

URBAN PLANNING AND ENVIRONMENTAL LAW QUARTERLY

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In the main article of this edition we argue that Hong Kong’s overall record of weak protection of the environment is only likely to continue while the community and government regard our precious natural environment with a marked anthropocentric bias.

The Editors

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An anthropocentric bias lies at the heart of Hong Kong’s poor conservation record

Hong Kong’s anthropocentric bias

Some 30 years ago the Hong Kong government embarked on a legislative programme for protecting aspects of our natural environment and curtailing water, air and noise pollution. Isolated examples of “environmental legislation” existed before then – most notably the *Country Parks Ordinance* (Cap 208) – but concerted action to protect (or, at least, to make a token effort to protect) the environment was not undertaken by the government until the advent of a number of mainly anti-pollution statutes, such as the *Water Pollution Control Ordinance* (Cap 358) and the *Waste Disposal Ordinance* (Cap 354), in the 1980s.

During the years since, we have been disappointed time and again by decisions of government authorities impacting the environment which clearly reveal a continued difference to economic – read, “exploitation” – factors over and above effective environmental protection. The almost total lack of legal protection for our once healthy marine environment is perhaps the most extreme example of the government’s lack of genuine political will when it comes to conservation of the natural environment (and, for that matter, our built heritage as well).

Rarely have we seen an important decision which affects the natural environment, or our built heritage, that has given supremacy to realistic (i.e. not simply ill-defined or un-defined “minimise the impacts” promises) conservation factors, as versus economic objectives, which are customarily lumped under the ubiquitous term, *development*.

Hong Kong has applied its environmental legislation anthropocentrically, as, indeed, has the vast majority of nations with sophisticated environmental legislation. Perhaps it is not strictly correct to say that the government has adopted an anthropocentric approach in all environmental decisions. Such approach means: *considering human beings and their existence as the most important and central factor in the universe* (Cambridge University Dictionary).

We do not take issue with the notion that saving the human race may be the single most important goal for governments of the world. However, in the context of meaningful, enlightened conservation, government agencies’ “abridged anthropocentric” approach is to view any conservation issue in terms of the “usefulness” to human beings – now or in following generations – of the environmental component in question. Even “sustainable development”, widely accepted as an environmentally responsible policy, is really only a more benign version of the “human usefulness priority”

applied by government agencies in “managing” (another misplaced term/notion in the context of conservation) the environment.

A purely anthropocentric approach is a discredited community planning philosophical basis, even in respect of purely urban planning : e.g. M. Quartermain (1997). The priority of human needs in Hong Kong’s land and resource use planning has been succinctly expressed as the “domination of people over *Nature*” whereby the latter “is only instrumental for people’s survival and their needs for gratification” : Lai On-Kwok (1992).

For effective environmental protection, responsible agencies must accept, as the basic premise, that the “environment” has an intrinsic value, and its various components are entitled, in a civilised world, to protection from human damage for their own sake. The criterion should not be simply : *to conserve for future use by the human race*. This may seem somewhat unrealistically idealistic; but there are several countries which actually include this concept as the basis of their written environmental laws, although this does not, of course, mean that they apply it properly. And – the bottom line (usually overlooked by our regulators) is that in all situations a healthy environment is beneficial to human beings, including economically.

In more enlightened countries, there are even examples of litigation brought on behalf of the threatened environmental component itself; i.e. the environmental component is the nominal litigating party, in recognition of that component’s right to remain viable.

Whilst we do not imagine the authorities in Hong Kong would embrace the notion of giving the environment *locus standi* to seek judicial protection, it is fairly certain we will never have adequate protection of the environmental unless the government is prepared to accept – as the foundation of all actions concerning the environment – that environmental factors must be measured first and foremost in terms of the intrinsic value of the affected environmental component.

In any event, unquestionably a healthy environment provides economic benefits too, which generally is simply not understood by those who measure everything in economic terms only – that is, regrettably, the majority of Hong Kong people and officials. [The rejection of KCR’s initial proposal to run the Lok Ma Chau spurline through Long Valley is a rare exception.]

There are alternative, more responsible conservation philosophies (ecosophies), which have wide acceptance in parts of the world more advanced in the field of environmental protection, which Hong Kong should be influenced in relation to enacting and implementing environmental laws.

“Sustainable development” and “the environment”

Environmental protection was largely ignored by governments until the adverse effects of post-World War II reconstruction reached a point where industrialised countries were forced to take environmental issues seriously, leading to the introduction of environmental protection legislation. The most significant sunrise environmental legislation was probably the *National Environmental Policy Act*, enacted by the U.S. Congress in 1969.

Today, most countries have some laws to protect aspects of the environment. Many countries now have comprehensive environmental legislation, (although this does not guarantee effective protection, due to a lack of political will to enforce the laws responsibly). For the most part, however, the legislation is anthropocentrically biased.

This anthropocentric stance in framing environmental and land use laws often begins by adopting a definition of “the environment” which is tied to “sustainable development”.

“Sustainable development”, a policy generally viewed as enlightened, in reality is based on a form of anthropocentrism. It is an ecosophy “... which promulgates the utilitarian value of nature for ensuring the survival of humankind...”. Braiddotti et al, (1994).

The goal of sustainable development also promotes the widely accepted notion that economic growth is not only a worthwhile aim but is critical for achieving a healthier environment. The argument runs that economic growth generates the funds necessary to put in place meaningful programmes for combating environmental degradation; e.g. the *Brundtland Report (Our Common Future, (1987))* argues that:

If large parts of the developing world are to avert economic, social and environmental catastrophe, it is essential that global economic growth be revitalised. In practical terms it means more rapid economic growth in both industrial and developing countries.

The assumption that man is in, and is entitled to remain in, a dominant position in relation to all other living beings comprising our eco-systems, is a fundamental eco-philosophical error which will lead to continuing difficulties in implementing effective conservation laws in Hong Kong—and China and the rest of the world. As said, this anthropocentric approach focuses on the exploitative value of the environment rather than its intrinsic values; that is, a component of the environment is valued, both in conservation and absolute terms, solely against the criterion of its usefulness to man.

As we discuss below, “sustainable development” might be an effective environmental objective, but only if it and “the environment” are defined and accepted to include the intrinsic conservation value of all components of our natural environment.

Sustainable development

By the 21st century, the low-level conservation standard of sustainable development had won wide acceptance among governments and international organisations. Indeed, it would be fair to say that it has now become institutionalised within environmental law and related fields of discipline. However, is it an appropriate standard? Certainly it is a considerable improvement on development policies based only on maximising economic exploitation, which generally until recent times determined governments’ attitudes and conduct concerning the environment.

As creditable as sustainable development appears to be, as an underlying philosophy for environmental conservation, it has development (albeit, sustainable) as the central goal or criterion, and so ignores, on the face of it, intrinsic values of a healthy environment, which is the basis of alternative, more enlightened ecosophies.

In 1987 the famous, ground-breaking *Brundtland Report*, (and since then, subsequent major reports of United Nations instrumentalities, such as *Caring for the Earth*.) emphasised the key role that the concept of sustainable development should play if conservation of the earth’s resources and eco-systems was to be attained. The *Brundtland Report* defined “sustainable development” as:

development which meets the needs of the person without compromising the ability of future generations to meet their own needs.

Subsequent international studies of environmental

issues usually have adopted *sustainable development* as the baseline for their recommendations. Worldwide, ‘sustainable development law’ has come to encompass environmental legislation which specifically incorporates the principle of *sustainable development*.

One noted Australian environmental lawyer and academic said that “...sustainable development seems to have evolved into an ‘environmental mandate’ for the world”. For example, most Pacific island countries – which face the daunting task of conserving their beautiful but fragile environments – and their peak environmental body, the South Pacific Regional Environment Programme, have embraced “sustainable development” as their cornerstone conservation policy. This is reflected by the Pacific Islands’ report to the Earth Summit (1992), the *Pacific Way*, which has *sustainable development* as its goal and as the fundamental principle for its recommended priorities. The rapid decline since 1992 in the health of the environments of Pacific Islands – from forests, to fisheries, to coral reefs – demonstrates emphatically that *sustainable development* has failed to conserve the islands’ ecosystems, even allowing for deliberate environmental destruction resulting from ignorance and endemic corruption.

Alternative ecosophies

Since the early 1970s, conservation philosophers, such as Arne Naess (1989), have advocated alternative philosophical approaches to conservation issues, such as *deep ecology*, as the appropriate policy-platform for communities to apply to environmental issues. Deep ecology is based on the notion that “humanity is no more, but also no less, important than all other things on Earth”.

“The well-being and flourishing of human and non-human life on earth have value in themselves (synonyms : intrinsic value, inherent value). These values are independent of the usefulness of the non-human world for human purposes” : Bill Devall (1985).

There are other ecosophies which depart even more from the human benefit/dopment basis of *sustainable development*. For example, the reasonably radical conservation group, founded in the late 1970s in the USA, *Earth first!*, advocates *biocentrism*, which propounds a subordination of humankind (and its needs) to the greater needs of nature.

A better approach for Hong Kong (and China!)

Sustainable development

When framing laws which affect the environment, such as land use control law, the government and legislators should choose a definition of “sustainable” which includes more than human development or benefit. It is at the point of choosing an appropriate definition of “sustainability” that a community will reveal its true ecosophy. Of course, at the end of the day, it is the community’s environmental values which will determine how objectively realistic its adopted sustainability definition or criterion is.

A definition we might consider adopting is:

Sustainability is the persistence for an apparently indefinite future of certain necessary and desirable characteristics of the socio-political system and its natural environment.

The “basic value principle” supporting that definition is expressed as:

The continued existence of the natural world is inherently good. The natural world and its component life form, and the ability of the natural world to regenerate itself through its own natural evolution, have intrinsic value.

Any *sustainable development* definition or criterion included in formal legislation must recognise the intrinsic value of preserving our natural and cultural environment.

A limited definition is likely to lead to a continuation of Hong Kong’s exploitation, or pro-development, policy emphasis.

For example, the Tourism Authority of Thailand, in a report concerning problems arising from rapidly expanding tourism on Phi Phi island, refers to a standard of “should – be – suitable development” as the “underlying rationale” for land use planning. At first glance, this is an attractive, if quantly worded, definition. However, it illustrates the “glossing over” aspects of a simple definition, in the sense that the test of “suitable” is not anchored to the notion of the intrinsic value of healthy ecological systems (although it is conceded that in that report the Authority was not attempting to set down an all-embracing criterion to be

used for future assessment of tourism development).

As with “sustainable development”, it is just as important that Hong Kong adopts a realistic, enlightened concept of the “environment” which may be affected by land use and other environmental decisions.

The environment (and bio-diversity)

“Environment” (and, “environmental impacts”) should be defined in legislation as widely as possible. The definition(s) should not be restricted to those components of the environment viewed as useful for exploitation by man. Such a restriction is inherent in, for example, a concept of the environment based on “natural resources”, as that term suggests a policy priority of maintaining the availability (even if “sustainably”) of resources for human exploitation. Nevertheless, some countries use that phrase in place of “the environment” or, as in some Australian legislation, “ecological communities”.

Examples from some other jurisdictions of legislative definitions of “the environment” are :

- All aspects of the surroundings of human beings whether affecting them as individuals or in their social grouping: (section 3, *Environment Protection (Impact of Proposals) Act 1974* (Commonwealth of Australia)). This act was largely replaced in 1999 by the *Environment Protection and Biodiversity Conservation Act* which replaced the definition with a much broader one containing five individual elements, including the precautionary principle , inter-generational equity and: *the conservation of biological diversity and ecological integrity* (section 3A)

- The total stock of physical biological and social resources available to man and other species, and the eco-systems of which they are a part: (section 2, *Environment Planning Act 1978* (Papua New Guinea)).

- Eco-systems and their constituent parts, including people and communities; all natural and the physical resources; the natural or physical quality and characteristic of an area that contribute to people’s appreciation of its pleasantness, aesthetic coherence and cultural and recreational attributes (“amenity values”); and the social, economic, aesthetic and cultural conditions which affect the matters above or which are affected by those matters: (section 2, *Resource Management Act 1991* (New Zealand)).

- The total body of all natural elements and artificially transform natural elements affecting human existence and developments, which includes the atmosphere, water, seas, land, minerals, forest, grasslands, wildlife, natural and human remains, nature reserve, historic sites and scenic spots and urban and the rural areas (article 2, *Environmental Protection Law, People’s Republic of China, 26 December, 1989*).

This Law was replaced by the *Environmental Protection Law* (PRC), June 1995 (promulgated subsequently). The definition of “environment” in the 1995 Law is: “All natural elements both man-made and naturally endowed, affecting human life and development, including the atmosphere, water, seas, land, mineral deposit, forest, grassland, wild flora and fauna natural and human values, natural reserves, historic sites and scenic spots, and urban and rural areas”. Thus, the People’s Republic of China continues to emphasise human exploitation of the environment.

- “Environment”
 - (a) means the components of the earth; and
 - (b) includes –(i) land, water, air and all layers of the atmosphere;
 - (ii) all organic and inorganic matter and living organisms;
 - (iii) the interacting natural systems that include any of the things referred to in sub-paragraphs (i) or (ii) (*Schedule 1, Environmental Impact Assessment Ordinance Cap.499, Hong Kong*).

As one author has suggested, in its most general sense, “environment” means “the surroundings, that which is encircling”. In defining such a critical important value concept as “the environment”, Hong Kong should adopt as wide a definition (others might say “as vague” a definition) as possible – contrary to usual good drafting practice. A broad definition such as : “all the components, natural and man-made” is suitable. What is important, too, is that the definition does not go on to place humankind as the pivotal factor.

Environmental “components” comprise all aspects of the eco-system(s) of the area subject to the legislation. Continuing a healthy co-existence of these components is the purpose of environmental protection, and should be the purpose of our environmental laws, including land use laws.

The government and legislators must accept that environmental protection means conserving *bio-diversity*; that is, *all* the elements making up any given ecological system, should be conserved at a viable level so as to maintain the overall viability of that system. These elements include : fauna, flora, fungi, rotting material such

as fallen trees in a forest eco-system, and so on. It is not just the sexy, high-profile elements – such as whales and dolphins – which require protection.

Recognising this, and that all such elements, each and together, have an intrinsic value deserving of our care and protection, is the next stage to which our community and leaders need to move if Hong Kong is ever to have an effective system of environmental protection!

Conclusion

A valid and viable conservation programme cannot be based on a purely anthropocentric platform. The underlying policy on which the laws – and their enforcement – are based, must *realistically* recognise the intrinsic value of healthy ecosystems. That is, must not simply pay lip-service to the policy – as is routinely the case with Hong Kong's environmental agencies.

Whilst we acknowledge the government is unlikely to adopt a deep ecology ecosophy, elements of that and other enlightened conversation philosophies will have to be embraced by officials, business leaders and the wider community if we are to have any real chance of protecting our land and marine environments. To do so does not mean, of course, that all “development” is barred. But it does mean that promoters of projects or action which will impact adversely the environment, *first and foremost publicity acknowledge this fact*. Then, at least, a decision to proceed (or, a decision to take no action to prevent or remedy environmentally harmful conduct – a very common Hong Kong scenario), on the basis of overriding perceived economic benefits, will be made in the context of recognised environmental damage.

It is hoped that, eventually, public opposition to such damage will become sufficiently strong to force the government and lawmakers to adopt laws and practices which ensure true *sustainable development*.

TOWN PLANNING

MTR project approved despite shortcomings

Reducing residential density within new development projects is one way to improve the environment. However, not all development proposals can achieve this goal. Moreover, it is always difficult for the Town Planning Board (TPB) to refuse some mediocre proposals when it has already approved previous projects which are even less environmental-friendly.

The TPB recently approved construction of a residential project above Nam Cheong MTR Station. The approval was conditional on the MTR Corporation further improving the design to increase air ventilation between the project and adjoining high-rise buildings.

The project was already scaled down from a 2004 approved proposal; the Development Bureau in November removed two high-rises from the design and kept two air ventilation corridors, 28 metres and 30 metres wide, claiming they would increase wind speeds in neighbouring Fu Cheong Estate by an estimated 20 per cent and those in Nam Cheong Estate by 10 per cent. But the reduced project still failed to impress residents and the District Council. They demanded that three blocks of high-rise be deleted and three air-ventilation corridors be created. The MTR attempted to achieve this by providing the air-ventilation corridor while retaining the scale of the project.

However, ventilation study commissioned by the MTR found the latest design's overall wind performance (with three breezeways) was similar to the one with two breezeways. The study concluded that ventilation could not be improved unless the density of building was reduced.

According to the study, the average site wind-velocity ratio remained at 2.23, whilst the ratio at Nam Cheong Estate remained at 0.11 and the air flow in Nam Cheong Estate would be similar to dense areas of Central.

Although the project could not meet ventilation objectives, the TPB simply advised MTR Corporation to further reduce the residential density, but approved the revised project. TPB member Lim Wan-fung explained that it was difficult to reject an improved proposal when the TPB had already approved a more dense development in 2004.

[SCMP, 09/05/2009]

Appeal to halt landfill expansion rejected

About 20 representatives from Lin Ma Hang village, in Sha Tau Kok, and the Ta Kwu Ling District Rural Committee staged a protest yesterday over the plan to expand a waste landfill in northeastern New Territories. The opponents claimed that the extension was incompatible with border area development and the imminent opening of the closed frontier areas. Moreover, they feared that the extension would create a bad smell and attract pests.

Officials say the project is necessary because space at landfills is shrinking faster than expected. Landfills at Tseung Kwan O and Tuen Mun will also be expanded at the expense of country parks and open space.

The proposed extension will double the size of the existing landfill and increase its capacity by two-thirds, or 21 million cubic metres. The expansion will open in 2013 and should be in use for a decade.

[SCMP, 30/05/2009]

Protected coastal area to make way for road

Approval by the Town Planning Board (TPB) to allow reclamation of a coastal protection area adjoining Chek Lap Kok airport has angered green groups and the *Association for Geoconservation*. Green groups claimed that they were not told about the reclamation plan and they argued that other possible alternatives should have been considered before such approval.

The 2-kilometre-long natural coastline was initially a zone of preservation and not for development, but now it will contain a road that links the main section of the Hong-kong-Macau-Zhuhai Bridge to a new border checkpoint to the north of the airport.

The Highways Department says it had in fact considered other solutions, but they were either too costly or were opposed by Tung Chung residents.

On the other hand, the *Association for Geoconservation* has another view on the coastline development. The Association said that the coastline under protection was lowland and suitable for walks. The government should therefore convert the coastline into a recreational area for people living near the airport, namely airport staff, Tung Chung residents and visitors to hotels nearby.

The proposal suggested by the Association is to have offshore reclamation, without destroying the coastline. By doing so, a lagoon could be created between the shore and the road, which would add recreational value to the site.

WWF senior conservation officers urged the government to study other options, as the conservation group will object the current proposal.

[SCMP, 06/06/2009]

Mansion's conversion approved

The Town Planning Board (TPB) yesterday approved an application to convert a historic Pok Fu Lam mansion into the clubhouse for a new residential development, with the condition that it must be open to the general public at least once a week.

Initially, the owners planned to open the mansion to the public (limited to 50 persons) only once a month. However, members of the TPB were of the view that this was not enough. Therefore, conditions attached to the development plan now include public access once a week on a non-work day.

The 77-year-old mansion was identified as a proposed monument in 2007. However, such proposed status was not confirmed by the government after the owners gave an assurance that the mansion would be kept intact and used as a clubhouse.

The owners had to consider other issues as well. For instance, they have to ensure there is a visual harmony between the old mansion and the new development. The owners will also have to apply for a modification of the lease because the current lease allows the building of only a European-style house on the site.

[SCMP, 06/06/2009]

Lower building density urged to aid air flow

Densely clustered buildings affect air circulation and cause air pollution problems, which is called the “wall effect” and is a widespread problem in Hong Kong.

Recently, a request by a green group to decrease building density in a North Point development was backed by scientific data. A study found that the development, on one of two prime waterfront sites in North Point, was likely to cut the speed of wind blowing into the inner city by more than 25 per cent.

Green Sense president Mr. Roy Tam said action should be taken to lower the allowable building density of the site while the site is still owned by the government. He suggested that the building site should be reduced from 110 metres to 90 metres and about 10 per cent of the total floor area reserved for green features. This could be achieved by imposing appropriate lease conditions.

The wall effect does not only affect the site itself. The study found that future development would also block wind from the waterfront blowing into King's Road, decreasing wind speed by about 27 per cent. The speed of the wind reaching Electric Road will be cut by 26 per cent. On average, air circulation of the whole North Point district would deteriorate by 6 per cent if the development is built as proposed. Reduced air flow would also raise concentration of air pollutants and temperatures.

Green Sense will submit its proposal to the Town Planning Board requesting appropriate amendments to the district's outline zoning plan.

[SCMP, 22/06/2009]

Board backs SoHo owners' plan

It is always desirable to strike a balance between urban areas and the preservation of the old community. However, there are usually conflicts between the two objectives. The recent redevelopment proposals for Staunton Street, SoHo, are an example.

The redevelopment plan was announced by the Urban Renewal Authority (URA) in 2003. The plan was to build three residential blocks on three sites. The sites were once connected until the Henderson Land won a judicial review in 2007, which allowed the developer to redevelop part of the site into a residential building called CentrePoint.

At a meeting of the Town Planning Board (TPB), the owners of 21 flats in five tenement buildings on one of the sites requested the TPB to exclude their flats from the redevelopment project on the ground that the owners had bought and refurbished the buildings shortly after the redevelopment plan was announced in 2003. The owners asked URA to assist in their renovation process, and said the units already acquired could be sold after the renovation.

The TPB supported the owners' alternative proposals and urged the government to consider excluding the five tenement buildings from the redevelopment plan. This idea was welcomed by the *Central and Western Concern Group*, as it is of the view that keeping the old buildings will reduce the living density and keep the social network.

However, what the TPB suggested may not be feasible. There would be financial and legal implications because the URA has already begun acquiring properties on the site in SoHo. Lawmaker Ip Kwok-him, a non-executive director of the Authority, even warned that the project would become financially unviable if the 5 buildings were excluded. Further, leniency to the owners of the 5 buildings might set a bad precedent for future redevelopment plans; that is, owners might buy properties in redevelopment sites and hinder urban renewal planning in terms of time and scale.

[SCMP, 25/07/2009]

Groups oppose delay in talks on height of police station compound

The lack of independence of the Town Planning Board (TPB) always concerns conservation groups. Recently, the Planning Department's proposal to postpone Board hearings concerning the height restriction on the Central police station redevelopment attracted criticisms from 13

non-governmental organisations (NGOs).

The Jockey Club initially planned to erect a 150-metre-high observation deck on the site. However, the Club agreed to reduce the height to 77 metres owing to public pressure last year, as the residents nearby complained that the deck would obstruct views from buildings in Mid-Levels, and the extra facilities would bring traffic congestion to the area. A revised design is now being prepared.

It has been usual government practice to set planning controls, such as height limits, for a district without waiting for developers to present their development schemes. However, in this instance the Planning Department proposed to postpone the hearing until the Jockey Club had submitted its design proposal. Such arrangement aggravated the NGOs, as they argued that they were entitled to have a right to be heard without delay, as required under the *Town Planning Ordinance*.

The crux of the problem was that the TPB has no real independence. The chairman of the meeting is the director of planning, and the secretary is her deputy. In other words, they will be overseeing consideration of their own recommendations.

In order to have real independency in the Board, an independent secretariat must be provided, as suggested by the *Conservancy Association*, one of the 13 objecting NGOs.

[SCMP, 21/08/2009]

Old factories to be used by artists

Artists and performers in Hong Kong often complain about the government's lack of support for local creative industries. Chief Executive Tsang will have a positive feedback on this matter in his policy address on 14th October 2009.

A government official said that the Chief Executive was likely to unveil a series of measures to help convert more rundown or underused industrial buildings to affordable working space for artists in districts like Kwai Chung and Tsuen Wan. This will help promote the arts as one of the six new economic 'pillars' to diversify Hong Kong's economy. The other five pillars are: education; medical services; environmental technology; innovation and technology; and food safety and product testing.

There are a number of potential sites for conversion, both government and private. The Housing Authority manages eight government factory estates in Kwai Chung, Kowloon Bay, Cheung Sha Wan, Chai Wan, Tuen Mun and Fo Tan, providing a total of 9,300 units.

Possible incentives have been suggested by the Development Bureau to encourage the conversion and redevelopment of the factories, including lowering applicable land premiums, and reducing the threshold for compulsory acquisition (by a developer) from 90 per cent ownership to 80 per cent.

The Planning Department is conducting a survey of vacancy rates and possible uses of industrial buildings. The survey, which is scheduled to be completed in October 2009, covers more than 80,000 units in various districts.

However, a senior town planner suggested that some industrial buildings were still in use, and converting them would take effort and care. For instance, industrial operations might pose fire risks to artists and other occupants if they are all in the same building. A change of land use may also bring extra road traffic to the district.

[SCMP, 31/08/2009]

Renewal attempts to save Central Market

Central Market, the last piece of 1930s Bauhaus architecture in the city, will soon face a similar fate as its counterpart, the Wan Chai Market, which was recently largely demolished for a high-rise development.

It is proposed to develop the Central Market as a 160-metre tall commercial tower, with a gross floor area of 670,543 sq. ft. and a public open space of 16,000 sq. ft. According to a condition of sale, the buyer would be required to 'display items of historical and architectural interest of the market for viewing'. However, once the site is sold, the building would be demolished because the developer is required to display

only relevant photos or objects.

Activists urged Chief Executive Donald Tsang Yam-kuen to remove the site of the Bauhaus-style building from the land sale list. However, a spokesman for the Development Bureau said the government had no intention of doing so.

Katty Law Ngar-ning, convenor of the *Central and Western Concern Group*, said she would file an application with the Town Planning Board to change the site's land use from commercial to government, institutional or community use, but hoped it would be used as a public art space. She also suggested that the government should suspend the sale plan until the Antiquities Advisory Board has considered proposed gradings for the market and other public heritage sites.

Green Sense president, Roy Tam Hoi-pong, who will join Law in filing the submission, said the site was the last low-rise zone in the dense Central area, and a high-rise development would worsen congestion and pollution.

[SCMP, 01/09/2009]

Kuk in bid to legalise dumping

Dumping for development? Or dumping against development? That was the centre of the recent controversy between Heung Yee Kuk (the Kuk) and the *Conservancy Association* concerning a plan to legalise dumping on private farmland in New Territories.

Vice-chairman of the Kuk, Mr. Cheung Hok-ming said the government's zero-reclamation policy was an expensive way of waste disposal as the soil needed to be transported to the mainland. Therefore, the Kuk was of the view that it had an obligation to help and suggested legalising dumping in low-lying areas in the New Territories.

However, *Conservancy Association* campaign manager, Peter Li Siu-ma, said that legalising dumping would provide villagers with an excuse to destroy the land for development and the dumping would cause flooding during rainy seasons. A member of the Town Planning Board said dumping would result in the whole area being dotted with earth mounds.

Farmers in the rural area also did not favour the idea of the Kuk. Mr. Hau Tai-lok, whose farm in Sheung Shui had construction waste dumped on it in July without his consent, said legalising dumping will make it even easier for people to destroy rural land for the purpose of development.

The Baptist University's Advanced Institute for Contemporary China Studies said they would also explore ways to develop abandoned farmland for residential, commercial and technological developments. For example, reclamation in some coastal areas in the northeast and northwest which enjoyed good sea views would be considered, but ecologically sensitive sites would be avoided.

An Environmental Protection Department spokeswoman would not comment on the Kuk's suggestion, but stressed that any public dumping area of more than two hectares needed an environmental permit.

[SCMP, 09/09/2009]

WEST KOWLOON CULTURAL DISTRICT (WKCD)

Local writers in push for literary museum

Local writers and literary critics are lobbying for a literature museum in the future arts hub-West Kowloon Cultural District. The winner of the Top Arts Development Council award for literary arts lamented small literary bookshops failed to survive soaring urban rents.

Literature enthusiasts argue that public knowledge about local literature is limited, therefore the arts hub should be a place to celebrate diversity and introduce neglected literacy works. Further, with the introduction of the new syllabus of Chinese language for secondary schools, emphasising creative writing and local works, the demand for a place at the arts hub is justified.

The museum is expected to showcase literary artefacts and function as a centre for activities, research and teaching. It could also stage plays, poetry readings and literature workshops. A group that comprises writers and literary scholars plans to petition the government. A spokeswoman for the West Kowloon Cultural District Authority said the Authority would consider views collected during public consultations later in the year.

[SCMP, 06/07/2009]

Architects stress the public's role

Conceptual development plans will be drawn up in the middle of next year by: Britain's Foster & Partners; the Rotterdam-based Office for Metropolitan Architecture and local firm, Rocco Design Architects. They say the keys to designing the layout of the Western Kowloon Cultural District are connecting with the community and paying attention to the content.

A three-month public consultation will begin in September. The architects will draw up plans for land use, the layout of buildings and public open space, landscaping and transport connection as well. The public will be asked to opt for one of the concept plans next year. Preferred elements of each might be combined into one if so desired.

[SCMP, 21/07/2009]

Details of delta co-operation to be unveiled next month

Details about how Hong Kong and Guangdong could create a quality living area and build infrastructure projects will be unveiled next month by the two governments. The Chief Executive said that in developing the West Kowloon Cultural District an eye shall be kept on the Pearl River Delta, as the last station of the Guangzhou-Shenzhen-Hong Kong Express Rail Link would be next to the arts hub.

[SCMP, 22/07/2009]

Copycat warning from cultural hub consultant

According to one of the consultants for the cultural hub, Office for Metropolitan Architecture ("OMA"), the company intends to work with urban planners to look for features that can best represent Hong Kong. A final development plan will be submitted to the Town Planning Board in the second quarter of 2011 following public consultation.

[The Standard, 10/08/2009]

HONG KONG BRIEFING

Cheaper, greener designs to be used for lifts

Environmentally friendly designs and cost-saving building techniques will be used in installation of lifts in some old public-housing estates in Hong Kong. A district management head of the Housing Department explained that parts of the steel shafts would be prefabricated and welded together at the site so that energy consumption could be saved and noise would be reduced when lifts are installed in the shaft.

[SCMP, 05/06/2009]

A quality and sustainable built environment

An invitation-for-response document was launched by the Council for Sustainable Development as a major source of information to outline the situation covering Hong Kong's built environment, and to provide information on potential solutions and how these solutions would affect our built environment. Following the launch, a series of forums, seminars and workshops will be organised to engage stakeholders.

[www.susdev.org.hk, 20/06/2009]

Greens pour cold water on air-con

Environmentalists asserted that more than 1.5 million tonnes of greenhouse gas emissions and hundreds of thousands of dollars in electricity bills can be saved annually if 2,500 air-

cooled commercial buildings switch to water-cooled air-conditioning systems, assuming that each system operates 12 hours per day.

The government has taken the initiative to support water-cooled systems in non-domestic buildings by relaxing the threshold for approvals. The replacement of air-cooled systems is also available under the *Building Energy Efficiency Fund*.

The installation of a water-cooled system must be approved by the Water Supplies Department and Electrical and Mechanical Service Department, and must also be checked regularly to prevent Legionnaires' disease.

[*The Standard*, 22/06/2009]

More firms join scheme to cut carbon emissions

One hundred and six businesses signed up to the government's voluntary carbon reduction charter, under which companies pledge to measure and reduce emissions of greenhouse gases, and have their carbon emissions audited. Some reduced operative costs by becoming more efficient in doing so.

Use of electricity accounts for 63 per cent of the city's carbon emissions. Buildings account for nearly 90 per cent of energy use. Hence, energy-efficient buildings are the key to efforts to fight climate change.

The government has set up a HK\$450 million funding scheme for energy and carbon audits of buildings and for emission reduction works. An assistant director of the Environmental Protection Department said they will introduce carbon audits in some government buildings and test the use of low-energy LED lighting in a park managed by the Leisure and Cultural Services Department.

[*SCMP*, 29/06/2009]

Reduction in plastic bag use since levy

A green group said the use of plastic bags reduced by 85 per cent immediately after the plastic bag levy came into force. Subsequently, *Greeners Action* urged officials to extend the levy to cover all dry products retailers.

Despite the strong start, *Greeners Action* said the government should increase the amount of levy when the economy recovered. "We are concerned that when the economy recovers, people will not feel the pinch of the 50 cents as much and the incentive to use fewer bags would be weakened."

On the other hand, the *Retail Management Association* said that major retailers reported a fall in sales since the introduction of the levy. It said that the number of shoppers who used their own bag or did not ask for a plastic bag increased by 56 per cent.

[*SCMP*, 09/07/2009]

Green building a high priority

Glare-reducing and energy-saving lighting, double-decked shuttle lifts and special software to reduce the use of paper were employed in a triple grade-A commercial office tower, which was completed in March 2008; and 75 per cent of the site is green space.

The property developer, Swire Properties, said the company adopted its environmental policy in 1998. The policy aims to integrate environmental considerations into planning, design, construction, operation and maintenance of its buildings. The developer also claimed that it was the first developer in Hong Kong to provide energy audits for office tenants free of charge and to issue green guidelines for tenants to protect the environment. Since 2002, the company estimates it has reduced energy consumption by 26.5 million kilowatt hours.

The company said that most buildings have an average lifespan of at least 50 to 60 years, so, it has a long-term view of environmental issues. Swire also takes suppliers environmental performance into consideration when they purchase supplies.

[*SCMP*, 23/07/2009]

Hong Kong's roads 'make vehicle subsidy scheme a non-starter'

A subsidy scheme introduced in 2007 to encourage owners of commercial vehicles to switch to models that meet Euro IV emission standards failed because the vehicles were not suitable for Hong Kong's roads.

The vehicles were designed to run on highways in Europe and had not been tested in East Asian countries. A lawmaker for the transport sector said the government should resolve the problem before introducing the newer Euro V standards. The government said it was looking into the issue with manufacturers and the industry.

One lawmaker suggested the government should replace Hong Kong's bus fleets with cleaner vehicles. The government opposed the proposal, saying that the administration of a new air-quality policy should not turn the bus fleets into a government investment. Many lawmakers criticised the government for its lack of an action plan and implementation timetable.

[*SCMP*, 30/07/2009]

Green storm over umbrella bags at malls

Greeners Action criticised shopping malls for giving out 18 million plastic bags per year for dripping umbrellas, which costs HK\$2 million per year. Seventy seven per cent of shoppers said they use the 'no-drip' bags, whereas only thirty per cent recycle or reuse them.

The territory's efforts to reduce the use of plastic bags are not comprehensive. "The 'use-and-dump' culture is still evident in pre-packaged groceries and plastic umbrella bags", the group said.

[*The Standard*, 07/08/2009]

Wintertime feasts in summer?

Green activists accuse the city's hotspot restaurants of contributing to global warming by serving steamboats throughout the year. To do so, the restaurants need to increase their air conditioning and, therefore, electricity consumption, in order to keep premises at a comfortable temperature.

The activists found that temperatures in the restaurants ranged between 23° and 25°, which means some customers wore scarves while eating steamboats. A spokeswoman for the group wrote to the restaurants urging them not to promote hotpots in summer. No reply was received.

[*Ming Pao*, 17/08/2009]

Levy puts recycling in the spotlight again

More than eight billion plastic bags are disposed of at landfills per year; most are not biodegradable.

A spokesperson for the Environmental Protection Department said that on average one person produced more than three plastic bags per day. The government currently runs various programmes for limiting household waste, including: the fluorescent lamp recycling programme; the computer recycling programme; and the waste electrical and electronic equipment recycling programme.

The recent implementation of the levy on shopping plastic bags should help to change the public's attitude to recycling, said the Friends of the Earth.

[*SCMP*, 21/08/2009]

Dump the car, drivers urged

Environmentalists say motorists who switch to public transport can help to reduce our carbon dioxide emissions by 65 per cent. *Greenpeace China* will stage a Carfree Day on 22 September, which will be the first large-scale event of its kind in the city. So far, 32 companies, hotels and educational institutions have signed up to take part in the event.

A Carfree Certificate will be presented to institutions which can muster at least 50 participants. The Secretary for the Environment said he will use public transport on the Carfree Day, whereas the President of the Hong Kong Automotive Association has doubts about the viability of

the event. Nevertheless, the HKAA supports environmental protection.

[*The Standard*, 24/08/2009]

Green fuel trial for ferries

Local ferries will use "green fuel" in a trial subsidised by the government to help clear Hong Kong's air. The government's own fleet was converted to ultra-low sulfur diesel in 2007.

The trial involves the three ferry companies, namely: New World First Ferry Services; Hong Kong and Kowloon Ferry; and Hong Kong and Yaumati Ferry Company, switching to ultra-low sulfur diesel. The Environmental Protection Department says switching to the new fuel can reduce sulfur dioxide emissions by more than 90 per cent, and particulate emissions by 10 per cent. The change would not prevent all pollution from vessels, and engine maintenance plays a role in the extent to which vessels cause pollution, the Department said.

[*The Standard*, 26/08/2009]

Double trouble for HK over greenhouse gas

A green group revealed that Hong Kong emits twice the amount of greenhouse gases as its size warrants. The group also called for legislation to protect outdoor workers who work under excessive heat conditions. The government complimented the group's recommendation of appointing senior government officials to lead a climate change working group. The Permanent Secretary for Development said the government is doing their part by building green buildings and taking other measures. A *Green Building Council* has also been set up to discuss the standards, methods and procedures for building greener buildings.

[*The Standard*, 28/08/2009]

MTR urged to see the light over energy

The MTR Corporation has been urged by a green group to modify the lighting at three of its stations on the West Rail to reduce the use of power; they are the Yuen Long, Long Ping and Tin Shui Wai stations.

Green Sense estimated that there were a total of 6,800 lights in the concourses at these stations, but only half of the number would be required when modifications are made. "The lighting designer for the station should not have adopted the refractive design. The poor design has created a lock-in effect that is set to cost the rail operator tens of thousands of dollars each year," *Green Sense* said.

A spokesman for the MTR Corporation said that the corporation believed the existing lighting systems gave those using the stations more comfortable and balanced lighting, and added: "We have no idea how the group's figures on savings are derived".

[*SCMP*, 07/09/2009]

Decrease in use of bin liners

The prediction that people would use more bin liners after the introduction of the plastic-bag levy has been proved wrong, according to a poll commissioned by a green group.

A *Friends of the Earth* (FOE) survey tracking changes in public behaviour since the introduction of the 50-cent levy in July has found that the number of bags of rubbish households are now putting out each month has dropped by 6 per cent. From an average of 29.4 per household per month reported in a poll in April, the survey last month showed that the average had dropped to 27.6.

FOE attributes the fall to people's inclination to cram more waste into fewer bin liners, which they now buy, as the plastic shopping bags they previously used for the same purpose are no longer free.

About 1,000 people aged 15 and over who had shopped at a supermarket at least once in the previous month were interviewed by the public opinion programme of the University of Hong Kong. The poll also asked people where they got their garbage bags sixty two per cent said they got them from their property management company, 3 per cent more than in the previous poll. About 16 per cent

said they were buying garbage bags, compared with 14 per cent in the previous survey.

FOE said some public housing estates had stated to distribute packs of bin liners to tenants containing fewer bags in a bid to minimise abuses.

As to the effectiveness of the plastic-bag levy, the poll found 78 per cent of respondents would not ask for any plastic bags when shopping at supermarkets, compared with 54 per cent in the previous poll. Those who did ask for bags sought fewer bags, from an average of 1.5 in the April 2009 poll down to one in the August poll. The poll also found that the public supported expanding the levy to newspaper hawkers, stationery shops and pharmacies.

The Environmental Protection Department said the public generally supported the levy and an increasing number of people were bringing their own bags when shopping. The EPD will collect more data and review the scheme one year later to see if it should cover more trades.

[SCMP, 14/09/2009]

URA projects shrouded in secrecy

Your editorial says that when an Urban Renewal Authority project has gone "through a thorough consultation process and been approved by the government, only under exceptional circumstances should it be turned back" ("Development needs rules, not judges' rulings", September 2). You add that "to use any other approach is to imperil the growth and direction of our city".

The Staunton Street redevelopment unveiled in 2003 never went through a thorough consultation process. In fact, no one knows the details of the more than 200 renewal projects the government has identified or why they have been picked. No criteria for "dilapidated buildings" or "inefficient land use" have ever been published.

We do know that the chief executive recently approved 24 of these projects to be included in the URA's latest business plan, but no details have been revealed "because this may lead to speculation". Speculation is only a problem when not everyone has the same information at the same time.

We only know the parameters of projects presented as a *fait accompli* to the Town Planning Board for approval.

This creates a bias, as owners offered compensation above the market value of their properties are pitched against tenants who lose their homes or shops, and concern groups that question the increase in density and destruction of communities.

These conflicts can be avoided by first establishing whether there is a need for the URA to intervene as a last resort. Communities should be engaged in developing district master plans that identify inefficient land use, including dilapidated buildings, lack of open spaces and bad harbourfronts. The government should publish its list of "dilapidated buildings" and "inefficient land use areas".

Many shortcomings can be addressed through public works programmes or by stimulating the private sector with zoning amendments, lowering land premiums, facilitating improvement schemes or mortgage guarantees for older buildings and repairs.

Rather than rewarding bad maintenance with high compensation owners should be forced to fix dilapidated buildings or face the risk of publication of repair orders and ultimately the withdrawal of occupation permits.

If all this fails, the public will surely accept intervention by the URA to resume sites, ensure master planning, finance development, or simply to co-ordinate public works by the myriad of government departments.

[Letter to Editor from Paul Zimmerman, founding member, *Designing Hong Kong Limited*]

[SCMP, 14/09/2009]

**ADVISORY COUNCIL ON
THE ENVIRONMENT (ACE)**
Legislative framework of mandatory

implementation of the Building Energy Codes (ACE Paper 8/2009)

PURPOSE

This paper is to seek members' views on the legislative framework of the mandatory implementation of the Building Energy Codes ("the BEC").

BACKGROUND

The Government concluded a public consultation on the proposed mandatory implementation of the BEC in the first quarter of 2008. The majority agreed that the government's proposal is headed in the right direction for promoting energy efficiency and conservation in buildings design, and supported the implementation of this scheme.

After the conclusion of the consultation period, Environment Bureau has been further gauging opinions through various means concerning the detailed arrangements of the legislative proposal. This process has involved:-

- establishment of a Trade Task Force and a Technical Task Force with representatives from professional bodies, major chambers of commerce, property management companies, real estate developers and retail associations;
- a Business Impact Assessment on the impact of the legislative proposal has been conducted; and
- consultation meetings with other organisations have been conducted.

Environment Bureau has taken into account the views collected and the findings of the Business Impact Assessment in formulating the legislative proposal, the framework of which is set out below.

LEGISLATIVE FRAMEWORK

Coverage

The following categories of buildings in the public and private sectors will be governed by the proposed mandatory scheme:-

- commercial buildings;
- commercial portion of composite buildings;
- common areas of residential buildings;
- common areas of industrial buildings;
- hotels and guesthouses;
- educational buildings;
- community buildings;
- institutional buildings;
- municipal buildings; and
- hospitals and clinics.

Different control regimes will be imposed on buildings that obtain the consent for commencement of works for superstructure construction from the Buildings Authority after the new legislation comes into operation ("Post-enactment Buildings"), and buildings which have obtained their consent for commencement of works before the new legislation comes into operation ("Pre-enactment Buildings").

Post-enactment Buildings

Developers are required to submit two declarations to the Director of Electrical and Mechanical Services Department ("DEMS"), the first one to declare that suitable design provisions have been included to meet the BEC requirements and the second one to confirm compliance with requirements. Both declarations will have to be certified by competent persons. DEMS will issue Certificates of Compliance Registration ("COCR") to developers on receipt of the required materials. A list of buildings issued with COCR will be made available for public inspection. Subsequent building owners are required to apply for renewal of the COCR every ten years.

Building services installations in individual premises of Post-enactment Buildings are required to comply with the BEC requirements at all times. For premises with an internal floor area of 500m² or above, responsible persons (e.g. owners, tenants) may be further required to obtain a Form of Compliance ("FOC") certified by a competent person, and to maintain the building services installations concerned to standards not lower than that applicable in the FOC. Responsible persons of premises with an internal floor area of less than 500m² will not be required to obtain a FOC.

Pre-enactment Buildings

Pre-enactment buildings would be required to improve energy efficiency whenever the buildings undergo certain major retrofitting works, including retrofitting works of building services installations covering a floor area of 500m² or above, or addition or replacement of main components of building services installations. Responsible persons are required to obtain a FOC certified by a competent person and to maintain the building services installations concerned to standards not lower than that applicable in the FOC.

Those retrofitting works which fall outside the scope of major retrofitting works as specified in the Ordinance, or which are conducted in premises with an internal floor area of less than 500m², would not be required to comply with relevant requirement.

Energy Audits

Owners of commercial buildings (both Post-enactment and Pre-enactment Buildings) are required to arrange energy audits for the common area in their buildings in every ten years. Energy audits should be carried out by competent persons and the results should be exhibited at the main entrance of the building.

Competent Persons

Registered professional engineers and corporate members of the Hong Kong Institution of Engineers in electrical, mechanical, building services or environmental disciplines may register with the Electrical and Mechanical Services Department ("EMSD") as competent persons under the proposed mandatory scheme. The list of registered competent persons will be made available to the public. Competent persons failing to comply with mandatory requirements may be subject to disciplinary actions.

Exemptions

The following categories of buildings will be exempted from the mandatory scheme:-

- buildings with total ratings of their main electrical switch not exceeding 100A, 1-phase or 3-phase;
- village houses in the New Territories; and
- declared monuments under *Antiquities and Monuments Ordinance (Cap. 53)*.

Certain categories of building services installations that are impractical to comply with the BEC requirements owing to operational or technical grounds are exempted from the mandatory scheme. Responsible persons may also apply to DEMS in writing with justifications for exempting individual building services installation from the BEC requirements.

Penalties

Penalty provisions are proposed for the non-compliance under the mandatory scheme. Monetary penalties will be imposed for most of the offences, from a maximum fine of \$1,000 to \$2,000,000. Penalties of imprisonment are proposed for furnishing false information or documents, as well as obstructing authorized officers in exercising their power without reasonable excuse.

Introducing regulatory control on motor vehicle biodiesel

(ACE Paper 9/2009)

PURPOSE

This paper is to seek members' views on introducing regulatory controls of motor vehicle biodiesel sales.

BACKGROUND

Biodiesel is a renewable fuel manufactured from vegetable oils, animal fats, waste cooking oil, etc. It is possible to reduce greenhouse gas emissions and hence reduce global warming by replacing traditional fossil diesel with biodiesel.

Biodiesel can be used to power motor vehicles in pure form or by mixing with motor vehicle diesel. The United States of America and countries in Europe are promoting the use of biodiesel by way of various tax concessions. In Hong Kong, a duty-free policy for motor vehicle biodiesel has been introduced in order to boost consumer confidence in the use of this fuel.

It is true that not all diesel vehicles are compatible

with biodiesel or its blends with motor vehicle diesel. Vehicle manufacturers generally accept motor vehicle diesel containing up to 5% biodiesel to power their vehicles. However, a higher biodiesel content may cause incompatibility problems in certain vehicle models. In the near future, the problems of incompatibility could be overcome by replacing certain engine components. EN 14214 is the European Standard which stipulates the minimum requirements for biodiesel, and was approved by the European Committee for Standardisation in 2003. Unless a more suitable standard can be found, this standard will be proposed as the pure motor vehicle diesel specification in Hong Kong.

To enable drivers to choose the correct type of fuel, the USA and Europe require labels to be posted at the selling points of such fuel if the biodiesel content of the fuel exceeds 5%. The label will also list the content of biodiesel.

ENVIRONMENTAL BENEFITS

Contrary to the traditional kind of motor vehicle diesel, biodiesel is a form of renewable energy. The carbon dioxide emitted during its combustion will be absorbed via photosynthesis by plants. It is therefore conducive to reducing greenhouse gas emissions and arresting global climate changes. In general, the effect of using biodiesel on roadside air condition is similar to Euro V diesel.

USE OF BIODIESEL IN HONG KONG

At present, biodiesel is not common to the vehicle owners in Hong Kong. Apart from the duty-free policy for biodiesel, introducing regulatory control on biodiesel by mandating specifications of biodiesel in line with international standards and adopting labelling requirements could help promote the use of this fuel.

PROPOSAL

Making reference to overseas practices in regulating motor vehicle biodiesel and in line with the existing legislative framework in the *Air Pollution Control (Motor Vehicle Fuel) Regulation (Cap. 311L)* in enforcing the specifications of motor vehicle fuels, the Environment Protection Department proposes to amend the Regulation to provide for the following statutory control on motor vehicle biodiesel:-

- (a) Motor vehicle biodiesel includes pure biodiesel and biodiesel blends which are blended from pure biodiesel and motor vehicle diesel and their respective specifications are:-
 - (i) pure biodiesel that is supplied or sold for motor vehicle use has to comply with EN 14214; and
 - (ii) biodiesel blends that are supplied or sold for motor vehicle use must be blended from pure biodiesel meeting EN 14214 and motor vehicle diesel as stipulated in Schedule 1 of the Regulation.
- (b) Labelling requirements:-
 - (i) a label is required for selling the motor vehicle biodiesel with biodiesel content over 5%; and
 - (ii) the biodiesel content in the motor vehicle biodiesel expressed in percentage should not deviate from the percentage of biodiesel content indicated on the label by more than one percent.
- (c) Penalty for non-compliance - the penalty for non-compliance with the motor vehicle biodiesel specifications in (a) will be a maximum fine of \$50,000. Non-compliance with the labelling requirements in (b) will also attract the same maximum fine.

CONSULTATION

At present, biodiesel suppliers, the oil companies, and the *Motor Traders Association of Hong Kong* which represents all the major suppliers of local diesel vehicles, have no objection to the proposed regulatory control on motor vehicle biodiesel.

PUBLIC REACTION

The proposal will help to safeguard the quality of motor vehicle biodiesel and eventually to promote its use. The wider use of biodiesel can help to reduce greenhouse gas emissions. Hence, we expect that the proposal will be supported by the general public.

Proposed Second Phase of the Mandatory Energy Efficiency Labelling Scheme (ACE Paper 10/2009)

PURPOSE

This paper is to seek members' views on the proposed second phase of the mandatory energy efficiency labelling scheme (MEELS).

BACKGROUND

The Energy Efficiency (Labelling of Products) Ordinance MEELS was introduced through the *Energy Efficiency (Labelling of Products) Ordinance (Cap. 598)* ("the Ordinance") on 9 May 2008. Under the Ordinance, energy labels are required to be shown on all prescribed products in Hong Kong to inform consumers of their energy efficiency performance.

Three types of prescribed products are covered in the first stage: room air conditioners; refrigerating appliances; and compact fluorescent lamps, which account for approximately 60% of local electricity consumption in the residential sector.

Updates on the Initial Phase of MEELS

Environment Bureau has held a series of activities to promote the initial phase of the scheme to different parties and organisations, including: a launching ceremony; announcements in radio and government website; distribution of pamphlets and posters; issue of notification letters/reminders to suppliers; promotional visits to retailers; and seminars for trades.

By mid-June 2009, the Electrical and Mechanical Services Department ("EMSD") had received 847 product information submissions for assignment of reference numbers. MEELS will be promoted continuously in a view to enhance public awareness of the scheme and facilitate members of the trade to meet the legislative requirements.

In view of the positive feedback on the initial phase, amendments to the Ordinance to implement the second phase of the scheme will be proposed.

SECOND PHASE OF THE MANDATORY ENERGY EFFICIENCY LABELLING SCHEME

Coverage of Products

As the following products are widely used in local households, Environment Bureau prepares to include the following two products in the second phase of MEELS:-

- (a) washing machines; and
- (b) dehumidifiers.

Key Requirements

Prior to selling these products on the local market, importers and local manufacturers are required to submit the required product information, including test reports, to the EMSD for assignment of reference number and record.

Importers and local manufacturers are then required to label these products in the prescribed formats. The format of energy label will be the same as that for products under the initial phase of the scheme. Retailers will be under a legal obligation to sell only products which carry energy labels that are properly shown and have the prescribed specifications.

Potential Energy Saving

The two proposed products together account for about 7% of annual electricity consumption in the residential sector. Environment Bureau estimates that implementation of the second phase of the scheme can bring about an additional energy saving of about 25 GWh, is approximately HK\$25 million in electricity costs per year. In terms of environmental benefits, an annual reduction of carbon dioxide emissions of 17,500 tonnes will be achieved.

Transitional Arrangements

To enable the trade to make necessary preparations for the transition from the voluntary EELS to the mandatory scheme, it is proposed to allow a grace period of 18 months for compliance with the second phase. In addition, product models which have already been registered under the voluntary EELS need not be re-tested for transferring to the

mandatory scheme.

In line with arrangements for the initial phase of the scheme, Environment Bureau also suggests exempting the following kinds of washing machines and dehumidifiers:-

- (a) products which have been manufactured in, or imported into, Hong Kong before amendment of the legislation for the second phase; and
- (b) products which are to be supplied as part of, or in connection with, the disposition of any newly developed premises and for which a procurement contract has been entered into before amendment of the legislation for the second phase.

Consultation

A task force has been set up with the relevant trade associations and the Consumer Council to assemble the views of stakeholders and to work out implementation details of the second phase of the scheme.

REGIONAL & INTERNATIONAL

AUSTRALIA

Terminal damage to Great Barrier Reef "unavoidable"

The Great Barrier Reef's chances of surviving even moderate climate change is poor and "catastrophic damage" may not be avoided, the first *Reef Outlook Report* has stated.

The report concludes that the rate of climate change backed by the Federal Government would result in "severe" coral bleaching and threaten the habitats of key species on the reef.

The report follows a five-year study by the Great Barrier Reef Marine Park Authority. The Environment Minister has announced a new water-quality plan for the reef, as a consequence of the report.

In a series of dire predictions for the Australian icon, the report finds that carbon in the atmosphere will have to be kept to under 400 parts per million (ppm) if animal species and coral are to have a low to medium vulnerability to climate change. The current level of carbon in the atmosphere is 387 ppm.

The Prime Minister has on several occasions publicly supported a 450 ppm target for carbon in the atmosphere – a figure also backed recently by the Major Economies Forum, which includes the United States and China.

The report finds that if carbon reaches 450 ppm in the atmosphere, which is predicted for 2035, it would result in "severe mass bleaching" and will destroy the reef's ability to grow new coral.

An eminent marine researcher and the former chief scientist of the Australian Institute of Marine Science, who helped to prepare the report, said the government-backed 450 ppm target would result in the complete death of the reef by 2050.

A spokesman for WWF said the report showed climate change had already affected levels of calcification, a process which helps grow and strengthen coral. The Reef has collapsed dramatically since 1980 as the ocean around the reef warms and becomes more acidic.

The Minister said the report found that the Barrier Reef continued to be one of the world's healthiest coral systems, but that the emerging threat from climate change required action on global warming. The Federal and Queensland Governments have committed to a binding target to cut the amount of pesticides and other agricultural run-off onto the reef by half. The report found one-third of the reef is exposed to agricultural run-off, which damages coral and marine life.

The Federal government has spent \$325 million to improve the health of the reef, including \$76 million to work with nearby farmers to limit agricultural runoff. Yesterday's release is the first of what will be a five-yearly review of the Reef's health.

The report also found that the general health of marine life in the Reef system is strong with no extinctions, but some species – including dugongs, turtles and some sharks

– have seen a significant decline in numbers.

[*Sydney Morning Herald*, 03/09/2009]

Stormwater turned into drinking water

Stormwater captured deep beneath the northern suburbs of Adelaide, South Australia, has been transformed into bottled drinking water by a team of CSIRO scientists. The treated stormwater, drawn from 160 metres below ground, complies with drinking water health standards.

The water, from north suburban Salisbury, was initially treated by passing through a reed bed or wetland. That process allowed particles to settle before the stormwater was injected into a limestone aquifer for storage and months of natural slow filtration.

After recovery, the water was laboratory tested before being aerated and filtered through a carbon filter and undergoing microfiltration and ultraviolet disinfection. The water demonstrates that reliable drinking water can be produced from stormwater, CSIRO's Dr. Dillon said.

"Compared to other common alternative supplies, stormwater harvesting is cheaper, more energy efficient and has a small carbon footprint. It also avoids the economic, social and environmental costs of building new dams for water storage and shows the value of urban aquifers," Dr. Dillon said.

[*The Advertiser*, 17/09/2009]

BRAZIL

Amazon land law debate heats up

Two months ago, a controversial law took effect in Brazil allowing people who had illegally occupied land in the Amazon to apply for legal ownership rights. Since then, more than 4,000 farmers have registered applications and the aim is to have nearly 300,000 farmers apply within three years.

Decades of irregular occupation have created a situation in the Amazon often described as "land chaos". Even though satellite technology makes it possible to pinpoint areas of illegal deforestation, it is very hard to take action against those responsible, because no one knows to whom the land in the Amazon belongs and who is farming there.

According to the authorities, land regulation in the Amazon is essential in order to gain control over the region and contain deforestation. "We have to be pragmatic about the Amazon. It is unthinkable to remove all those farmers after 40 years of occupation," said one of the senior government officials overseeing the new regulations, "so we had better regularise it to obtain some control and have a fresh start for the future."

However, critics of the land ownership bill fear that giving rights to people who have illegally occupied public land for many years already could encourage new illegal occupation, as people will come to the region to occupy public land trusting that in the future there will be another amnesty that will legalise everything.

The new land law applies to farms up to 1,500 hectares (3,700 acres). This is quite small, given that ranches over 100,000 hectares (247,000 acres) are common in the Amazon. Farmers with properties up to 60 hectares only need to show personal documents and say where the land is located; then they will receive a permanent land title within 90 days, at no cost and with no official visits, provided the land claimed is not disputed and they do not have any other property in their name.

Farmers with 60 to 500 hectares must show documents proving that they have occupied the land from before 2004. They will pay for the land, but at below market price. Government agents will visit the sites to establish with GPS technology the exact boundaries of the land.

Farmers with 500 to 1,500 hectares will have to pay the market price to regularise their land. Farms that are larger than 1,500 hectares are still covered by a previous law which stipulates that public auctions should be held to legalise ownership.

Environmentalists fear that the owners of big farms may

use middle men to deceive the authorities, by splitting large properties into several smaller fake farms.

On this concern, a government superintendent for land regularisation in the Amazon responds, "That's not such an easy thing to do. We have people on the ground and even though it is far from perfect, we do have a lot of intelligence on the Amazon." He adds, "If we find out that a property which had only one house, now has 10 houses, and lots of fences, it will be clear there is something wrong."

For smaller farmers, the possibility of accessing credit from public and private banks against the security of legally held land is the main incentive to regularise their occupation of their land.

For years, farmers managed to get credit using the provisional "right to use" documents held by many in the region. Yet in the last few years, the tightening of environmental and property laws has led banks to lend only to those with all their paperwork in order.

"We do not want to destroy the forest but for that we need money to invest in modernising and expanding production. But to invest we need to be sure that the land is ours," said one farmer.

[*BBC News*, 07/09/2009]

CHINA

Environmental NGO launches pioneering lawsuit

All-China Environmental Federation (ACEF), a non-profit civil society organisation supported by the government, is suing Jiangyin Port Container Co. Ltd. for environmental violations. The case will be heard by the Jiangsu Provincial Intermediate People's Court, and marks the first public lawsuit in China with an environmental organisation as the main plaintiff.

The Federation received a complaint from more than 80 households in Junshan District in May, relating to the handling of iron ore powder shipments by Jiangyin Port Container Co. Ltd. of Wuxi City. The complaint alleges the company has caused air, noise and water pollution and damaged the quality of the air, drinking water and living environment of the surrounding residential areas.

ACEF immediately sent an investigation group to the area to confirm the allegations. The investigation revealed that the company had been handling harbour building materials since April 2008, but appeared not to have any of the required approval papers relating to an environmental impact assessment of such hazardous operations.

According to ACEF, the hygiene protection distance between the company's freight yard and the surrounding residential areas is less than 50 metres. Iron ore powder, without any treatment, is discharged into the Xibei Canal and the Yangtze River, which are drinking water sources of Wuxi and Jiangyin urban residents.

The noise and dust caused by the company's operations have severely affected the surrounding environment. The problem remains serious, despite some corrective measures taken by the company.

ACEF considered that Jiangyin had violated the laws related to environmental impact assessment, and the prevention and control of air, water and noise pollution, and had severely threatened the local drinking water sources.

In order to protect public environmental interests, ACEF submitted the lawsuit to the Jiangsu Provincial Intermediate People's Court in July, pleading for an immediate halt to the company's polluting activities. The Federation asked the defendant to ensure the surrounding air quality conformed to the state standard, to take effective measures in iron ore wastewater treatment, and to remove a hidden peril for the drinking water sources.

It is reported that the court has already placed the case on file for investigation and prosecution.

[*China.org.cn*, 09/07/2009]

"No coal" campaign in China

Greenpeace China volunteers stand on the Yongding River bank in western Beijing, holding a yellow flag on

which the Chinese characters read: *Save the Climate*. The demonstrators urged China's top power companies to help move the country away from coal and to cut carbon dioxide emissions by aggressively improving energy efficiency and developing renewable energy sources.

Greenpeace has also released a report challenging the environmental credentials of China's largest power-generation plants. The *Greenpeace* Report, titled "*Polluting Power: Ranking China's Power Companies*", stated that China's top 10 power generators consumed 20 percent of China's total coal production, creating 1.4 billion tonnes of carbon dioxide emission in 2008.

According to the National Statistics Bureau, the total amount of coal consumed by the top 10 Chinese power companies is more than 590 million tonnes, which generates 60 percent of the country's electricity. The country's raw coal output totaled 2.6 billion tonnes in 2008. By the end of 2008, installed capacity of electricity generation reached 792 gigawatts (gW). Coal-fired plants account for 75 percent of that capacity.

The "True Cost of Coal in China" report, published by *Greenpeace* in 2008, stated that the environmental loss for each tonne of coal burned in China was 150 yuan. This price tag was based on pollution of air and water, ecological degradation and harmful health effects.

Greenpeace claims that by burning coal, the top 10 power companies caused environmental losses valued at 87 billion yuan in 2008. However, some power industry insiders argue that their methods of calculation still need to be scientifically testified.

According to a programme manager for the *Environmental Defense Fund China* programme, China's energy mix cannot easily be changed in the short term, so power companies are facing huge pressure to implement energy conservation and emission reduction measures.

Greenpeace affirmed China's significant progress in improving energy efficiency and reducing major pollutants. All of the top power companies have met the target in China's 11th five-year plan to reduce average coal consumption to 355 grams per kilowatt-hour of coal-power generation. In the past three years, the amount of energy saved with the closing of inefficient coal-fired plants in China was 54.07 gigawatts, which is roughly equivalent to the total installed electricity capacity of Australia.

A spokesman for the Ministry of Environmental Protection said China's power industry had major achievements in 2008 in reducing sulfur dioxide (SO₂) emissions by 14.5 percent over 2007 levels. *Greenpeace China*, however, said there should be greater focus on alternative energy sources. Power companies can and must help China to prevent climate disasters by rapidly increasing efficiency and the share of renewable energy sources, such as wind and solar.

In fact, more of China's power companies are turning to alternative energy sources. By the end of 2008, one of the top 10 power companies had met the government's call for obtaining 3 percent of its power from renewable energy sources. However, eight of those companies were only halfway towards meeting that goal.

The central government plans to accelerate the pace of restructuring its energy mix and economic structure, according to previous statements by the vice minister in charge of climate change for the National Development and Reform Commission. Renewable energy sources, including solar power and wind power, are expected to account for 10 percent of the country's energy resources by 2010 and 15 percent by 2020.

Greenpeace wants China to raise the renewable energy target to 30 percent by 2020 and to introduce favourable policies to facilitate development. It proposed an energy and environmental tax for coal, which not only drives power companies to rapidly move to renewable energy sources, but also ensures that, during the transition, coal is used as efficiently as possible.

Greenpeace says that China needs to adopt stricter energy efficiency standards for installed coal capacity in the 12th five-year plan, which requires average coal consumption to be below 335 grams per kilowatt-hour of coal power generation.

[*China Daily*, 10/08/2009]

Beijing plans to limit exports of rare earths, exotic metals

Aiming to conserve scarce resources and protect the environment, China plans to limit exports of rare earths, exotic metals used in computers and clean-energy products of which China is the only major supplier.

China accounts for 95 percent of global production and about 60 percent of consumption of rare earths, which include minerals such as dysprosium, terbium, thulium, lutetium and yttrium, according to the *US Geological Survey*. The country supplies more than 90 percent of such materials used by the US.

As rumours of possible curbs circulated last month, industry publications warned they could affect manufacturers of low-energy light bulbs, computer disk drives, electric motors, lasers and catalytic converters. Beijing's trading partners have objected to similar curbs on exports of industrial materials as a violation of China's free-trade commitments.

The United States obtained nearly all its rare earths needs from its own mines as recently as 1990, according to the *US Geological Survey*. However, it says US output plunged as the market was flooded by low-cost ore from China, which had lower labour costs and less-stringent environmental controls.

Beijing is limiting this year's rare earths exports to 31,300 tonnes, down 8.1 percent from 2008, the *China Business News* said, adding that the proposed plan calls for capping exports at 35,000 tonnes per year between next year and 2015.

The reports also noted that the curbs could boost the nation's revenues by propping up prices which had plunged due to weak demand during the global financial crisis.

[*The Macau Post Daily*, 02/09/2009]

INDIA

African cousins could replace extinct Indian cheetahs

India is planning to reintroduce cheetahs into the wild, more than six decades after they were thought to have been hunted into extinction on the sub-continent.

But the plans have ignited a debate among wildlife conservation groups, with opponents arguing that India has neither the land nor the funds to sustain both cheetahs and the dwindling tiger population. Wildlife experts and officials met in the northern Indian state of Rajasthan last week to draw up proposals to import up to 100 cheetahs from Africa during the next 10 years.

The cats, which would come from countries such as Tanzania, Botswana and Kenya, would be kept in captivity in semi-wild enclosures until they were acclimatised, the experts said. They would then be released at several potential sites in Rajasthan, the western states of Gujarat and Maharashtra, the central state of Madhya Pradesh, and the southern states of Karnataka and Andhra Pradesh.

"This is the only large mammal ever to have gone extinct in independent India," Milind Pariwakam, wild species manager at the Wildlife Trust of India, which jointly organised last week's meeting, told *The Times*.

"If you bring back a charismatic mammal like the cheetah, which is also an apex predator, it will help to protect many other species, as well as the whole grassland ecology."

The plans have yet to be approved by the Indian Government, but they have been endorsed by Jairam Ramesh, the Environment and Forests Minister. "We plan to bring the cheetah back in India," he told Parliament.

The Asiatic cheetah once roamed across the Middle East, Central Asia and India, and was tamed by the Mughal emperors for hunting. The last one in India is believed to have been shot dead by the Maharajah of Surguja in Madhya Pradesh in 1947. Today, the cheetah is found only in the wild in Iran and is listed as a critically endangered sub-species.

Experts say that they will not reintroduce cheetahs to India from Iran, which has fewer than 60 in the wild. However,

they say that they could use cheetahs from Africa as they are almost genetically identical to their Asiatic cousins. African and Indian cheetahs separated about 5,000 years ago, but did not qualify as a sub-species. By contrast, African and Asiatic lions were separated about 100,000 years ago and are considered sub-species, as are African and Asiatic leopards.

Most experts and officials agree in principle to the cheetah proposals, but many argue that India cannot afford the project, given the problems it has protecting tigers and other endangered species.

India started the *Project Tiger* programme in 1973 to protect its tigers, which numbered about 40,000 a century ago. But the initiative failed to prevent the tiger population from falling to 1,411 in February last year, down from 3,642 in 2002, largely due to poaching.

[*The Times*, 14/09/2009]

INDONESIA

Slash-and-burn land clearance goes unabated

Indonesia's battle against slash-and-burn agriculture seems to have stalled, raising the prospect that Singapore and other neighbours may have to live with bouts of choking haze for years to come, regional officials and environmentalists warn.

Jakarta has worked to train villagers in fire-prone areas in Sumatra and Kalimantan to practise "zero burning" with the goal of "zero haze". However, it appears to have had little effect, as people still turn to slash-and-burn methods to clear land during the dry season.

One problem is that there are no incentives for small-time farmers to abandon the age-old practice. The government has not provided them with the mechanical equipment they could use to clear land for planting without burning.

As the ban against open burning is not being strictly enforced, big, wealthy plantation companies also continue to use the cheap and easy method of land clearing. Thus, forest and land fires have ravaged thousands of hectares in Sumatra and Kalimantan, many of them on land belonging to oil palm plantation and paper-and-pulp companies. While the government has effectively punished small-time farmers, companies with larger land concessions continue to go unpunished.

Under current environmental laws, the only action civilian investigators can take is to seek explanations and evidence from individuals or companies, and to report them to the police for prosecution. Those found guilty of damaging the environment can be jailed for up to 10 years and fined as much as 500 million rupiah.

The Indonesian government hopes to amend the laws to give the Environment Ministry powers to punish both companies that start fires and regional governments which fail to stop the burning. It has also pledged to supply poor communities with mechanical land-clearing equipment.

The Environment Minister has appealed to the governors and regents of fire-prone areas to stop all burning of forests by revoking by-laws that allow local farmers to clear land by burning. The Ministry is investigating 14 companies in Riau, a province in Indonesia, for allegedly starting forest and land fires, and will submit its findings to the police for legal action.

However, an official at the provincial environmental agency in Riau, which is investigating the companies, said that it would be tough to enforce the law due to budget constraints. The Riau administration appears to be powerless to tackle forest fires, mainly because of a lack of money and technical expertise.

At a meeting in Singapore in August this year, the Environment Minister told his Asean counterparts that Indonesia would mobilise the Forestry Ministry's forest fire prevention brigade and improve the early warning systems and also deploy military planes to launch water bombs. But the forestry agency in Pekanbaru said the administration had allocated only 500 million rupiah to deal with forest fires this year, far less than the proposed three billion rupiah required.

[*The Straits Times*, 05/09/2009]

MACAU

32,400 households join energy conservation contest

Approximately 32,400 local households in some 200 residential buildings, as well as seven hotels, and 21 restaurants have joined the *Energy Saving Contest* co-organised by the Energy Sector Development Office (GDSE) and the local power supply monopoly company (CEM).

The six-month contest will conclude at the end of November. The participants compete in reducing their electricity use, which will be calculated by comparing the electricity bills of the six-month period with those of the same period of last year.

Those with the highest reductions in electricity use will be awarded a gold, silver or bronze medal from one of the contest's three categories, namely "energy-saving homes", "energy-saving restaurants", and "energy-saving hotels", as well as other prizes.

Meanwhile, an environmental protection campaign, entitled "Build a green Macau - Lead a green life", has been launched by a local retailer. According to the campaign's launch ceremony, no shopping bags will be given out by the store to its customers. If a customer insists on getting a shopping bag, he or she is "encouraged" to make a one-pataca donation for each shopping bag to a fund set up to support local environmental activities.

Supported by the Environment Council, the store's "no shopping bag" campaign aims to bring out the key message of "small changes in lifestyle can make huge differences in the environment" as well as to foster a more environmental lifestyle in town.

[*The Macau Post Daily*, 19/06/2009]

SINGAPORE

A*Star pumps in \$27.5m to develop green technologies

The push for sustainable development has been given a boost by the Agency for Science, Technology and Research (A*Star) injecting \$27.5 million into research in areas such as the production of bio-cement and bio-fuels.

With more countries waking up to the idea of growing in a way that does the least damage to the environment, the agency hopes to become involved in sustainability in a big way by making it a key research focus.

According to A*Star's Science and Engineering Research Council, this will help develop Singapore into a global centre of knowledge and expertise in the emerging area of sustainable development. Funding has been provided in four areas of sustainable development research, namely: storage and use of carbon dioxide; bio-fuel and bio-energy production; creation of environmentally friendly construction materials; and making non-toxic, energy-efficient materials for the aerospace and automotive industries.

A key aim of the programme is to develop technologies that are cost-efficient. For instance, research into energy-efficient materials for fuel-guzzling industries, such as the aerospace and automotive sectors, will look to enhance mobility while improving fuel economy. Projects researching sustainable construction materials will look at ways to make cement from cheap organic waste and naturally occurring, non-pathogenic micro-organisms to reduce the reliance on sand and conventional cement.

"The intent of this programme is to develop new and sustainable engineering materials for industries that are strategically important to Singapore," said a senior scientist at A*Star's Institute of Materials Research and Engineering, "the materials will be developed with an understanding of industry needs and with a key focus on minimising the environmental footprint over the lifetime of a given product, so that there will be less waste produced, less energy consumed and less damage caused."

[*The Business Times*, 29/08/2009]

SOUTH KOREA

Four major rivers to feed new reservoirs

To solve an increasing water shortage problem and to control floods, South Korea is embarking on an ambitious project to clean up four major rivers and create four new reservoirs.

The project, which is opposed by the environmentalists, is part of a US\$38.1 billion *Green New Deal* stimulus package to create nearly a million jobs and boost a slumping economy through implementing green initiatives. The restoration of the four rivers - Han, Nakdong, Geum and Yeongsan - is expected to cost at least US\$13.5 billion. The majority of people living near the four rivers are "very keen" on the project, according to the South Korean Vice-Minister of Environment.

However, environmentalists oppose the project because they worry that the ecosystems of the rivers and surrounding areas will be damaged. They also contend that damming the rivers will lead to a deterioration, rather than improvement, in the quality of the water, as it creates stagnant lakes prone to sedimentation and pollution.

The project, due to be completed in 2012, involves large-scale dredging of rivers and construction of small dams and submerged weirs to create catchment basins and reservoirs that can store up to 1.3 billion cubic metres of fresh water.

New technology will be used to deal with sedimentation, and channels would be created for fish to swim freely in and out of the catchment areas. The project also involves cleaning up nearby farmland and preventing the flow of pesticides and other effluents into the rivers. Studies of the ecosystems along the rivers have been carried out and areas deemed to be valuable will be preserved. In affected areas, water fauna will be moved to a holding area and put back after dredging or damming work is done.

In response to concerns over damage to the ecosystems of the regions involved if there is overdevelopment, plans for construction of recreational sites have been scaled down.

Besides the revitalisation of the four rivers, other *Green New Deal* projects include: recycling; carbon emission reduction; energy conservation and the maintenance of forest resources.

The long-term "Low Carbon, Green Growth" aims to achieve sustainable economic growth that maintains environmental integrity. Its three guiding principles are: achieving growth through minimal use of energy and resources; minimising environmental pressure, including keeping carbon emissions low; and developing green technologies as drivers of economic growth.

South Korea is already looking to export its expertise in waste treatment and water supply to Asia, the Middle East and Africa.

[*The Straits Times*, 24/06/2009]

TAIWAN

Cabinet's 'green tax' plan

The Cabinet's tax reform committee has agreed to ask government agencies to explore non-tax measures to boost energy conservation and cut greenhouse gas emissions before seeking to introduce a green tax, which it intends to introduce within two years.

The committee agreed in June to impose an incremental energy and environment levy by integrating 13 existing taxes to honour President Ma Ying-jeou's campaign pledge to make the nation eco-friendly. Agencies have been given a month to submit their findings to the committee.

The committee's green tax plan would generate more than NT\$30 billion (US\$9.2 million) in tax revenues in the first year. The amount is expected to exceed NT\$800 billion in the 10th year, after which the tax rate would remain flat.

The Chinese National Federation of Industries said the government should think twice about the green tax, as it could hurt industries. For example, the region's largest steel maker would have to pay more than NT\$40 billion in environment taxes annually after the tax reform comes

into force.

[*Taipei Times*, 04/08/09]

UNITED KINGDOM

Incinerator proposal "not lawful"

Residents against the building of a waste incinerator in Perth, Scotland, believe the local council acted unlawfully when granting outline planning permission. A community organisation asked lawyers to look into the proposal to build a waste-to-energy plant. According to lawyers, the authority was legally obliged to refer the plans to the Minister.

Outline planning consent for the development was granted in 2006, but full details emerged only this year. The *Grundon Waste Management Plan* for the £100million incinerator, which will include a 260ft chimney, has attracted hundreds of objections.

The community organisation hired planning lawyers to look into the matter. The solicitors' advice and findings, including the conclusion that the granting of the outline planning permission was not lawful, have been sent to the council.

The planning application is still to go before the Development Control Committee, and objections could still be raised in that forum.

[*BBC UK*, 21/08/2009]

Trust objects to oil drill plan

The National Trust has objected to plans to drill for oil in woods in Surrey. The organisation said exploration plans by Europa Oil and Gas Ltd to drill in Bury Hill Wood would have an "adverse environmental impact". It said there would be an "unacceptable impact" on green belt land and an Area of Outstanding Nature Beauty.

However, according to Europa, an environmental impact assessment at the site had been "very good".

A spokeswoman for the National Trust said: "We believe that the proposal will have unacceptable adverse environmental impacts, particularly in terms of landscape, visual amenity, traffic and access, which cannot be satisfactorily mitigated." She added that there was no "national need" for the proposal and that it was against government policy.

Europa has submitted a planning application to Surrey County Council to conduct exploratory drilling for oil in the woods, near Holmwood, for 18 weeks using a 35m (115ft) drilling rig.

The plan has also been opposed by a group called the *Leith Hill Action Group*. The group has urged Europa to find an alternative location.

The company previously said the exploration would be in a Forestry Commission plantation to avoid damaging ancient woodland, and that it would "reduce" the impact and damage caused by lorries.

[*BBC UK*, 24/08/2009]

U.S.A.

Washington state farmers sue to stop feedlot plan

A group of Washington state farmers have joined two environmental NGOs in filing a lawsuit to block a proposed feedlot from using a well, which is exempt from requiring state permits, to water up to 30,000 cattle.

One of the largest feedlot operators in the Northwest, Easterday Ranches Inc., wants to build the region's first new feedlot in years on dry land near the small town of Eltopia. The company already operates a 30,000-head feedlot in the area near Pasco in central Washington. Easterday bought a water right for dust control and cooling cattle at the new feedlot, and the state Department of Ecology approved that water right transfer on June 11.

However, Easterday would use a well that is exempt from a state water permit to draw drinking water for the cattle. Pursuant to a state law passed in 1945, as long as water

usage is limited to 5,000 gallons per day, some wells may be drilled without a permit. They include wells for livestock watering, small industrial uses, domestic use or non-commercial watering of a small lawn or garden.

Conservation groups have long complained the law opens the state's limited water resources to unlimited use. But a 2005 opinion by the state Attorney General recommended against the government limiting the amount of water that ranchers draw daily for their livestock.

Neighbouring farmers contend that the additional water drawn from underground by Easterday could dry up their own wells. The area is made up of rural homesteads, where farmers plant dryland wheat and draw drinking water for their homes from deep, underground wells.

"After over 100 years of conservative farming on some of the driest land in Washington, our lives and livelihoods are in jeopardy from this huge industrial feedlot," said a member of *Five Corners Family Farmers*.

A lawsuit has been filed by the group and various NGOs. The lawsuit seeks a declaration that livestock operators may not draw an unlimited amount of water from exempt wells, or that an exempt well is not available to Easterday.

The lawsuit names the state of Washington, the state Ecology Department, and Easterday as defendants.

The Ecology Department estimates that the average feedlot cow consumes about 18-20 gallons of water per day. At 30,000 cows, that is more than 500,000 gallons of water, or enough to nearly fill an Olympic-size swimming pool, each day.

The state Legislature was asked to weigh in and resolve the exempt-well question last session, but lawmakers failed to address it amid the state's budget crisis. Instead, they ordered a group of lawmakers, livestock industry representatives, environmental groups and native American tribes to discuss the issue this year.

[*ABC News*, 01/07/2009]

EPA will review 79 mountaintop coal mining permits

In order to curb environmental damage from surface coal mining, the Obama administration on Friday announced plans to give 79 permit applications in four states additional scrutiny.

The U.S. Environmental Protection Agency (EPA) said it wants to ensure that the proposed mines will not cause water pollution and violate the *Clean Water Act* before permits are issued by the U.S. Army Corps of Engineers. Most of the permits are for mines in Kentucky, the nation's No. 3 coal-producing state. Also on the list are operations in No. 2 coal producer West Virginia, Ohio and one mine in Tennessee.

The action targets a practice known as "mountaintop removal mining", which involves blasting away mountaintops to expose multiple coal seams and burying intermittent streams with excess rock.

According to an EPA Administrator, the release of the preliminary list is the first step in a process to ensure that the environmental concerns raised by the 79 permit applications are addressed. Environmental groups supported the move, but remained critical of the government for not banning mountaintop mining altogether.

The coal industry blasted the decision, saying it jeopardises tens of thousands of jobs. "By deciding to hold up for further review coal mining permits pending in West Virginia, Kentucky, Ohio and Tennessee, the agency damages a weak economy struggling to recover in the worst recession in postwar history," the President of the National Mining Association commented.

[*USA Today*, 12/09/2009]

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.

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Convictions under environmental legislation: July 2009

[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:

July 2009

Twenty-six convictions were recorded in July for breaches of anti-pollution legislation enforced by the Environmental Protection Department.

Twelve of the convictions were under the Noise Control Ordinance, 7 under the Waste Disposal Ordinance, 4 under the Air Pollution Control Ordinance, 2 cases under the Water Pollution Control Ordinance and 1 under the Hazardous Chemicals Control Ordinance.

The heaviest fine in July was \$20,000, assessed against a bakery company which discharged waste/polluting matter into the water control zone.

August 2009

Twenty-one convictions were recorded in August for breaches of anti-pollution legislation enforced by the Environmental Protection Department.

Seven of the convictions were under the Air Pollution Control Ordinance, 6 under the Waste Disposal Ordinance, 5 under the Noise Control Ordinance, 2 cases under the Hazardous Chemicals Control Ordinance and 1 under the Water Pollution Control Ordinance.

The heaviest fine in August was \$10,000, assessed against a health and beauty retailer which failed to comply with the requirements of a noise abatement notice.

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