed that this is a political consideration. Nevertheless, from the environmental protection point of view, there was a need to restore the water quality of the beaches to a healthier state. The government should be transparent in presenting the costs and benefits of chlorination disinfection, thereby letting the Legislative Council make an informed decision.

The DEP said that the government had to balance all the views in an even-handed manner. *Stage 1* involved the collection of sewage from other parts of the Territory and discharging the same at Tsuen Wan area. The Director of Audit and Tsuen Wan residents have criticised the adverse impact of the effluent discharge on the beaches. Therefore, it would be difficult for the government to proceed with *Stage 2* without rectifying the problem caused by commissioning *Stage 1*. Moreover, if disinfection was not applied, the water quality would further deteriorate as a result of an increase in the sewage flow due to *Stage 2A* and the population growth.

It was resolved that ACE -

- (a) supported the proposed implementation programme of HATS *Stage 2*;

- (b) urged an early implementation of Stage 2A;
- (c) considered that the need for Stage 2B and its timing should be considered, having regard to issues such as the effect of Stage 1 and population growth; and
- (d) hoped that the government would enhance the transparency of the whole process relating to HATS Stage 2, in particular the cost-benefit analysis of disinfection.

(Minutes of the 125th Meeting of the ACE, 9/5/05)

## REGIONAL & INTERNATIONAL

### China

#### *Pandas' food threatened*

A once-in-60-years flowering cycle in bamboo plants in China is threatening the country's wild giant pandas. China has carefully encouraged an increase in its panda population. There are now an estimated 1590 pandas in the wild. Pandas need to eat half their body weight in bamboo daily to survive, but will not eat it when the bamboo flowers. The flowering is followed by seed production, then the plant dies. Approximately 250 pandas died during a mass bamboo die-back in the 1970s, but animals who had access to more than one kind of bamboo survived. To alleviate the situation, authorities will move animals at risk to areas where there is still food, and are encouraging villagers to let them forage in settled areas.

[Weekend Australian, 2-3/4/05]

### World

#### *Environment damning report*

According to a report produced by 1360 scientists from 95 countries, human activity is irreparably damaging the world. *The Guardian* reported that according to the Millennium Ecosystem Assessment, overseen by a board headed by World Bank chief scientist Robert Watson, almost two-thirds of "the natural machinery that supports life on Earth" is being degraded by human pressure. "The ability of the planet's ecosystems to sustain future generations can no longer be taken for granted. By using up supplies of fresh groundwater faster than they can be recharged, for example, we are depleting assets at the expense of our

children," said Dr. Watson.

[Weekend Australian, 2-3/4/05]

### Hong Kong

#### *Don't be cold, be cool!*

According to research by the Hong Kong Polytechnic University, Hong Kong has earned the title as the coldest air-conditioned place in the world. Friends of the Earth has reminded Hong Kong people to use the air-conditioner in a sensible way. FoE advocates that we do not treat the air-conditioner as a freezer, as 25 degrees Celsius indoor temperature is comfortable enough. Employers should take the lead in dressing down in summer to save energy, the environment and to achieve thermal comfort.

FoE has launched its energy saving campaign on air-conditioning "Don't be Cold, be Cool!" to raise public attention to a bizarre cultural custom in Hong Kong whereby people lower the air-conditioned temperature and dress up for the artificially cold weather. FoE urges citizens to have a green summer by dressing down.

FoE points to Japan as an example in promoting energy saving. The Consul General of Japan says "Japan has been promoting 28 degrees Celsius indoor temperature. 20% of private companies have endorsed this indoor temperature with 50% of the companies in the private sector setting the indoor temperature at 25 Celsius."

Hong Kong's Japanese Consul points out: "We have been producing unprecedented amounts of CO2 ever since the industrial revolution two hundred years ago to suit our complicated lifestyle. The result is the climate change - the biggest disaster the mankind has to cope with in the future. The consequences of the climate change are going to exact far great damages than the South-Asian tsunami."

Choy So-yuk, chairman of the Environmental Affairs Panel of the Legislative Council, supports idea of dressing down: "A place so prestigious like Wall Street has accepted shirts as office wear. Hong Kong's hot and humid summer is not suitable for ties and suits like Europe, where the climate is different."

The Hong Kong Polytechnic University conducted a research on thermal comfort in office premises and found the indoor temperature of most offices is approximately 21 Celsius to 22 Celsius, with the coldest at 17.6 Celsius, far below the sensible 25 C.

FoE says, "The air-conditioning takes up

60% of the electricity in summer. With every single Celsius degree upwards on the air-conditioner, 3% of the electricity consumed in air-conditioning can be saved. If everyone in Hong Kong does so, about 330 million electricity units can be saved and the emission of around 233,000 tonnes of carbon dioxide can be avoided in a year. Otherwise, it would take a year for a forest three quarters of the size of Hong Kong to capture such an amount of carbon dioxide."

[http://www.foe.org.hk, press release on 29/05/05]

### Europe

#### *Victory in European Court of Human Rights*

On 14 June 2005 the European Court of Human Rights upheld the plaintiff's claim in *Fadeyeva V. Russia. Since 1982*, Ms. Fadeyeva had lived in a government owned apartment which was in a building situated next to a recently privatised steel manufacturing plant. She had been exposed to grossly excessive pollutants discharged by the plant, and now suffers serious health problems as a result.

The plaintiff could not obtain meaningful relief from Russia's domestic courts. She complained to the government, but it gave her no help, put her on an indefinite waiting list for a new apartment and took no steps to prevent the plant from emitting pollutants. Finally, Ms. Fadeyeva took the case to the Human Rights Court with the help of a Russian environmental organization.

The Court agreed with Ms. Fadeyeva that Russian citizens had a right to respect from others for her private and family life, her home and her "correspondence". A government is not entitled to interfere with this right. In this case, the Russian government had interfered by failing to require the plant to comply with satisfactory pollution regulations.

Evidence showed that in the area near the plaintiff's house, air pollutants often were more than 10 times the statutory maximum level. Importantly, the Court ruled that where pollutants exceed the statutory maximum, there is a presumption they are harmful to the health of the members of public exposed to them.

[Web bulletin, Environmental Lawyers Alliance Worldwide (ELAW), 14/06/05]

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