

**Convictions under environmental legislation: December 2005 and January to March 2006**

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

The EPD's summary of convictions recorded and fines imposed during the above period is as follows:

*December 2005*

Seventeen pollution convictions in December 2005

Four of the convictions were under the Air Pollution Control Ordinance, two under the Noise Control Ordinance, seven under Waste Disposal Ordinance.

The heaviest fine in December was \$45,000, assessed against a company for importing controlled waste without a permit.

*January 2006*

Thirteen pollution convictions in January

Seven of the convictions were under the Air Pollution Control Ordinance, four under the Noise Control Ordinance and two under the Water Pollution Ordinance.

The heaviest fine in January was \$25,000, assessed against a company which failed to comply with the requirements of a noise abatement notice.

*February 2006*

Twenty-three pollution convictions in February

Twelve of the convictions were under the Air Pollution Control Ordinance, eight under the Noise Control Ordinance, two under the Water Pollution Control Ordinance and one under the Waste Disposal Ordinance.

The heaviest fine in February was \$25,000, assessed against a company which used powered mechanical equipment not in accordance with permit conditions.

*March 2006*

Nine pollution convictions in March 2006

Three of the convictions were under the Air Pollution Control Ordinance and six under the Noise Control Ordinance.

The heaviest fine in March was \$75,000, assessed against a company which carried out notifiable works otherwise than in accordance with the construction dust regulations.

Printed Matter

Fred Kan & Co.  
Solicitors Suite 3104-07 Central Plaza  
18 Harbour Road Wanchai, Hong Kong



Printed on environmentally friendly paper.

# FRED KAN & CO.

Solicitors & Notaries

## URBAN PLANNING AND ENVIRONMENTAL LAW QUARTERLY

(Published since May 1992)

簡家驄律師行 · 城規環保簡訊

The Concept Plan for Lantau provides the latest example of the extent to which the government is prepared to commit to meaningful environmental conservation in the face of relentless pressure to use Hong Kong's scarce land and marine resources for development projects. Not surprisingly, the Lantau Plan indicates that concrete continues to reign supreme in the minds of our administrators.

The Editors

### CONTENTS

FEATURE:	Page
LANTAU DEVELOPMENT PLAN: A LITMUS TEST OF GOVERNMENT'S CONSERVATION CREDENTIALS .....	1
LEGISLATION DIGEST .....	3
TOWN PLANNING .....	4
WEST KOWLOON CULTURAL DISTRICT .....	5
HONG KONG BRIEFING .....	6
ADVISORY COUNCIL ON THE ENVIRONMENT(ACE) .....	7
REGIONAL & INTERNATIONAL .....	8
PROSECUTION STATISTICS .....	12

### LANTAU DEVELOPMENT PLAN: A LITMUS TEST OF GOVERNMENT'S CONSERVATION CREDENTIALS

#### Task Force

In February 2004 the Lantau Development Task Force was established by the government under the leadership of the Financial Secretary, Henry Tang.

The Task Force was asked:

- (a) to provide a planning framework to ensure a balanced and co-ordinated approach for various large-scale (and smaller) developments which the government hopes to undertake on Lantau Island; and
- (b) to ensure the timely provision and delivery of :-
  - (i) land and infrastructure required for the "planned projects", and
  - (ii) the planned projects themselves.

It will be immediately noted that from the outset the government has adopted its familiar approach in respect to major developments: that is, the "no development" alternative (to a greater or lesser extent) is not left on the table. The proposal will proceed, irrespective of environmental impacts. But it will be dressed up in the "sustainable development", "environmental impact assessment" rhetoric, which is meaningless unless the proposal (s) is made contingent on environmental clearance. [The Disneyland project illustrates the point very well. The environmental assessment followed the decision to proceed.]

As we shall see below, sure enough, at the end of the public consultation process, the government has

duly rejected without discussion all objections based on environmental grounds, and has confirmed its original development plans.

#### Concept Plan

In a joint meeting of Legco's Panel on Planning, Lands and Works and Panel on Environmental Affairs (22 November 2005) officials summarised the administration's overall planning concept for Lantau as a proposal for:

"...major economic infrastructure and urban development in North and North East Lantau to optimize the planned transport links and infrastructure, while protecting the other parts of Lantau, which comprise primarily high quality landscape and ecologically sensitive natural environment, for conservation and sustainable recreational and visitor uses."

The Task Force elaborated on four key development themes in the following terms:

- (a) Economic infrastructure and tourism:

To enhance Hong Kong's economic competitiveness, economic infrastructure and major tourism proposals have been identified. They include the Lantau Logistics Park, a cross boundary transport hub, the Sunny Bay Tourism Node, a possible theme park or major recreational uses at Tung Chung East, a golf course cum resort at North East Lantau and resort facilities at South Lantau.

- (b) Theme attractions based on heritage, local character and natural landscape:

These proposals are intended to harness the recreation potential and local attraction of rural Lantau while helping to improve the local economy. They include the setting up of a museum of Lantau and an eco-tour centre, giving Mui Wo a facelift, preserving the Tai O fishing village, and providing a cycle track network, water sports centres and boardwalks at South Lantau.

- (c) Maximising the recreation potential of country parks:

Additional facilities to promote a sustainable educational and recreational activities, including a comprehensive network of eco-trails and heritage trails and sites for modern camping, are considered suitable in selected areas in or around the country parks.

- (d) Meeting conservation needs:

To achieve balanced planning where development proposals are integrated with conservation needs, the implementation of the proposed Lantau North (Extension) Country Park and Marine Park in South West Lantau, as well as other nature conservation proposals are recommended in the Plan.

### Examples of planned development

Examples of planned development projects put forward by the Task Force are:

- (i) cross-boundary transport hub in north Lantau with connections to the proposed Hong Kong-Zhuhai-Macau Bridge;
- (ii) possibly, Las Vegas-style entertainment facilities in Tung Chung East;
- (iii) a substantial logistics park near the airport at Tin Ho Wan (involving reclamation);
- (iv) a leisure and entertainment node at Sunny Bay with various man-made features;
- (v) possible theme park or other recreational facilities at Tung Chung East;
- (vi) a golf course and resort at Tsing Chau Tsai;
- (vii) opening the coast line at Lower Cheung Sha and Chi Ma Wan for development of individual resort facilities;
- (viii) creating a cycle track and mountain bike trail network in South Lantau;
- (ix) constructing the Northwest Lantau Park;
- (x) proceed with Container Terminal 10 (reclamation of 245 ha.) near Tai O;
- (xi) extensive road works throughout Lantau.

### Conservation measures

The major conservation proposals and eco-education proposals are:

- (i) establishing a museum of Lantau and an eco-tour centre;
- (ii) preserving Tai O fishing village and setting aside a small surrounding area as a nature reserve;
- (iii) implement the long-standing proposal for an extension of Lantau North Country Park;
- (iv) implement existing proposal for a Marine Park in Southwest Lantau;
- (v) maintain vehicle permit system;
- (vi) protect several designated sites “of conservation value”;
- (vii) a broad proposal to support conservation of the coastal area in Southern Lantau;

- (viii) no recreational facilities to be established on reclaimed land.

### Public consultation

A relatively short three months public consultation period concluded at the end of 2004. Comments submitted were summarised by the Task Force for the joint Legco panels’ session in November 2005.

Overwhelmingly these comments criticised the Concept Plan for its general emphasis on, and bias towards, development at the expense of the environment.

We shall not attempt to examine in detail the numerous public responses to the concept Plan, but briefly outline examples of the main concerns evident from recurring comments:

- The administration made the fundamental error of presenting a final plan, in effect, as a concept plan, and then providing a symbolic public-participation process.
- The focus of the Plan is development-led, rather than addressing other equally important factors, such as protecting the environment, particularly fragile coastal and wetlands areas.
- Cumulative impacts have not been addressed properly.
- The Plan’s emphasis is on short-term and piecemeal development, little of which will benefit local communities.
- Construction of major roads in sites which will result in destruction of precious woodlands.
- Cycle and walking tracks are not desirable in fragile environments, as is the case with some of the Plan’s proposals.
- Some of the eco-tourism proposals are inherently anti-environment - such as constructing board-walks (using tropical timbers) with associated sea walls in fragile coastal eco-systems - and should be deleted.
- Several proposals are massive and by definition pose new threats to the island’s environmental health, as well as direct harm in the construction stages e.g. from extensive recreation.

Many of the submissions were from environmental NGOs, which some observers might consider reduces the objectivity of the submissions (although, generally speaking, NGOs have a deeper insight into and knowledge of environmental issues than those with vested economic exploitation interests). However, responses sharply critical of both the method of formulating the Plan and its content include one from the highly respected Kadoorie Farm and Botanic Garden Corporation (which is associated with the University of Hong Kong). Part of its detailed submissions read as follows (as summarised by the Task Force):

- KFBG rejects the Plan and calls for an immediate review under the auspices of both the Planning Department and the council for Sustainable Development in light of the outstanding policy and mitigation commitments of the Administration.
- The Plan is fundamentally flawed in failing to address the key conservation concerns on Lantau. Allocation of new resources for economic and conservation purposes is also

seriously imbalanced.

- The Plan represents an attempt to fundamentally change the long-term planning intention for Lantau by developing large-scale development scenarios and political expectations without subjecting them to the rigorous testing of the professional planning process or fair and open public consultation.
- The intentions for Northwest Lantau are conflicting.
- Strongly object to making implementation of the long-standing designations of Country Park extension and new Marine Park conditional on the planned developments proceedings, and resource availability.

Not all public submissions opposed the Plan. Rural and village councils and the H.K. Islands District Association endorsed virtually every development proposal, and generally called for less-rather than more - environmental protection, e.g. the Association suggests land designated for inclusion in the South West Country Park should instead be allocated to the logistics park. Perhaps these organisations’ approach reflects Hong Kong’s dedication to creating material wealth, which underscores successive governments’ reluctance to address environmental problems in a manner more in tune with modern thinking.

### Government’s response to public submissions

As mentioned - and predictably - the government rejected out-of-hand all submissions made to the Task Force. Without further discussion or exchange of ideas, the government posted its decision on the web (at its Environment News site), when it stated:

*“The government has adopted a balanced and sustainable planning approach integrating both development and conservation needs.”*

The government’s public announcement included the assertion that the “...community has enthusiastically responded to the proposals...” which is an extraordinary claim in the light of the preponderance of submissions rejecting most elements of the Concept Plan.

In addition to those rejection submissions, a joint statement, signed by 19 NGOs - including Friends of the East, green Lantau Association, Conservancy Association and World Wide Fund for Nature - calling for further discussion of the Plan was published on 1 March 2005.

The statement pointed out that the Plan concerns the single largest development project in Hong Kong’s history. Reclamation for just one “; planned development” - the logistics park - will be more than five times the size of the site for the West Kowloon Cultural District. Yet the government had prepared the Concept Plan without any public participation, had allowed an insufficient public consultation period, and had then ignored all submissions made in that process.

Again, unsurprisingly, the government summarily rejected the joint statement, whilst adding to the mothering - statements rhetoric in declaring an intention to forging a consensus on the Lantau Development Plan. Sadly, in the once peaceful environs of Lantau Island, the goddess of concrete will triumph once more!

**LEGISLATION DIGEST**

**Air Pollution Control (Vehicle Design Standards) (Emission) (Amendment) Regulation 2005 (L.N. 165 of 2005)**

[Made by the Secretary for the Environment, Transport and Works under section 43 of the Air Pollution Control Ordinance (Cap. 311) after consultation with the Advisory Council on the Environment]

1. Commencement: 1 January 2006.

2. Object of this Regulation

To amend the Air Pollution Control (Vehicle Design Standards) (Emission) Regulations (Cap. 311 sub. Leg. J) (the "principle Regulation) to: -

- (i) impose more stringent vehicle design standards in relation to the emission of air pollutant on certain motor vehicles which have a design weight of not more than 3.5 tonnes and are first registered on or after 1 January 2006; and
- (ii) require certain motor vehicles which are equipped with a positive-ignition engine or a compression-ignition engine, which have a design weight of not more than 3.5 tonnes and are first registered on or after 1 January 2006 to install an on-board diagnostic system.

3. The main amendments to the principle Regulation are as follows:

(A) A new section 7B is added:

7B. Vehicle design standards for certain motor vehicles registered on or after 1 January 2006

(1) Subject to regulation 9-

- (a) every private car or taxi which-
  - (i) is equipped with a positive-ignition engine;
  - (ii) is constructed to operate on unleaded petrol only;
  - (iii) has a design weight of not more than 2.5 tonnes; and
  - (iv) is registered on or after 1 January 2006,

shall be so constructed that the emission from that private car or taxi conforms to the standards specified in paragraph (a), (b) or (c) of Schedule 12;

- (b) every private car or taxi which-
  - (i) is equipped with a positive-ignition engine;
  - (ii) is constructed to operate on unleaded petrol only; has a design weight of more than 2.5 tonnes; and
  - (iii) is registered between 1 January 2006 and 31 December 2006 (both dates inclusive),

shall be so constructed that the emission from

that private car or taxi conforms to the standards specified in Part I(a), (b) or (c) of Schedule 10B;

- (c) every private car or taxi which-
  - (i) is equipped with a positive-ignition engine;
  - (ii) is constructed to operate on unleaded petrol only;
  - (iv) has a design weight of more than 2.5 tonnes; and
  - (v) is registered on or after 1 January 2007,

shall be so constructed that the emission from that private car or taxi conforms to the standards specified in paragraph (a), (b) or (c) of Schedule 12;

- (d) every private car which-
  - (i) is equipped with a compression-ignition engine; and
  - (ii) is registered on or after 1 January 2006,

shall be so constructed that the emission from that private car conforms to the standards specified in paragraph (b) of Schedule 12;

- (e) every taxi which-
  - (i) is equipped with a positive-ignition engine;
  - (ii) is constructed to operate on liquefied petroleum gas only; and
  - (iii) is registered on or after 1 January 2006,

shall be so constructed that the emission from that taxi conforms to the standards specified in paragraph (a), (b) or (c) of Schedule 12;

- (f) every goods vehicle or light bus which-
  - (i) is equipped with a positive-ignition engine;
  - (ii) is constructed to operate on unleaded petrol only;
  - (i) has a design weight of not more than 1.7 tonnes;
  - (ii) has a reference mass of not more than 1305 kg; and
  - (v) is registered on or after 1 January 2006,

shall be so constructed that the emission from that goods vehicle or light bus conforms to the standards specified in paragraph (a), (b) or (c) of Schedule 12;

- (g) every goods vehicle or light bus which-
  - (i) is equipped with a positive-ignition engine;
  - (ii) is constructed to operate on unleaded petrol only;

- (i) has a design weight of more than 1.7 tonnes but not more than 2.5 tonnes; and
- (ii) is registered between 1 January 2006 and 31 December 2006 (both dates inclusive),

shall be so constructed that the emission from that goods vehicle or light bus conforms to the standards specified in Part IV(a), (b) or (c) of Schedule 10B;

- (h) every goods vehicle or light bus which-
  - (i) is equipped with a positive-ignition engine;
  - (ii) is constructed to operate on unleaded petrol only;
  - (iii) has a design weight of more than 2.5 tonnes but not more than 3.5 tonnes; and
  - (iv) is registered between 1 January 2006 and 31 December 2006 (both dates inclusive),

shall be so constructed that the emission from that goods vehicle or light bus conforms to the standards specified in Part VI(a), (b) or (c) of Schedule 10B;

- (i) every goods vehicle or light bus which-
  - (i) is equipped with a positive-ignition engine;
  - (ii) is constructed to operate on unleaded petrol only;
  - (iii) has a design weight of more than 1.7 tonnes but not more than 3.5 tonnes; and
  - (iv) is registered on or after 1 January 2007,

shall be so constructed that the emission from that goods vehicle or light bus conforms to the standards specified in paragraph (a), (b) or (c) of Schedule 12;

- (j) every goods vehicle or light bus which-
  - (i) is equipped with a compression-ignition engine;
  - (ii) has a design weight of not more than 1.7 tonnes;
  - (iii) has a reference mass of not more than 1305 kg; and
  - (iv) is registered on or after 1 January 2006,

shall be so constructed that the emission from that goods vehicle or light bus conforms to the standards specified in paragraph (a) or (b) of Schedule 12;

- (k) every goods vehicle or light bus which-
  - (i) is equipped with a compression-ignition engine;

- (ii) has a design weight of more than 1.7 tonnes but not more than 2.5 tonnes; and
- (iii) is registered between 1 January 2006 and 31 December 2006 (both dates inclusive),

shall be so constructed that the emission from that goods vehicle or light bus conforms to the standards specified in Part V(a) or (b) of Schedule 10B;

- (l) every goods vehicle or light bus which-
  - (i) is equipped with a compression-ignition engine;
  - (ii) has a design weight of more than 2.5 tonnes but not more than 3.5 tonnes; and
  - (iii) is registered between 1 January 2006 and 31 December 2006 (both dates inclusive),

shall be so constructed that the emission from that goods vehicle or light bus conforms to the standards specified in Part VII(a) or (b) of Schedule 10B;

- (m) every goods vehicle or light bus which-
  - (i) is equipped with a compression-ignition engine;
  - (ii) has a design weight of more than 1.7 tonnes but not more than 3.5 tonnes; and
  - (iii) is registered on or after 1 January 2007,

shall be so constructed that the emission from that goods vehicle or light bus conforms to the standards specified in paragraph (a) or (b) of Schedule 12;

- (n) every light bus which-
  - (i) is equipped with a positive-ignition engine;
  - (ii) is constructed to operate on liquefied petroleum gas only;
  - (iii) has a design weight of not more than 1.7 tonnes;
  - (iv) has a reference mass of not more than 1305 kg; and
  - (v) is registered on or after 1 January 2006,

shall be so constructed that the emission from that light bus conforms to the standards specified in paragraph (a), (b) or (c) of Schedule 12;

- (o) every light bus which-
  - (i) is equipped with a positive-ignition engine;
  - (ii) is constructed to operate on liquefied petroleum gas only;
  - (iii) has a design weight of more than 1.7 tonnes but not more than 2.5

tonnes; and

- (iv) is registered between 1 January 2006 and 31 December 2006 (both dates inclusive),

shall be so constructed that the emission from that light bus conforms to the standards specified in Part II(a), (b) or (c) of Schedule 10C;

- (p) every light bus which-
  - (i) is equipped with a positive-ignition engine;
  - (ii) is constructed to operate on liquefied petroleum gas only;
  - (iii) has a design weight of more than 2.5 tonnes but not more than 3.5 tonnes; and
  - (iv) is registered between 1 January 2006 and 31 December 2006 (both dates inclusive),

shall be so constructed that the emission from that light bus conforms to the standards specified in Part III(a), (b) or (c) of Schedule 10C;

- (q) every light bus which-
  - (i) is equipped with a positive-ignition engine;
  - (ii) is constructed to operate on liquefied petroleum gas only;
  - (iii) has a design weight of more than 1.7 tonnes but not more than 3.5 tonnes; and
  - (iv) is registered on or after 1 January 2007,

shall be so constructed that the emission from that light bus conforms to the standards specified in paragraph (a), (b) or (c) of Schedule 12.

- (2) In this regulation, “private car” (私家車), “taxi” (的士), “goods vehicle” (貨車) and “light bus” (小型巴士) shall have the meanings assigned to them, respectively, in section 2 of the Road Traffic Ordinance (Cap 374).

(B) Regulation 14 is amended:

- (a) in subregulation (1)(b) by repealing “as amended by Council Directive 98/69/EC, both made by the Council” and substituting “made by the Council as amended by its subsequent amendments up to and including amendments made by Commission Directive 2003/76/EC”
- (b) in subregulation (1)(c) by adding “Land, Infrastructure and” before “Transport”;
- (c) in subregulation (3) by repealing “on or after 1 January 2002” and substituting “between 1 January 2002 and 31 December 2005 (both dates inclusive)”;
- (d) by adding
  - “(5) Every motor vehicle registered on or after 1 January 2006 under the

provisions of regulation 7B(1)(a), (b), (d), (e), (f), (g), (h), (j) or (n) shall be fitted with an on-board diagnostic system so constructed that it conforms to the requirements specified in the specifications referred to in subregulation (1)(a), (b) or (c).

- (6) Every motor vehicle registered on or after 1 January 2007 under the provisions of regulation 7B(1)(c), (i), (m) or (q) shall be fitted with an on-board diagnostic system so constructed that it conforms to the requirements specified in the specifications referred to in subregulation (1)(a), (b) or (c).”

(C) Schedule 12 is added:  
 Schedule 12  
 VEHICLE DESIGN STANDARDS (EMISSION) FOR CERTAIN MOTOR VEHICLES REGISTERED ON OR AFTER 1 JANUARY 2006

The Schedule specifies requirements to be applied for testing for various emissions standards.

## TOWN PLANNING

### Residential project in Ap Lei Chau

Developers paid a \$3.9 billion land premium for the right to convert an industrial site on Ap Lei Chau into a residential and commercial development. An analyst said that the premium was about 30% higher than the market expected and had raised projected development costs above secondary market prices.

In November 2005, the developers received approval from the Town Planning Board to increase the average flat size in the development from 670 to 1,098 square feet. The project will comprise eight 34 to 36-storey residential towers, providing 816 flats. The total gross floor area of the planned development will be 913,325 square feet. The project is planned to be launched in the middle of 2007.

After factoring in the land premium, the cost of the development will be \$6,000 per square foot, including building costs and interest rates. If the developers are to make a profit, the selling price of the flats will need to exceed \$6,000 per square foot. Currently, prices for new flats in the area range from \$4,000 to \$5,000 per square foot.

[SCMP, 25 January 2006]

### Rezoning of Causeway Bay government site

The Planning Department plans to rezone the former Electrical and Mechanical Services Department headquarters site in Causeway Bay, paving the way for a \$6.1 billion sale of the site for commercial or low-density housing.

The site is at 100 Caroline Hill Road, near the South China Athletic Association Sport Complex and the luxury residential complex Leighton Hill. The proximity to business and luxury residential areas provides flexibility in development of the site, which could be rezoned for comprehensive use. It is estimated that the site will be put on the land application list by next year.

Under existing planning regulations, the site is restricted to government and community use. The

Planning Department has been discussing rezoning with the Town Planning Board.

The site has been valued at over \$6.1 billion, or \$6,000 per square foot. Apartment prices in the completed development will range from \$8,000 to \$9,000 per square foot. Surveyors said that the 204,096 square foot site could provide a gross floor area of about 1,020,480 square feet.

[SCMP, 14 February 2006]

### Overhaul for Sham Shui Po

The Urban Renewal Authority (URA) unveiled a HK\$2.53 billion West Kowloon redevelopment project for three adjoining sites in Sham Shui Po. The URA intends to invite private developers to participate in the residential-commercial project four years ahead of the scheduled completion in 2013.

The URA will apply to the Town Planning Board for approval of a comprehensive development plan. It is expected that the town planning process will take about one to two years.

Covering a total area of about 80,000 square feet, the proposed redevelopment will be the largest redevelopment project in Sham Shui Po since 2002. The project affects 37 dilapidated residential buildings built in the postwar period, some as early as 1949. The project, located in Hai Tan Street and Tung Chau Street, will provide about 600,600 square feet of residential floor space allowing for more than 800 residential units, and 120,000 square feet of retail commercial space.

Approximately 385 separate property interests and some 680 households will be affected by the redevelopment. Approximately HK\$1.1 billion has been earmarked for land purchases and tenant rehousing, representing 44% of the total redevelopment costs.

[The Standard, 24 February 2006]

### Development plans in the New Territories

New World Development plans to develop a low-density residential project in Yuen Long. The site, which is agricultural land with an area of 262,749 square feet, is on Tong Yan San Tsuen Road. The developer plans to build 37 five-storey residential blocks providing 204 flats with a gross floor area of 275,888 square feet.

New World Development submitted an application and paid a \$200 million premium for the right to convert the site to residential use and to increase the floor-to-floor height. The Town Planning Board (TPB) will consider the application within two months.

Separately, Henderson Land plans to build a residential project on Fuk Hang Tsuen Road in Tuen Mun. The project comprises four eight-storey residential blocks on an 88,243 square foot site, providing 240 units with a gross floor area of 186,196 square feet.

The application was received by the TPB in February 2006.

Surveyors said that New World Development and Henderson Land had acquired the agricultural sites years ago but had only recently been encouraged to develop them after the property market's recovery.

Meanwhile, Hongkong Land submitted an application to the TPB for relaxation of building height restriction for its Lai Sing Court redevelopment project on Tai Hang Road. Hongkong Land sought to build two 55-storey residential blocks instead of 50-storey blocks for its residential project. However, the TPB has rejected the application on the basis that an easing in height restrictions would not benefit the community.

[SCMP, 4 March 2006]

### Tamar recreation bid rejected

The Town Planning Board (TPB) has rejected an application by the Action Group on Protection of the Harbour to have the planned HK\$5 billion government headquarters project at the Tamar site in Central turned over to recreational use.

The TPB concluded that there are insufficient grounds to overturn the government's proposal. The government's proposal sets aside two hectares of land for recreational purposes. The TPB considered it is not necessary to further increase recreational space at the site. With regard to the height of the proposed structure, the administration wing has already proposed to limit the height of buildings in the range of 130-160 metres. This limit should also effectively preserve the mountain ridge scenery.

The group is disappointed by the TPB's decision. It commented that constructing the new headquarters would affect the air flow in the Central and Wan Chai areas. On the other hand, developing a promenade at the site would offer another tourist attraction and bring considerable economic benefits. The group will seek legal advice to ascertain whether it can take the matter further.

The Democratic Party previously expressed reservations about the government's headquarters plan. It has raised a counter-proposal suggesting that the government downsize the project by between a third and a half, and increase the proportion of recreational space for the public. The party stated that a smaller government headquarters building and larger share of the site for public use were the best ways to strike a balance between the government's need for new headquarters and the public's demand for shorefront recreational areas. The party remains flexible and is willing to further negotiate with the administration.

The Democratic Alliance for the Betterment and Progress of Hong Kong still stands by its well-researched and thoroughly studied proposal to move the government headquarters from Lower Albert Road to the vacated former Kai Tak airport in order to stimulate the redevelopment of South East Kowloon. However, the Alliance considers that there is no pressing need to come to an immediate decision on relocating the government headquarters.

The director of the Chief Executive's office has approached pan-democracy lawmakers seeking full backing for the Tamar plan. With 21 legislators from the Liberal Party, the Alliance and independents already supporting the plan, a government source said that the administration was optimistic it could secure more than 30 supportive votes for approval of the Tamar plan.

[The Standard, 11 March 2006]

## WEST KOWLOON CULTURAL DISTRICT

### Delete residential component

The demise of the West Kowloon canopy is not a surprise, but a relief to those who are concerned about Hong Kong's future. Both the government and the Legislative Council will become even more popular if the government is willing to make two more concessions to the re-thought "five basic concepts" for the development of the West Kowloon Cultural District.

First, the "residential component" should be deleted from the first concept. Residential use is not related to the other elements such as cultural, artistic, entertainment and commercial uses. A few residential buildings for the elite in the cultural district are a complete misfit and will disrupt harmony in the community. As the recent harbour-business survey has shown, 88 per cent of the people are calling for more green space and sensitive development of the harbour front.

The second concept, the public-private partnership which the government is still studying, is regarded by the public as collusion between government and developers in disguise. The government should abandon this concept in view of the overwhelming preference for a cultural green park with no participation by property developers. An example of how such a partnership can fail is the new airport exhibition halls, with which there are many problems.

The government's reaffirmation of "partnership-building" in concept five is also out of place. It is impossible to envisage how to persuade the few profit-oriented developers not to increase their profits, since none is known as generous in the support of the art and culture communities.

The chairman of the future Culture and Parks Authority, whose appointment is short term, will enforce the agreement. The chairman should be a person with experience and capability in management, vision and passion in art and culture, and with concern for the legacy of Hong Kong.

Property prices at West Kowloon are already rising following the demise of the mandatory giant canopy component. If the government confirms that the cultural-district land is not for sale, developers' focus will shift elsewhere, such as Kai Tak, which is ideally located for a high-class residential centre.

[SCMP, 1/3/06]

### Give us a park, not a cultural hub, say residents

The general public in Hong Kong want the multibillion-dollar West Kowloon Cultural District development shelved and replaced by a waterfront park with some cultural facilities. A University of Hong Kong survey found 81 per cent of Hong Kong residents want cultural and leisure facilities and a large park, whilst 11 per cent did not want any commercial or residential sectors on the 40-hectare slice of prime harbour front. The result is a further blow to the government, following a Legislative Council subcommittee's report which attacked the government's proposals for the site which already have been modified in an attempt to placate critics.

The survey of 510 residents also found 62 per cent believed Hong Kong needed more parks and open

space and 65 per cent thought there had been too much harbour reclamation and the city's international reputation was falling behind cities like London, New York, Sydney and Vancouver. However, the government was unmoved, claiming that the arts hub in West Kowloon would attract tourists, enhance cultural development and create jobs.

The government recognises the desire of the public for more open space such as parks and that public open space in the West Kowloon Cultural District should not be less than half of the total area. Robert Chung Ting Yiu, the director of HKU's public opinion programme said that this survey shows a significant difference between the government and Hong Kong people, and that it is time for the government to start to listen to the people instead of forcing them to march in the streets or do something more radical.

The project was originally supposed to be a park and the survey proved the government should never have altered that plan. This is the last valuable slice of land on the harbour front and there is the chance to build a real cultural landmark for Hong Kong. The government has to start listening to what Hong Kong people want. However, most people remain ill-informed about the West Kowloon Cultural Hub.

[SCMP, 24/1/06]

### Community input key to success of arts hub

The West Kowloon Cultural District project is doomed if it continues with its tourism-oriented and top-down approach, predicted renowned international cultural consultant, Robert Palmer, who has been an adviser to European, North American and Southeast Asian countries on cultural planning for more than 20 years. He warned that cultural development is not a mathematical formula. Mr Palmer, who spent 10 years overseeing a cultural regeneration project in Glasgow and now advises the European Commission, said that if the project aims to attract tourists, it is doomed, given the volatile nature of tourism.

The government has been preoccupied with property issues and tourism instead of thinking about the project's details.

The government has not looked into the relationship between different elements which is like closing your eyes and putting your money somewhere without understanding how cultural facilities should operate. Mr. Palmer urged Hong Kong to learn from other cities to avoid the pitfalls often associated with cultural developments.

Mr. Palmer said the WKCD plans are offering a legal framework and land use which failed to address key intangible factors, including memories, stories and attitudes of local people. This led to divisions in society, which in turn limited the impact of the plans. Although public consultations were held, the public could only vote on details of the plan rather than participating in constructing the framework. Mr Palmer encouraged the Hong Kong government to decentralise decision-making in the West Kowloon project. He emphasises cultural planning needs to be horizontal, holistic and joining things up rather than continuing the city's history of fabrication and disassociation. The government needs to map out the cultures in the city to identify the resources it already has, and focus on capacity building and sustainability.

Alan Leong Kah-kit, who sits on the Legislative Council's subcommittee on the West Kowloon Cultural District, said community needs were ignored in the project and the government has admitted that the museums, coliseums and exhibition areas it requires of the project are supply-led instead of need-based.

[SCMP, 8/11/05]

### Expert calls for a long-term cultural policy

Culture critic Mathias Woo Yan Wai has urged the government to implement a long-term policy on art development to get the best out of the West Kowloon Cultural District (WKCD) project. Mr. Woo is a leading member of independent art and cultural group Zuni Icosahedron. The Legislative Council subcommittee on WKCD recently recommended the government adopt traditional land-sale procedures and use the proceeds to promote cultural activities. It called on the government to give real power to a statutory authority that will supervise the project. The subcommittee criticised officials for not having a proper cultural policy, saying that it was not enough to draw up plans to provide several performing venues.

However, the Chief Secretary Rafael Hui Si Yan has hit back at the panel's report and described proposals to finance the arts hub element of the project with land sales as outdated and impractical. Mr. Woo said he was disappointed with the rift between the government and the Legco, and that both sides had ignored the importance of a long-term cultural policy laid down by art and culture professionals. Mr. Woo, who is an architect, said a committee should be established to monitor Hong Kong's art and cultural policy in the long run instead of just focusing on the West Kowloon project. The policy should be driven by insiders, namely art and culture professionals, but the government lacks actual data and solid case studies to introduce such a policy. The success of the project depends on the content, not on the property elements.

Mr. Woo criticised legislators as having "no sincerity" and "no knowledge of art development". "The basic element we need is to provide a market for art. There is a lack of art education, which leads to Hong Kong people being spoon fed with junk-food art," he said. Mr. Woo has tried to raise public awareness of WKCD's effect on Hong Kong arts through different aspects, including the needs of art practitioners, infrastructure and planning of the cultural district, as well as cultural policy.

[SCMP, 11/1/06]

## HONG KONG BRIEFING

### Wind farm may blow more than it's worth

British wind energy company Wind Prospect is finalising its feasibility study into building up to 50 offshore wind turbines in the Ninepin islands to supply power to the residents of Tsueng Kwan O. A source said the estimated construction costs could be as much as \$2.8 billion, excluding any land costs imposed by the government.

Under the government's proposed electricity market reform, investment on renewable energy will be rewarded with a permitted return of up to 11 per cent.

If built, the project might be one of the largest offshore wind farm projects in the world and the biggest in Asia. However, the total power-generation capacity would meet only 0.7 per cent of the city's Hong Kong's requirements.

The proposal was cautiously received by green groups. Greenpeace expressed the view that CLP Power and Hongkong Electric (Holdings) should be encouraged to invest in renewable energy projects. Friends of the Earth urged Wind Prospect to provide more detailed financial information of the projects and commented that a wind farm in the mainland could be more cost-effective.

[SCMP, 19/2/06]

### Warning of disaster from Hong Kong's pollution

Professor Hedley, chair professor in community medicine at the University of Hong Kong, has called for action to clear Hong Kong's air before a pollution disaster hits the city.

Recorded pollution levels earlier in February show that nitrogen dioxide and particulate levels in the air reached 150 to 200 micrograms per cubic metre. The levels were seven times higher than those considered dangerous in Canada and New Zealand for particulates, and five times the WHO European guideline for nitrogen oxide.

Professor Hedley warned of the risk of a disaster, as "the Asian Brown Cloud" shows a continuous haze over most of Asia and Hong Kong. If present trends continue, effects of air pollution could possibly be catastrophic.

Everyone is exposed to the risk of damage to heart, lung and arterial systems from breathing air-pollutants. The estimated cost of consequences of sickness from pollutants to hospital, government services and companies is more than \$1.3 billion annually. 3,500 to 4,000 people die in Hong Kong each year from pollution-related illnesses, such as heart and lung diseases and strokes

A slight reduction of pollutants can have dramatic effect on lives and the environment. For example, the Environmental Protection Department (EPD) restricted sulphur content of fuel oil to 0.5 per cent by weight in 1990. Since then, the levels of sulphur dioxide had been greatly reduced, especially in the heaviest polluted districts, and pollution-related deaths fell by 600 a year with benefits to all age group over 45. The reduction in respiratory deaths was nearly 5 per cent a year.

Professor Hedley said that it was a disgrace that the evidence of the affects of pollution is not being translated into an effective policy aimed at eliminating the problem.

[SCMP 19/2/06]

### Tenders invited for constructing EcoPark in Tuen Mun

The EPD is now inviting parties with relevant experience and expertise to bid for the tender to construct an EcoPark near Tuen Mun. The 20-hectare EcoPark is one of the key elements of Hong Kong's waste management strategy to promote its local recycling and environmental industry.

EPD's spokesman said the objective of establishing the EcoPark is to provide the recycling industry with a long-term site equipped with basic

infrastructure and at affordable rental, and to encourage the industry to put more investment in advanced and value-added recycling processes.

The successful bidder is required to construct infrastructure for the EcoPark. Phase 1 is expected to be available for occupation by tenants by the end of 2006 and the whole project is scheduled for completion by the end of 2009.

[HKSAR Government News, 24/2/06]

### Construction waste disposal charges start on 20 January 2006

Charges for disposing of one tonne of construction waste at public fill-reception facilities, sorting facilities and landfills are \$27, \$100 and \$125 respectively.

Under the Construction Waste Disposal Charging Scheme, construction waste producers are required to open billing accounts with the EPD in advance for disposing of construction waste. Anyone disposing of construction waste at public fill - reception facilities, sorting facilities and landfills is required to hand in chits issued under a billing account on delivery of waste to these facilities. As at 13 January 2006, EPD had received more than 10,000 billing account applications.

EPD warned against illegal disposal of construction waste. Those who commit such offences under the Waste Disposal Ordinance are liable to a maximum penalty of \$200,000 and six months' imprisonment. EPD will take enforcement action against any "fly-tipping" activities, i.e. illegal dumping of waste.

Under the Charging Scheme, a tripartite working group with representatives from waste haulers, construction trades and government departments was formed at the end of 2004 to work out the implementation details. The working group has provided a very useful channel for close liaison among relevant stakeholders, and all three parties agreed that the working group should continue after the Charging Scheme comes into operation.

Dry runs have been carried out since July last year to familiarise the construction industry and waste haulers with the operational details and to fine-tune the logistic arrangements.

[HKSAR Government News, 18/1/06]

### Energy conservation best option to reduce remissions

Much of the effort in improving our environment has been vitiated by the increase in polluting emissions from local power generators, said the Environmental Protection Department in a press release issued two days after the Hong Kong Marathon on 12 February 2006 was marred by air pollution

The government has increased pressure on CLP Power and Hongkong Electric (Holdings) to reduce polluting emission. Emission reduction by power companies is critical for Hong Kong to meet its emission reduction targets by 2010, as stipulated in an agreement with the Guangdong provincial government.

There are several ways to meet the emission targets by 2010. Emission reduction devices such as flue gas de-sulfurisation and selective catalytic reduction that drastically reduces sulphur dioxide

and nitrogen oxide emissions can be installed. CLP will begin using more Envirocoal, with sulphur content of 0.1 per cent, thereby cutting sulphur dioxide emissions. Both CLP and Hongkong Electric are exploring more ways to generate power by using natural gas, which is far less polluting than coal or oil.

It is also hoped that the emission trading scheme, which is currently being formulated by the Hong Kong and Guangdong governments, will offer a framework of financial incentives for investment in cost-effective ways in reducing emissions.

Greenpeace has said that it was encouraging that the government had considered environmental aspects in developing energy policy. However, it was time to switch from burning coal to using renewable energy, which is the only basis for long-term solution to air quality and energy use.

The Council for Sustainable Development's renewable energy group holds a different view. It said clean energy would have no impact on regional air quality within the short to medium term. Instead of using renewable energy, emphasis should be put on energy conservation and higher energy efficiencies. A 10 to 15 per cent saving in energy consumption can be achieved if consumers are more aware of energy conservation.

The government is taking the lead in energy conservation. It aims to cut electricity consumption by 1.5 per cent in government at office buildings annually. Legislation for compulsory labelling of energy efficiency of electrical goods is also under consideration.

[SCMP, 24/2/06]

### Producer responsibility framework to be introduced

Laws will be introduced this year providing the framework for producer responsibility schemes, which will assign appropriate parties to collect, recycle and properly dispose of used products that do not have a ready market; product-specific measures will be introduced through subsidiary legislation.

A voluntary producer responsibility scheme for recovering rechargeable batteries was implemented last year.

With the source—separation programme, municipal solid waste charging and mandatory producer responsibility schemes being put in place, the Secretary for the Environment, Transport & Works said that the average recovery rate for domestic waste will increase from the present 14% to 20% by 2007 and to 26% by 2012.

[HKSAR Government News, 11/1/06]

## ADVISORY COUNCIL ON THE ENVIRONMENT (ACE)

### Kai Tak Planning Review - Stage 2 Public Participation : Outline Concept Plans

(ACE Paper 29/2005)

#### Background

Stage 1 Public Participation of the Kai Tak Planning Review was undertaken between

September 2004 and November 2004. This exercise aimed to engage the public at the beginning of the study process to develop the community's visions for this major waterfront development site in Victoria Harbour.

#### Background

A wide range of public engagement activities, including 3 public forums, 1 community workshop, 20 briefing sessions, etc. were undertaken in Stage 1 Public Participation to collect comments and suggestions from the community. The community responded positively with over 500 participants recorded in these events, about 250 written submission received. The community workshop produced nine development concepts for Kai Tak.

Based on the views received in the Stage 1 Public Participation, 3 Outline Concept Plans (OCPs) have been prepared for further public discussion.

#### The proposals

In the Stage 2 Public Participation, 3 OCPs are put forward to enable the community to formulate their views on the development concept for Kai Tak. In view of the Court of Final Appeal's judgment handed down in January 2004 laying down governing principles for Harbour reclamation, a "no reclamation" scenario has been adopted as the starting point in preparing these development concepts.

#### The main themes of the 3 OCPs are as follows:

- (a) The City in the Park concept (OCP1) aims to create two distinct residential neighbourhoods, with a high-density residential/stadium district in the North Apron Area and medium density residential developments on the runway island. This residential focused scenario is expected to house an overall population of about 128,000 and will create an estimated 32,000 jobs in the construction phase.
- (b) The Kai Tak Glamour concept (OCP2) aims to regenerate the economic role of the ex-airport site by providing: a high density office node adjoining the multi-purpose stadium in the North Apron Area; medium density residential development on the runway island; and a cruise terminal and tourism node at the runway end. The office and tourism focused scenario will provide a lower residential population level of about 97,000. The employment level in this concept is about 75,000, which is the highest among the three concepts.
- (c) The Sports by the Harbour concept (OCP3) aims to promote a sports and recreation hub, with low to medium density residential neighbourhoods established around recreation facilities to reinforce a green and lively urban district. A lower residential population level of about 69,000 and employment level of about 56,000 are envisaged under this OCP.

Reclamation has not been proposed under any of the OCPs to tackle incumbent environmental problems at the Kai Tak Approach Channel (KTAC). Field surveys on water quality and odour, and pilot tests of treatment of contaminated sediments, which are normally undertaken as part of the Environmental Impact Assessment (EIA) process in the Engineering Review, have been advanced to facilitate identification and evaluation of the effectiveness of various measures to mitigate these environmental problems. The current target is to obtain assessment findings and analysis by

2006.

The environmental acceptability of the Kai Tak Development, irrespective of which OCP is adopted, cannot be confirmed unless and until an EIA study under the EIA Ordinance is completed. Reclamation of KTAC as an approach to tackle the environmental problems should not be ruled out at this stage.

It should be noted that the draft OCPs are not development options to choose from, but are intended to provide a basis for public discussion on possible development proposals on the Kai Tak site.

*[Minutes of the 131st Meeting of the ACE, 21st December, 2005]*

### A Policy Framework for the Management of Municipal Solid Waste in Hong Kong

(ACE Paper 30/2005)

#### Purpose

This paper informs Members of the publication of the document "A Policy Framework for the Management of Municipal Solid Waste (2005-2014)" (the Document) which sets out a comprehensive strategy for the management of municipal solid waste (MSW) in Hong Kong for the ten years from 2005 to 2014.

#### Background

Hong Kong has an urgent waste problem to tackle. At present, we rely solely on our landfills to meet our waste disposal need. As the economy continues to grow, and if waste is allowed to increase at the current rate, our projections predict that the remaining landfill capacity will be exhausted in the next 6 to 10 years. This means we would have to identify about 400 hectares of land (ten times the area reserved for the West Kowloon Cultural District) for new landfills to serve Hong Kong up to 2030.

The government has conducted a number of studies on the subject, all of which point to the setting up of thermal treatment facilities, such as incinerators, for treatment of waste. The subject was discussed at the Panel on Environmental Affairs (EA) of the Legislative Council on 28 February 2005 and 23 May 2005. Deputations were invited on 23 May 2005. On July 2005, the EA Panel Members passed a motion to urge the government to include in the evolving strategy document on MSW management: a holistic and comprehensive plan; targets and timeframes for measures on waste avoidance and minimisation; recovery, recycling and reuse strategies; as well as bulk reduction and disposal of un-recyclable waste.

Separately, the Council for Sustainable Development (SDC) conducted a public engagement process on three pilot areas, one of which is solid waste management, and published its report with recommendations in February 2005. Some of the recommendations were that the government should introduce economic measures to reduce waste and to identify alternative forms of waste treatment.

#### The Policy Framework

Taking into account the recommendations in the SDC's report, the LegCo EA Panel's Motion, we have mapped out a comprehensive strategy for

MSW management. The strategy continues to adopt the three-tiered waste hierarchy with specific targets for each of the three approaches, as contained in the government's sustainable development strategy on solid waste management published in May 2005. These targets are -

#### Target 1 - Waste avoidance and minimization

- To reduce the amount of MSW generated by 1% per annum up to the year 2014

#### Target 2 - Reuse, recovery and recycling

- To increase the recovery rate of MSW to 45% by 2009 and 50% by 2014.

#### Target 3 - Bulk reduction and disposal of unavailability waste

- To reduce the total MSW disposed of in landfills to less than 25% of current quantities by 2014.

#### The Document

The Document sets out the proposed way forward on MSW Management for the next decade. The emphasis is on both community participation and the "polluter-pays" principle. The following major initiatives are proposed in the Document -

- (a) expedite the roll-out of territory-wide waste recovery programmes to increase the volume of local recyclables;
- (b) introduce mandatory producer-responsibility schemes (PRSS) through new legislation after detailed studies of product-specific measures;
- (c) examine ways of introducing charging for MSW;
- (d) continue to encourage waste recycling through provision of short-term tenancies (STTs) of suitable sites for longer duration with appropriate conditions for local waste recycling businesses assessed on a case by case basis where circumstances warrant;
- (e) continue to develop the EcoPark exclusively for the environmental services industry;
- (f) all government departments to adopt a green-procurement policy as far as practicable;
- (g) continue to encourage the development of recycling technology projects through the Environment and Conservation Fund (ECF), the Innovation and Technology Fund and funds for small and medium enterprises;
- (h) introduce landfill disposal bans to complement the PRSS;
- (i) develop Integrated Waste Management Facilities (IWMF), adopting incineration as the core technology; and
- (j) extend existing strategic landfills.

Many of the above policy measures - especially source separation, mandatory PRSS and support to the recycling industry - have been followed by many developed countries such as Canada, the US and European countries for more than a decade. Our neighbouring countries and cities, such as Japan, Korea and Taipei, have also implemented successfully such policy measures during the last few years. Some provinces and municipalities on the Mainland have also launched programmes to promote modern MSW management and circular (use of resources) economy. Hong Kong is clearly

lagging behind. Being Asia's World City, we have to embark on a new and decisive direction to manage our MSW sustainably.

#### Way Forward

The Document proposes simple, yet effective, economic tools based on the "polluter-pays" principle that would create incentives for the community to recycle more and discard less waste. The public will be invited to discuss the measures and agree to the milestones set out in the Document, and to endorse their expected share of contribution to recurring costs of waste disposal under the "polluter-pays" principle through MSW charging and PRSSs.

*[Minutes of the 131st meeting of the ACE, 21st December, 2005]*

## REGIONAL & INTERNATIONAL

### China

#### Guangdong advised to focus on pollution from farms

The massive amount of farm run-off and sewage flowing into the Pearl River every year means the Guangdong provincial government needs to focus urgently on rural environmental protection. Liang Lianluan, a Guangzhou professor who has advised the government on environmental matters, urged officials to set up a unified framework for rural pollution prevention. Such a system was needed because farm run-off had overtaken industrial discharge as the chief source of contamination in the province. Nearly 4.5 million tonnes of contaminants flowed into the Pearl River in the past two years, according to bulletins issued by the Beijing-based State Oceanic Administration.

Professor Liang said between 30 and 60 per cent of the pollution came from farms, adding that Guangdong farmers used nearly twice as much chemical fertilizer as the national average. Farmers are not conscious of the need for strong environmental pollution controls and the government's environmental protection efforts have just concentrated on urban areas in the past few years. He said the main problems for rural environmental protection were overcoming farmer resistance and a lack of funding. There are no proper drainage systems in rural areas and farmers are just channelling all untreated run-off into the nearest waterway and from there it finds its way into the Pearl River.

Professor Liang said it was simple to treat farm effluents, but there were few people available to teach farmers how to do it. First, the government has to build up an interconnected drainage system among villages, and then provide grants or loans to farmers to set up small on-farm treatment stations. He suggested the government encourage engineering students to go to the countryside to teach farmers how to build drainage systems.

*[SCMP, 13/02/06]*

#### Corrupt officials targeted in war on pollution

The central government vowed to tackle widespread corruption, which is blamed for worsening pollution and environmental disasters, and has announced a new regulation to control officials responsible for environmental degradation. Unlike previous laws that have mostly

targeted polluting enterprises, the regulation unveiled by the State Environmental Protection Administration (Sepa) and the Ministry of Supervision is designed to hold government officials legally responsible if they turn a blind eye to environmental degradation.

Li Yufu, a vice-minister of supervision, blamed the pursuit of economic development at the cost of environmental protection by corrupt and negligent officials for worsening the environmental situation. He stated that some local governments and departments pay too much attention to economic development and too little attention to environmental protection, and even issue local policies to restrict and obstruct the enforcement of green laws. Mr Li said local officials were often unable to stop rampant violations of the law due to the lack of detailed rules designed to hold the culprits responsible. They have been urged never to tolerate anyone who violates the country's green laws and fully to investigate dereliction of duty and corruption behind law-breaking activities.

Deputy Sepa director Zhu Guangyao said the regulation would become a turning point in strengthening law enforcement which must start with the investigation of serious cases. He named 11 waterside factories and 10 projects which caused serious pollution or pose serious hazards, and vowed to investigate 127 petrochemical plants, involving a total investment of 450 billion Yuan. He also said both ministries planned further crackdowns on major polluting enterprises.

According to Mu Guangfeng, who is in charge of Sepa's environmental assessments, the anti-corruption regulation was designed to combat rampant graft during the process which is required by the country's Environmental Impact Assessment Law.

Jin Ruilin who is an environmental law expert from Peking University, said the new regulation was a necessary step in reducing corruption among officials. The regulation will help environmental authorities strengthen their role as a supervisory and law enforcement department in their dealings with powerful enterprises and local officials. He emphasised that it is impossible for a single regulation to root out corruption, which has become a social phenomenon.

[SCMP, 21/02/06]

### **Pollution a 'blasting fuse' for unrest**

The nation's environmental chief has warned that worsening pollution and the increasing number of environmental catastrophes on the mainland has become "a blasting fuse" for social instability.

State Environmental Protection Administration (Sepa) director, Zhou Shengxian, said curbing pollution, which often sparked widespread discontent and even demonstrations, would top the country's green priorities in the next 15 years. China's environment faces a rather grim situation at the moment and in the future. He also said the country was suffering its worst ever period of environmental pollution which posed threats to national environmental security. The number of environmental crisis has soared and the issue of pollution has become a "blasting fuse" hampering social stability. His comments followed state media reports announcing a recent State Council decision to strengthen pollution controls, and Sepa's latest crackdown on industrial pollution.

Last week, Mr Zhou's deputy, Pan Yue criticised

11 waterside factories and 10 projects for causing serious pollution or posing environmental hazards and vowed to investigate 127 petrochemical plants which have a combined total investment of 450 billion yuan. Mu Guangfeng, who is in charge of Sepa's environmental assessments, said this year's crackdown would go further than a similar high-profile campaign a year ago. He said the campaign this year is aimed at pushing for the long-ignored environmental assessment of project designs and encouraging public involvement.

Last year Sepa focused on correcting procedural irregularities. A total of 30 large industrial projects were halted by Sepa in January last year on the ground that they lacked necessary environmental assessment and approval. However, they were allowed to continue in production soon after.

Mr Mu said that whilst most petrochemical plants targeted this year might have the appropriate environmental approvals, they were still regarded as posing serious environmental threats because of their proximity to major waterways or densely populated areas.

The latest crackdown shows the importance to the environmental impact assessment process in the design of projects, especially in the wake of the massive water crisis on the Songhua River, followed by a petrochemical plant explosion in Jilin province late last year.

Local authorities, particularly those in the affluent coastal areas, are reluctant to co-operate with Sepa because of concerns that the assessment process would delay establishment of profitable industrial projects.

[SCMP, 16/02/06]

## **India**

### **Coca-Cola threatens water resources**

The government of the southern state of Kerala has issued court proceedings against Coca-Cola, alleging the company is abusing the state's ground water reserves.

The action has been brought in the Supreme Court of India, challenging Coca-Cola's right to extract ground water for its production purposes. The proceedings ask the Supreme Court to overrule a decision of the Kerala High Court allowing Coca-Cola to extract up to 500,000 litres per day, despite the state's critical water shortage.

The government has said it will hold Coca-Cola accountable for its use of water reserves. In recent times, the company has come under severe attack from regional and local governments for allegedly misusing water and also failing to monitor to check cadmium content in its effluent discharge, thereby causing pollution of water sources. Many in India accuse Coca-Cola of causing water shortages, by abusing its water entitlements. A huge anti-Coca-Cola movement has grown in the country in recent years. The company reported its sales were down 14% last summer.

[info@IndiaResource.org]

## **Indonesia**

### **Jakarta Governor declares smoking-free areas**

The Governor of Jakarta declared smoking-free areas in the Indonesian capital city of February 4, 2006. Pursuant to bylaw No. 2/2005, dealing with

air pollution control, certain locations in the capital are declared as smoking-free areas.

According to data from the United Nations Development Programme (UNDP), Jakarta is the world's third most polluted city after Mexico City and Bangkok. Bad quality of air outside buildings is mostly due to vehicles' emission, but inside buildings, people smoking is the main cause. Locations where smoking is now banned include: public transportation such as buses and commuter trains; public places such as malls, railway and bus stations; and the airport.

Jakarta, with a population of about 10 million, will also conduct emission tests on public transportation and private cars and motorcycles, as well as on industries. The metropolitan city authorities also encourage the use of natural gas fuel for public transportation.

In order to monitor the implementation of the smoking-free areas, the city has set up a task force consisting of civil security men.

[Antara Indonesia, 06/02/06]

### **Growth of industries should not pollute environment**

The Minister of Industry, Fahmi Idris, called on businesses to manage their wastes well in order not to harm the environment.

"The growth of industries should not pollute the environment and disturb people's life," the minister said after signing a Memorandum of Understanding on the management of dangerous and poisonous wastes (B3) with the State Minister of Environment. Fahmi said that the activities of many industries still polluted the environment. This could hamper the growth of industries themselves, but it can only be handled in stages because remedial steps affect the companies' financial structures, which recently have been adversely affected by fuel oil price increases, the minimum wage hike and other increasing costs.

Based on data available at the office of the state minister for environment, for which 446 companies had been studied, 72 companies were categorised as 'black' and 154 as 'red' firms in term of waste management. This meant that the pollution they had caused was high.

Those companies whose pollution was classified as low consisted of 221 companies in the 'blue' category and 23 others in the 'green' category.

Fahmi hoped that the management of B3 wastes would help industries to manage their wastes well because of the technical cooperation between the Ministry of Industry and the Office of the State Ministry for Environment. He cited an example of coal wastes, which came from coal-fired power generators used by textile industries, being utilised as raw material for cement factories.

[Antara Indonesia, 19/01/06]

## **Liberia**

### **Timber harvesting licences cancelled**

The newly elected President of Liberia, Africa, has by Executive Order cancelled all timber harvesting concessions in that country.

For years the once expansive Liberian forests have been ravaged by unprincipled timber companies and hopelessly corrupt governments, especially

the administration of warlord Charles Taylor. The situation under Taylor was so notoriously bad-in terms of unsustainable timber exploitation-that the Security Council of the UN had imposed a total ban on importing Liberian timber. However, as with other bans on tropical timber export/import ( e.g Indonesia), illegal sales to countries such as China have continued largely undiminished.

The new Liberian administration took steps to protect remaining forests despite the usual lobbying from commercial interests, which stand to lose a lucrative source of income, derived at the expense of the environment and community.

[ELAW, news bulletin, Feb. 2006]

## Philippines

### *Air contractor falls short of requirements*

Contractual performance issues have affected the government's monitoring of Metro Manila's air quality, which is part of the drive towards better assessment of the area's air pollution status.

The Environment Management Bureau (EMB) found that Emissions Technologies Inc. (ETI), which is the contractor for the upgrade of Metro Manila's 10 air monitoring stations, had violated several of its contract requirements. Lack of resolution of these issues had affected the flow of data from the air monitoring project under the Metro Manila quality improvement sector development programme. In a final demand letter to ETI last December, the Environment Undersecretary asked ETI to address or rectify five requirements which had yet to meet under the terms of reference of ETI's 2002 contract with the government. These include equipment requirements and performance requirements, such as the training of EMB personnel, as well as inventory of spare parts and consumables.

The AQMS evaluation also pointed out that the government had paid US\$990,000 for the BTX units that ETI had recommended but the equipment remained unreliable. Non-performance by all BTX units over a period of almost two years shows that ETI continuously violates its contractual obligations. In response, ETI has claimed to have complied with the requirements since the equipment they had installed was within United States Environmental Protection Agency standards.

[BusinessWorld, 29/01/06]

## Russia

### *Putin demands Lake Baikal be protected from pipeline*

Under unprecedented pressure from local residents, Russian President Vladimir Putin publicly demanded today that the route of the planned Siberia-Pacific Pipeline be moved further away from lake Baikal. In a coordinated media blitz on the anniversary of the Chernobyl disaster, Putin cited environmental concerns in mandating that the Chernobyl disaster, Putin cited environmental concerns in mandating that the Siberia-Pacific Pipeline be moved at least 40 kilometres further from Baikal.

Presiding, Putin asked the President of Transneft, the Russian pipeline operating company, if it was technically possible to route the pipeline farther north of the lake.

Transneft President Semyon Vainshtok answered "You have put me in a corner". Noticeably miffed

by Vainshtok's response, Putin responded, "If you hesitate, it means that it is a possibility", and then demanded that the route be reworked.

Environmentalists, indigenous leaders, and community activists from the Baikal region have been campaigning for over a year to protect Lake Baikal, the world's deepest freshwater lake, from the pipeline. Today's announcement was an acknowledgement of the wave of public support for Baikal; over 5,000 people participated in a protest in Irkutsk on March 18 and more than 20,000 signatures were collected online and delivered to the Kremlin by mail. Major figures, including poet Yevgeny Yevtushenko, spoke out on behalf of Baikal.

This is a major victory, not just for Lake Baikal and for the people of Siberia, but also for Russia's environmental movement as a whole! In the face of increasing Kremlin pressure on non-governmental organizations, environmental organizations across Russia are shoring up resources and fighting to keep their doors open. In spite of this harsh political climate, and significant concerns about the independence of the Russian media, public opinion has claimed a major victory in this case.

This is the second major environmental victory related to the Siberia-Pacific Pipeline. The Russian State Technical Inspection Agency has reportedly demanded that the oil terminal location on the Pacific Ocean be moved in order to protect the habitat of the critically endangered Amur leopard, though the Russian public is awaiting information on a new proposed terminal location from Transneft.

The battle for Lake Baikal and Russia's environment is not over, however. As the official route is determined and construction begins, Pacific environment will continue to work with local organizations and communities to ensure public participation in decision-making processes, to demand the use of best practices during construction, and to provide for public monitoring throughout the course of the project's construction.

[Pacific Environment, press release, 26/4/06]

## Vietnam

### *Making the most of solid waste*

The deputy director of the Ho Chi Min City Department of Natural Resources and Environment has described a big push to use garbage as a resource. HCM City had long planned to have Vietnam's first solid waste disposal complex. It approved a project to build the Da Phuoc Solid Waste Complex in Da Phuoc Commune, Binh Chanh District. This is the country's first such complex. The city sees the projects as a way to deal with challenges relating to pollution caused by solid waste in a city with a booming population.

The development of solid waste treatment complexes is part of an environmental protection strategy for the period to 2010 and part of a master plan for a solid waste treatment system in the city by 2020.

The city is zoning for establishment of three solid waste treatment complexes with a combined area of 2,838 hectares. The Thu Thua Solid Waste Treatment Complex covers 1,760 hectares; the HCM City Northwest Solid Waste Treatment Complex in Phuoc Hiep Commune, Cu Chi District with an area of 822 hectares; and the Da

Phuoc Solid waste Complex in Da Phuoc Commune, Binh Chanh District with an area of 256 hectares and to be expanded to about 400 hectares. These complexes will become garbage treatment sites, applying new technology in classifying and selecting garbage for recycling, burying garbage in dumpsites to recover gas, and using micro-organisms to turn garbage into electricity and compost fertilizer.

At present, HCM City authorities have endorsed a detailed plan to develop the HCM City Northwest Solid Waste Treatment Complex. Some investors have been licensed and granted land in the Northwest complex. The company will develop a plant to make compost fertilizer from solid waste with a capacity of 600 tonnes a day in phase I and 600 tonnes a day in phase II. Another company will build a plant to make micro-organic fertilizer from garbage, with a capacity of 500 tonnes a day in phase I and 2,000 tonnes in phase II.

At the Da Phuoc Solid Waste Treatment Complex, California Waste Solutions from the U.S. is preparing to implement a project to classify, select and treat solid waste to make compost fertilizer with a capacity of 2,500 to 3,000 tonnes a day.

The Thu Thua Solid Waste Treatment Complex is in the process of site preparation, which includes planting trees to act as a screen and wind break.

Many investors are eyeing the field of solid waste treatment, with some having submitted projects to the city government for consideration. These include: a solid waste treatment project by Waste to Energy Pte. Ltd. of Singapore; a project to produce electricity from burning garbage submitted by Fluid Tech Co. of Australia; and projects to produce micro-organic fertilizer and to build a garbage treatment plant submitted by local companies.

[Saigon Times Magazine, 03/03/06]

This Quarterly Report does not constitute legal advice given on any particular matter. Whilst all effort has been made to ensure completeness and accuracy at the time of publication, no responsibility is accepted for errors and omissions. Further information and enquiries in respect of this quarterly should be directed to Fred Kan & Co. or any of our following associate firms:

<p><u>Hong Kong</u>  <b>FRED KAN &amp; CO.</b>          Suite 3104-07, Central Plaza          18 Harbour Road, Hong Kong          Tel: (852) 2598-1318          Fax: (852) 2588-1318</p>	<p><u>Paris, France</u>  <b>THOMAS, HERBECQ &amp; ASSOCIÉS</b>          3 Square Pétrarque          75116 Paris, France          Tel: (331) 4755-4400          Fax: (331) 4704-5131</p>	<p><u>Tokyo, Japan</u>  <b>GINZA 1-CHOME LAW OFFICE</b>          4th Floor, Ginza B Building,          1-6-5, Ginza, Chuo-ku, Tokyo          104-0061 Japan          Tel: (81) 3-3538-7561          Fax: (81) 3-3538-7562</p>	<p><u>Wenzhou, China</u>  <b>ZHEJIANG PINGYU LAW FIRM</b>          Add.2F, Xingtai Mansion,          Xincheng Avenue, Wenzhou,          China          Tel: 86-577-88929600          Fax: 86-577-88929615</p>
--	---	---	---

In addition to Fred Kan & Co. the following are members of ADVOCASIA



An Association of Asian Commercial Law Firms

Adelaide, Australia

**NORMAN WATERHOUSE**  
 Level 15, 45 Pirie Street, Adelaide 5000  
 South Australia  
 Tel: (618) 8210-1200  
 Fax: (618) 8210-1234

Beijing, China

**JINCHENG & TONGDA LAW FIRM**  
 11th Floor, 22 JianGuoMenNei Avenue  
 Huaxia Bank Building  
 Beijing 100005, P.R. China  
 Tel: (86) 10-8523-7766  
 Fax: (86) 10-6526-3519

Brisbane, Australia

**BIGGS & BIGGS**  
 Level 16, Commonwealth Bank Building  
 240 Queen Street, Brisbane  
 Queensland, Australia 4000  
 Tel: (617) 3331-1950  
 Fax: (617) 3221-0329

Colombo, Sri Lanka

**D.N. THURAIRAJAH & CO.**  
 2nd Floor, Don Carolis Building  
 Post Box.1464, No. 64,  
 Keyzer Street Colombo-11, Sri Lanka  
 Tel: (94)(1) 439-798  
 Fax: (94)(1) 448-002

Dubai, United Arab Emirates

**LUTFIAL BAHAR & CO.**  
 Suite 804 A City Tower 2  
 PO Box 8812, Dubai, United Arab Emirates  
 Tel: (97) 14-321117  
 Fax: (97) 14-311455

Jakarta, Indonesia

**MAKES & PARTNERS**  
 Menara Batavia, 7th Floor, Jl K.H.  
 Mas Mansyur, Kav. 126, Jakarta 10220, Indonesia  
 Tel: (6221) 574-7181  
 Fax: (6221) 574-7180

Kuala Lumpur, Malaysia

**CHEANG & ARIFF**  
 39 Court, 39 Jalan Yap Kwan Seng  
 50450 Kuala Lumpur, Malaysia  
 Tel: (603) 2161-0803  
 Fax: (603) 2161- 4475

Macau

**THE LAW OFFICE OF DR ANTONIO RIBEIRO BAGUINHO & DR JOAO MIGUEL BARROS**  
 Suite 1308, 13th Floor, Landmark Building, No 555  
 Avenida da Amizade, Macau  
 Tel: (853) 705352  
 Fax: (853) 705351

Manila, Philippines

**HERRERA TEEHANKEE & FAYLONA**  
 5/F, SGV II Building, 6758 Ayala Avenue  
 Makati Metro Manila 1200, Philippines  
 Tel: (632) 815-8846  
 Fax: (632) 815-8828

Melbourne, Australia

**MADDOCKS**  
 140 William Street, Melbourne  
 Victoria 3000, Australia  
 Tel: (613) 9288-0555  
 Fax: (613) 9288-0666

Mumbai - India

**DHRUVE LILADHAR & CO.**  
 13-A/B Ismail Building, 381 Dr  
 D..N..Road, Flora Fountain,  
 Mumbai - 400001, India  
 Tel: (9122) 22852362/3  
 Fax: (9122) 22855787

New Delhi, India

**O.P. KHAITAN & CO.**  
 Khaitan House B-1,  
 Defence Colony, New Delhi-110 024, India  
 Tel: (9111) 2433 7516  
 Fax: (9111) 2433 7958

Perth, Australia

**KOTT GUNNING**  
 Level 8, AMP Building  
 140 St Georges Terrace  
 WA 6000, Australia  
 Tel: (618) 9321-3755  
 Fax: (618) 9321-3465

Shandong, China

**SHANDONG QINDAO LAW FIRM**  
 22/F, Northern Tower, Golden Square,  
 20 Hong Kong Road(M),  
 Qingdao P.R.China P.C. 266071  
 Tel: 86-532-85023128  
 Fax: 86-532-85023080

Singapore

**MADHAVAN PARTNERSHIP**  
 80 Robinson Road #08-01/02  
 Singpaore  
 Tel: (65) 6225-5111  
 Fax: (65) 6224 3594

Sydney, Australia

**COLIN BIGGERS & PAISLEY**  
 Level 42, 2 Park Street  
 Sydney, NSW 2000  
 Australia  
 Tel: (612) 8281-4555  
 ax: (612) 8281-4567