# Consultation Document on the Extension of the Environmental Levy Scheme on Plastic Shopping Bags

Save money   Save the environment

# CONTENTS

## Foreword

Hong Kong is facing an imminent and serious waste problem. On 4 January 2011, the Government announced a complete and comprehensive strategy as well as an updated action plan for the management of the waste problem in Hong Kong. Waste reduction at source remains one of the crucial elements and ongoing piece of our waste strategy.

Our commitment to environmental protection requires close partnership with the community at large. In the spirit of producer responsibility, the Environmental Levy Scheme on Plastic Shopping Bags was implemented on 7 July 2009. It created a direct economic disincentive to encourage consumers to reduce the indiscriminate use of plastic shopping bags.

Thanks to the general support of the community. With the cooperation of consumers and retailers, the Levy Scheme has been implemented successfully as the first mandatory producer responsibility scheme in Hong Kong under the Product Eco-responsibility Ordinance. As we will show in this Consultation Document, the Levy Scheme has been effective in deterring the indiscriminate use of plastic shopping bags in Hong Kong. We are ready to move ahead and we need further support from the public in order to take the matter forward.

In this Consultation Document, we will analyze how we might take forward the producer responsibility scheme in the pursuit of environmental benefits. Please spare to read our analysis, and share with us your views, especially your views on those specific questions raised in the Consultation Document.

Edward Yau
Secretary for the Environment
May 2011

# Chapter 1 We Achieved Great Success

1.1 In the spirit of producer responsibility, the first phase of Environmental Levy Scheme on Plastic Shopping Bags (the Levy Scheme) was implemented on 7 July 2009 as the first mandatory producer responsibility scheme (PRS) in Hong Kong under the Product Eco-responsibility Ordinance. By requiring registered retailers to charge their customers an environmental levy of 50 cents for each plastic shopping bag (PSB) provided to them, the Levy Scheme aimed to create a direct economic disincentive to encourage consumers to reduce the indiscriminate use of PSBs. We need to manage the disposal of PSBs through a mandatory PRS because billions of PSBs were disposed of in Hong Kong every year. As PSBs are usually made of materials that are not easily degradable, their extensive disposal is creating pressure on the already stretched landfill resources.

<u>Support from Citizens and Retailers</u>

1.2 With the support of consumers and retailers, the Levy Scheme has been implemented successfully. Majority of the population supported the Levy Scheme by putting green living into practice. They used fewer PSBs and brought their own shopping bags. According to a recent telephone survey conducted by the Central Policy Unit (CPU), over 75% of the respondents did not claim PSBs when shopping at a registered retail outlet; nearly 80% considered that the Levy Scheme has helped them develop the habit of 'Bring Your Own Bag' (BYOB).

1.3 On the other hand, the Levy Scheme would not have been so successfully implemented without retailers' support. By timely completing the registration procedures, prescribed retailers have enabled the implementation of the Levy Scheme as scheduled. Some 3 000 registered retail outlets have also complemented the Government's relevant efforts by staging suitable publicity and providing adequate training to their frontline staff. The community at large should recognize the efforts that the retail industry has made in contributing to this environmental cause.

1.4 Various indicators have shown that the Levy Scheme has been effective in deterring the indiscriminate use of PSBs. As required under the Levy Scheme, registered retailers have to submit to the Government quarterly returns reporting the number of PSBs distributed and the levy collected. The Government has so far received seven rounds of quarterly returns with levy income ranging between $5.7 million and $6.7 million per quarter (see Table 1). The quarterly returns in the first full year showed that registered retailers on average distributed about 140 000 PSBs per day (or 51 million PSBs per year), which were equivalent to an annual levy income of about $25.5 million. The estimation we made in 2008 was that we would receive annual levy revenue of $200 million[1]. As evident in the actual amount of the levy collected, members of the public have indeed used much fewer PSBs than we have expected.

1.5 We conducted a landfill survey in mid-2009 and another similar survey in mid-2010 to collect statistics on the disposal of PSBs in the landfills before and after the launch of the Levy Scheme. According to the findings of the two landfill surveys (summarized at Annex A), landfill disposal of PSBs distributed by retail categories of supermarkets, convenience stores and medicare and cosmetics registered over 75% decrease in mid-2010 when compared with the same in mid-2009. We estimated that about 65% of the pre-levy PSB distribution under these retail categories could be attributable to registered retail outlets under the Levy Scheme[2]. Taking into account such estimation, the reduction in PSBs distributed by registered retailers since the launch of the Levy Scheme in July 2009 could be as high as 90%[3].

1 We assumed a 50% reduction in the distribution of PSBs from registered retailers and a further 50% exemption of plastic bags that do not fall under the statutory definition with an environmental levy up to $200 million a year based on the 2005 survey figure.

2 Registered retailer outlets under the Levy Scheme (about 3 100 in total) are mostly covered in these retail categories. With reference to a retail survey conducted by the Census and Statistics Department, we estimated that they formed about 65% of the retail outlets covered in the categories of supermarkets, convenience stores and medicare and cosmetics.

3 We also assumed that the pre-levy PSB distribution equals to the pre-levy PSB disposal as found out in the mid-2009 landfill survey.

1.6 The magnitude of reduction in PSB distribution is significant. While the levy collected was substantially less than estimated, the results of the Levy Scheme are in line with our policy objective to engender a green lifestyle and a BYOB culture. The levy income, being much lower than expected, has in fact reflected the positive impacts of the Levy Scheme. Members of the public have generally developed a BYOB habit, and the impact might not be attainable by adopting a voluntary scheme alone. Indeed, the positive impacts of the Levy Scheme were widely recognized by the community. For example, according to the CPU telephone survey, over 80% of the respondents agreed that the Levy Scheme could effectively address the indiscriminate use of PSBs in Hong Kong.

1.7 As evidenced in the statistics presented above, with the support of retailers and members of the public, the usage of PSBs could be reduced significantly, thereby addressing the problem of indiscriminate use of PSBs. Citing the case of supermarkets as an example, the PSB disposal from this source was estimated to have declined from 488 million in mid-2009 to 84 million in mid-2010. The result was obvious.

*<u>Table 1:</u>*
*Levy Income and PSBs Distributed by*
*Registered Retailers under the Levy Scheme*
*(July 2009 to March 2011)*

| Period | Levy Income (approx.) | PSBs Distributed Equivalent (approx.) |
|---|---|---|
| 7 July to 30 September 2009 (first quarterly return) | $6.7 million | 13.4 million |
| 1 October to 31 December 2009 (second quarterly return) | $6.4 million | 12.8 million |
| 1 January to 31 March 2010 (third quarterly return) | $6.7 million | 13.4 million |
| 1 April to 30 June 2010 (fourth quarterly return) | $5.7 million | 11.4 million |
| **Full first-year total** | **$25.5 million** | **51.0 million** |
| 1 July to 30 September 2010 (fifth quarterly return) | $6.3 million | 12.6 million |
| 1 October to 31 December 2010 (sixth quarterly return) | $6.2 million | 12.4 million |
| 1 January to 31 March 2011 (seventh quarterly return) | $6.5 million | 13.0 million |

# Chapter 2 Moving Ahead to Reduce the Indiscriminate Use of Plastic Shopping Bags

2.1 Although the first phase of the Levy Scheme was a success, the number of retailers covered only amounted to a small portion of all retailers in Hong Kong. By retail categories, though the retail outlets covered in the first phase were the major source of PSB distribution, these retailers had in fact only contributed to 14% of the total PSB disposal. On the other hand, the PSB disposal originated from other sources has increased by 6.7% between mid-2009 and mid-2010, and the magnitude of increase was notably significant in individual retail categories. With proven results in using economic disincentive to address the indiscriminate use of PSBs, we considered it opportune to expand the coverage of the Levy Scheme so as to induce further behavioural change in the public, further reduce the indiscriminate use of PSBs, and at the same time preserve our precious landfill resources.

<u>Justifications for Full Extension</u>

*Justification #1: Indiscriminate Use of PSBs Remains a Serious Problem*

2.2 Under the *Policy Framework for the Management of Municipal Solid Waste (2005-2014)* published in December 2005, the indiscriminate use of PSBs was identified as an environmental issue that should be tackled through PRS. At that time, it was estimated that over 8 billion PSBs were disposed of at landfills every year, which was equivalent to an average disposal of over 3 PSBs per person per day. As PSBs are mostly made of non-degradable materials[4], they would permanently occupy our precious landfill space when they are disposed of. And their production, transportation, and subsequent recycling would also consume raw materials and energy. While the use of PSBs should be avoided in the first place as far as practicable, practicing BYOB serves even better interest of our environment, and is the green living habit that we seek to promote.

---

4 Some bags could be bio-degradable under specific laboratory conditions that in practice might not necessarily exist in landfills.

2.3 Despite the initial success of the Levy Scheme, there remains room for further reduction in the amount of PSB disposal. At present, Hong Kong people on average still disposed of over 1.7 PSBs per person per day, a figure that was on the high side when compared with other developed economies overseas. This figure suggested that indiscriminate use of PSBs distributed by retailers outside the Levy Scheme remains a serious problem. To ensure that our precious landfill resources are properly utilized, there is a need to extend the coverage of the Levy Scheme on the basis of the success of the first phase as well as the support of the community.

*Justification #2: Public Opinions Clearly Point to an Extended Coverage*

2.4 As revealed in a public opinion survey conducted during the consultation in 2007 when the Levy Scheme was first considered, over 90% of the respondents agreed that there were rooms to further reduce the use of PSBs in their daily lives. 66% of the respondents also supported the implementation of the Levy Scheme. With the first phase of the Levy Scheme having implemented for over one year, the recent survey conducted by CPU has shown that nearly 80% of the respondents agreed that the Levy Scheme has helped them develop their green habit of BYOB. Moreover, nearly 75% of respondents also opined that the Levy Scheme should be extended to cover more retailers. With the positive impact of the Levy Scheme, the community has shown general support towards its further extension.

*Justification #3: Extensive Coverage Consistent with International Trend*

2.5 The indiscriminate use of PSBs is not a problem unique to Hong Kong. An increasing number of overseas jurisdictions including many international cities are either implementing or planning to introduce PSB reduction measures suitable to their local circumstances.

2.6 In general, there are several types of PSB reduction measures being implemented internationally, and Hong Kong adopted an environmental levy at the retail level[5]. When we consider the possible ways in taking forward the Levy Scheme, we have studied in particular the experience of the Mainland, Taiwan and Ireland, which have also imposed PSB levy at the retail level. By making reference to their collective experience, we may be able to formulate the mainstream models that are suitable for Hong Kong –

(a) *The Mainland*: The Mainland implemented the nationwide measure on restricted PSB use in 2008. The measure mainly covers, inter alia, the ban on free PSB distribution at retail outlets. Exemption applies to the use of bags for carrying fresh food and cooked food on food safety and hygiene grounds. The measure applies to all retailers, and it allows retailers to retain the charges collected without the need to remit them to the Government.

(b) *Taiwan*: Taiwan introduced its ‘restricted use’ policy on PSBs[6] in two phases in 2002 and 2003 respectively. PSB distribution is charged at prescribed retail outlets and institutions, and the retailers retain the charge collected. Exemption applies to bags that are (i) solely used for carrying fresh food such as fish, meat and vegetables; (ii) packaged and sold as commercial goods; (iii) used by manufacturers for packaging their products; and (iv) used as packaging bags for carrying medicines dispensed by hospitals.

---

5 Alternative approaches adopted in other jurisdictions include an environmental levy at manufacturing and import level; a ban on PSBs; and voluntary measures.

6 Officially in Chinese:「購物用塑膠袋及塑膠類(含保麗龍)免洗餐具限制使用政策」

(c) *Ireland*: Ireland introduced an environmental levy on plastic bags in 2002 where the levy is payable by customers at the point of sale in supermarkets, petrol stations and other sales outlets. In other words, the levy is applied to retailers across-the-board. Retailers are required to remit the levy to the Revenue Commissioners who are the collection authorities. Exemption applies to plastic bags solely used for containing fresh fish, meat, poultry, fruits, vegetables, confectionary, dairy products and cooked food. Similar to the Mainland, the measure applies to all retailers, but the retailers have to remit the charges to the Government.

2.7 A summary of the PSB reduction measures adopted in the above jurisdictions is at <u>Annex B</u>. Apart from the above examples, many major cities have also introduced similar levy recently. Toronto, Canada introduced in 2009 a mandatory charge on PSBs distributed by retailers, with the charge being retained by the retailers. Washington DC, USA also introduced in January 2010 a mandatory charge on PSBs distributed by grocery shops.

*Justification #4: PRS – A Key Policy Tool of the Waste Management Strategy*

2.8 To combat the waste problem, the Government has recently announced a holistic waste management strategy and an updated action plan. Amongst the various initiatives, PRS continues to be a key policy tool and economic means in promoting waste reduction at source. PRS also acts as a constant reminder to members of the public of their ‘eco-responsibility’. But as we have been emphasizing upon the implementation of the first phase, the effectiveness of the Levy Scheme should not be measured by the amount of levy collected. We have never aimed to raise additional government revenue through the Levy Scheme. Rather we aim that by introducing new PRS and extending the existing Scheme, we could further promote waste reduction at source.

Save Money, Save the Environment

2.9 With the initial success of the Levy Scheme, there is general support from the community in sustaining its momentum. We consider that the community is ready to move ahead. As a result, we propose that **the mandatory PRS be extended and include other retailers that are currently not covered by the Levy Scheme**. We will lay out in the ensuing chapters our analysis on the proposed coverage, exemptions and handling of charges under the extended PRS.

# Chapter 3 Considerations in the Full Extension of the Environmental Levy on Plastic Shopping Bags

3.1 Under the Levy Scheme, 'registered retailers' are required to charge their customers 50 cents for each PSB provided to them as an environmental levy. The levy then has to be remitted to the Government through a periodic reporting and payment mechanism. As at end-December 2010, there were a total of 40 retailers registered under the Product Eco-responsibility Ordinance, and these 'registered retailers' operate some 3 100 qualified retail outlets that are subject to the Levy Scheme.

## Chain Operators are Main Target in the First Phase

3.2 As demonstrated in Table 2, 'registered retailers' under the first phase of the Levy Scheme were predominately chain operators. This reflects our policy intent because these chain or large supermarkets, convenience stores and personal health and beauty stores operated in scale. They were well-equipped in terms of administrative capability and other support facilities to comply with the relevant statutory requirements. On the other hand, though they had jointly made up less than 4% of the total retail outlets in Hong Kong in 2005, the landfill survey of 2005 revealed that more than 20% of PSBs disposed of at landfills were distributed by these stores.

## Pros and Cons for Extending to Small and Medium Enterprises

3.3 Should we extend the coverage of the Levy Scheme, we would inevitably have to consider going beyond the boundary of chain operators to cover also small and medium enterprises (SMEs). According to the Census and Statistics Department (C&SD), as at September 2010, there were about 60 000 retail establishments in Hong Kong, most of which (over 98%) were operated by SMEs.

3.4 In order to reflect the said policy intent as mentioned at paragraph 3.2 above, we effectively assumed under the current Scheme that a chain operator is a retailer who carries on a retail business at (i) five or more qualified retail outlets[7]; or (ii) at least one qualified retail outlet that has a retail floor area of not less than $200m^2$. According to a survey conducted by C&SD in 2009, there were nearly 1 800 retail establishments that have a retail floor area of at least $200m^2$. Some of these retail outlets could have been covered under the current Scheme: as at end December 2010, there were 668 registered retail outlets under the current Scheme being supermarkets and department stores, which often operated in larger premises. We might be able to cast a wider net by modifying our assumption of what constitutes a chain operator.

*<u>Table 2:</u>*
*Number of Registered Retail Outlets*
*Operated by Registered Retailers (as at end December 2010)*

| Range in the Number of Registered Retailed Outlets Being Operated | Number of Registered Retailers | % of Registered Retail Outlets in the Category |
|---|---|---|
| Operating 1 to 5 registered retail outlet(s) | 14 | 1.05% (33/3 146) |
| Operating 6 to 20 registered retail outlets | 15 | 4.80% (151/3 146) |
| Operating 21 to 100 registered retail outlets | 6 | 9.15% (288/3 146) |
| Operating 101 to 300 registered retail outlets | 2 | 11.76% (370/3 146) |
| Operating 301 or more registered retail outlets | 3 | 73.24% (2 304/3 146) |
| -- | 40 | 100% |

7 As mentioned at paragraph 3.2, 'Qualified retail outlet' refers to a retail outlet that offers all of the three prescribed categories of goods for sale, namely (i) any food or drink; (ii) any medicine or first-aid item; and (iii) any personal hygiene or beauty product.

3.5 However, as illustrated in Table 3, over 90% of the retail establishments being surveyed were found to have a retail floor area of less than $100m^2$. In addition, chain operators may re-configure their premises or have their premises registered separately or individually and by doing this they may theoretically circumvent the statutory definition and thus create problems for implementation. In any case, incremental moves through such an approach could only achieve modest extension; the vast majority of retail outlets would continue to fall outside the mandatory PRS.

3.6 If we were to extend the Levy Scheme and involve SMEs in the next phase, we will need to consider the administrative side and evaluate whether such move is practicably feasible having regard to the mode of operation of SMEs. In fact, some retailers subject to the current Scheme have revealed that they had to make considerable efforts in fulfilling the administrative requirements under the current legislation. We will need to assess whether all SMEs (some of whom are far less resourceful than chain operators) are capable of complying with the same administrative requirements.

*Table 3:*
*No. of Establishments with Different Floor Areas in Respect of All Retailers (2009)*

| Floor Area | Number of Establishments | Percentage |
|---|---|---|
| $< 100m^2$ | 44 956 | 90.5% |
| $100 – 149m^2$ | 2 269 | 4.6% |
| $150 – 199m^2$ | 634 | 1.3% |
| $200m^2$ or above | 1 776 | 3.6% |
| | **49 635** | **100.0%** |

Source : 2009 Annual Survey of Economic Activities - Import/Export, Wholesale and Retail Trades, and Accommodation and Food Services Sectors (2009) (C&SD)

Reason for Full Extension

3.7 We have considered the pros and cons of an incremental approach as against the alternative of a full extension. As already explained in the above, incremental moves could only achieve modest extension; the impact in reducing the indiscriminate use of PSBs would be comparatively limited. On the other hand, irrespective of whether the extension is determined on the basis of business scale or product type, the approach would inevitably bring about concerns about a level-playing field. We should build upon the success in the first phase, and seek to bring about and inculcate a behavioural change towards BYOB and reduce indiscriminate use of PSBs in a sustained manner. For this purpose, we considered that a full extension would provide a much clearer message to the community. In addition, this approach could help members of the public and the entire retail industry tackle the problem of indiscriminate PSB use jointly together, not only in the spirit of shared eco-responsibility but also for maximized effectiveness of the initiative.

3.8 On the other hand, we are aware that a comprehensive coverage over the entire retail industry, save for exemption for reasonable purposes (such as food hygiene, to be discussed in Chapter 4), is commonly adopted in other jurisdictions. Therefore we propose that under the extended PRS, free distribution of PSBs shall be banned and a mandatory charge of 50 cents is required for each PSB distributed as an economic disincentive against indiscriminate use.

| | |
|---|---|
| ***Question 1*** | *The Government proposes to extend the levy scheme on PSBs to cover all retailers. Do you agree with this direction?* |

# Chapter 4 Full Extension of the Environmental Levy on Plastic Shopping Bags: Specific Coverage

4.1 Full extension of the Levy Scheme requires community consensus on the operational details, including the specific coverage of the Levy Scheme. We have listed below a series of related issues to facilitate discussions by members of the public and stakeholders.

<u>Issues #1: Should all enterprises be included, regardless of scale?</u>

4.2 The current Scheme basically covers retailers who are chain operators. These retailers are those with relatively larger business scale and better administrative capability. At present, most of the retail outlets in Hong Kong (approximately 98%) are operated by SMEs. If we continue to focus on chain operators, the majority of the retail outlets would still fall outside the extended mandatory PRS.

4.3 **We propose to extend the Levy Scheme to all retailers.** This will imply that majority of the SMEs would be included in the mandatory PRS. When determining the specific coverage of the extended scheme, should we include all enterprises regardless of scale? Retail floor area was used as one of the parameters in determining the coverage in the first phase of the Levy Scheme. Should we continue to take it into consideration ?

| | |
|---|---|
| ***Question 2*** | *Should you agree with the Government's proposal in extending the coverage of the Levy Scheme to all retailers, do you agree that all retailers, regardless of their business scale, should be covered?* |

Issues #2: Should we grant exemptions to plastic bags used on food hygiene grounds? How should we define the exemption criteria?

4.4 There are two types of exemption set out in the current Product Eco-responsibility Ordinance and the Product Eco-responsibility (Plastic Shopping Bags) Regulation. They are 'Type 1 Exemption' for non-specified goods[8], and 'Type 2 Exemption' for a third-party operator (i.e. an operator not being the registered retailer). Should we extend the mandatory PRS as proposed, the above arrangement may no longer be relevant as all retailers would be subject to the mandatory PRS, irrespective of whether they sell the currently specified goods, or whether they operate as a third party vendor in a retail outlet.

4.5 Instead of granting exemption to certain business operations, a major consideration is whether PSBs used on food hygiene grounds should be exempted from the mandatory charge. There are similar provisions in relevant jurisdictions where PSBs are exempted from charge for food hygiene reasons (see Chapter 2). Besides, it is generally accepted that bags normally used for carrying food could not be effectively replaced by BYOB. **On balance, we propose that as a matter of principle, PSBs which are used directly and solely for carrying food should, on food hygiene grounds, be exempted from the mandatory charge.**

4.6 In general, packaged food might not qualify for the proposed exemption because PSBs used in these cases are not used for directly carrying the food items concerned. This is consistent with our message against excessive packaging. Yet we are also aware of circumstances in which the use of PSBs for carrying packaged food might also be justifiable on the grounds of food hygiene. As shown at Annex C, Ireland also allows free distribution of PSBs for carrying certain packaged food. We welcome views from the community so that we could devise a more specific scope of exemption that best fits the local situation.

| | |
|---|---|
| ***Question 3*** | *Should exemption be granted to PSBs that are directly and solely used for food hygiene purposes? Are there other circumstances where the use of PSBs is also justifiable on the grounds of food hygiene?* |

8 This refers to goods that are sold in a registered retail outlet but are not (i) food or drink; (ii) medicine or first-aid item; or (iii) personal hygiene or beauty product.

Issue #3: Should flat-top bags be regulated?

4.7 The Levy Scheme currently defines PSB as a bag (i) that is made wholly or partly of plastic; and (ii) there is a handle, handle hole, perforated line for tearing out a handle hole, carrying string or strap, or any other carrying device on, or attached to, it. Unless they are sold at a price of no less than $5 each, they are regulated under the Levy Scheme. These bags are mostly single-use bags distributed in grocery shopping, but also include laminated paper bags and non-woven bags (both of which are partly made of plastic). On the other hand, 'flat-top' bags (those bags without handles) commonly, though not exclusively, used for wrapping fresh food are not included in the current Scheme as they do not have any carrying device, and hence fall outside the legal definition of a PSB.

4.8 Since the launch of the Levy Scheme in mid-2009, we have noted episodic reports of indiscriminate use of flat-top bags to circumvent the mandatory levy. We do not encourage this kind of malpractices, and the proposed exemption in paragraph 4.5 would obviate the need to have reference to carrying devices in the legal definition of shopping bags. In other words, **we propose that flat-top bags should also be covered in the extended scheme.** We would devise a more specific definition of PSB that best fits the local situation during the law legislating stage. For illustrative purposes, we have set out at Annex D types of PSBs that would broadly come under the extended PRS in the next phase.

| | |
|---|---|
| ***Question 4*** | *Apart from those PSBs used on food hygiene grounds, should we also include flat-top bags (those bags without handles) into the definition of PSBs and be regulated?* |

# Chapter 5 Full Extension of the Environmental Levy on Plastic Shopping Bags: Handling of the Charges

5.1 As noted in the preceding chapters, whether SMEs could practicably comply with the requirements of the Levy Scheme could be a determining factor of the feasibility of the proposed extension. Based on the experiences of other jurisdictions (see Chapter 2), we have summarized below two mainstream approaches with respect to how the proposed extension could in practice be implemented. The two approaches are:

(a) **remittance to the Government** of the collected charges as in the case of Ireland; and

(b) **retention by the retailers** of the collected charges as in the cases of the Mainland and Taiwan.

We would need to choose between the two approaches taking into account administrative and other practical considerations such as compliance cost, operational difficulties and community consensus.

<u>Continuation of the 'Remittance' Approach May Not be the Preferred Option</u>

5.2 Under the existing legislation, prescribed retailers have to –

(a) register themselves with the Government under the Product Eco-responsibility (Plastic Shopping Bags) Regulation;

(b) register each qualified retail outlet that they operate;

(c) submit quarterly returns to the Government setting out the number of PSBs distributed to customers in the non-exempted areas in all of their registered retail outlets as well as the amount of levy collected for such bags;

(d) pay to the Government their levy income as stated in their returns on a quarterly basis;

(e) keep records, invoices, receipts, delivery notes or any other documents that contain sufficient details for the purpose of verification of the quarterly returns and levy payments; and

(f) inform the Government of any changes in information furnished for registration, and put up application where circumstances requires deregistration.

5.3 Ireland adopts the ‘remittance’ approach as they have the support of the established and readily available value-added-tax (VAT) system which enables the levy to be audited in conjunction with VAT audits. Without a similar system in place in Hong Kong, demanding retailers to remit the levy collected to the Government under the extended PRS would mean requesting the participating retailers (mostly SMEs) to develop new or additional accounting, reporting, auditing and other related systems.

5.4 At present, there are single-outlet operators under the current Scheme (four as at end December 2010) and they have managed to comply with the aforesaid administrative requirements in their own way. Yet it is questionable whether their experience could provide the adequate solution to all SMEs, thereby enabling them to operate under the current compliance system without incurring compliance costs disproportionately.

5.5 Resource implications for the Government should also be taken into account. As a rough indication, the quarterly returns requirement could generate a quarter million submissions annually from the retail industry. An equal number of payment transactions would also be incurred. In addition, we have to process applications for registration of retailers and retail outlets, including subsequent maintenance of the database. If we could adopt a more business-friendly alternative, we might pursue this meaningful environmental cause without causing an undue burden on the retailers. At the same time, the funding and staffing resources required for such extra work could be diverted to other more effective activities or services.

A ‘Retention’ Approach Could Better Ease SMEs’ Burden

5.6 Under the ‘remittance’ approach, the charge collected is by nature a government levy. As public money is involved, an elaborated compliance system is required and there is minimal scope for any streamlining. With our policy intention being to inculcate behavioural change against the indiscriminate use of PSBs by means of an economic disincentive, this economic disincentive should be applied to consumers. Whether the charge is remitted to the Government or otherwise is less relevant to its effectiveness. In any case, we do not aim to generate government revenues from the mandatory PRS.

5.7 The Mainland and Taiwan adopt the ‘retention’ approach under which the charge collected from the distribution of PSBs is retained by the retailers and need not be remitted to the Government[9]. This could help reduce the compliance costs of the retailers. On balance, this ‘retention’ approach (vis-à-vis the current ‘remittance’ approach) could better ease SMEs’ burden, and is our recommended way forward.

5.8 There might be concerns that retailers could more easily get around the regulation under the ‘retention’ approach by offering a rebate to their customers. Yet rebates for the purpose of circumventing the mandatory PRS are already prohibited under the current Scheme. Such requirements would continue to apply in future. Besides, we could also consider putting in place receipt-issuing or record-keeping requirements so as to facilitate enforcement.

---

9 Technically, under the ‘retention’ approach, the monies collected for PSB distribution is by nature a charge imposed by the retailers on the customers but not a levy that belongs to government revenues. For the ease of communications, this charge may continue to be referred to as a levy without specific distinctions between the two.

A Dual System Is Not Practicable

5.9 Some may suggest a dual system under which –

(a) in view of the proven success of the 'remittance' approach applied to chain operators in the context of the current Scheme, status quo should continue to apply to the existing registered retailers; and

(b) given the better prospect of the 'retention' approach in easing the burden of the wider retail industry, the 'retention' approach should apply to the newly covered retailers (which are mostly SMEs).

5.10 This dual system is not practicable because in theory, registered retailers could deregister from the current Scheme and then register again under the extended mandatory PRS. By doing so they could face lesser administrative burdens; it would be difficult to justify any statutory sanctions against such business decisions. In any case, with such a dual system, retailers who are required to collect the same mandatory charge on PSBs could be subject to different statutory requirements. The differential treatment could also confuse the public on the whole purpose of the mandatory PRS.

| **_Question 5_** | _When extending the scope of the PRS to all retailers, our analysis revealed that requiring retailers to remit the charge collected to the Government would add cost to the operation of the retailers (in particular the SMEs). Given that the purpose of the PRS is not to raise government revenues but to deter indiscriminate use of PSBs through economic disincentive, should we adopt the Government's proposed approach to reduce indiscriminate PSB use by introducing legislation on a mandatory charge by retailers where the charges collected need not be remitted to the Government as the practice already adopted in the Mainland and Taiwan?_ |
|---|---|

# Chapter 6    Share Your Views With Us

6.1 The proposal, if implemented, would cover virtually all retailers irrespective of the scale of their business and the categories of goods sold at their retail outlets. We propose that with the exception of limited exemption which applies only to PSBs that are used for directly carrying food due to hygiene reasons, PSBs (including those set out at Annex D) should not be distributed free of charge by any retailers. While the scope of enforcement will be much wider than the existing Scheme, we envisage that the mandatory measure will further reinforce the BYOB message in the community. Coupled with public support, the mandatory measure would contribute to significant reduction in PSB use and reaffirm waste reduction behaviour and practice among members of the public.

We Welcome Your Views

6.2 We will take into account views collected during the public consultation in order to devise the details of the mandatory PRS in its next phase. For this purpose, we welcome views from stakeholders and members of the public on the following issues –

(a) Question 1: The Government proposes to extend the levy scheme on PSBs to cover all retailers. Do you agree with this direction?
[cf. Chapter 3]

(b) Question 2: Should you agree with the Government's proposal in extending the coverage of the Levy Scheme to all retailers, do you agree that all retailers, regardless of their business scale, should be covered? [cf. Chapter 4]

(c) Question 3: Should exemption be granted to PSBs that are directly and solely used for food hygiene purposes? Are there other circumstances where the use of PSBs is also justifiable on the grounds of food hygiene? [cf. Chapter 4]

(d) Question 4: Apart from those PSBs used on food hygiene grounds, should we also include flat-top bags (those bags without handles) into the definition of PSBs and be regulated? [cf. Chapter 4]

(e) Question 5: When extending the scope of the PRS to all retailers, our analysis revealed that requiring retailers to remit the charge collected to the Government would add cost to the operation of the retailers (in particular the SMEs). Given that the purpose of the PRS is not to raise government revenues but to deter indiscriminate use of PSBs through economic disincentive, should we adopt the Government's proposed approach to reduce indiscriminate PSB use by introducing legislation on a mandatory charge by retailers where the charges collected need not be remitted to the Government as the practice already adopted in the Mainland and Taiwan? [cf. Chapter 5]

For the ease of responding and to facilitate subsequent analysis, a standard response form is provided at Annex E.

When and How to Respond

6.3 From now till 16 August 2011, stakeholders and members of the public are welcomed to submit their views to us by post, email or facsimile. Details are as follow–

| | |
|---|---|
| By Post: | Environmental Protection Department<br>Waste Management Policy Division<br>Room 4522, 45th floor, Revenue Tower<br>5 Gloucester Road<br>Wanchai<br>Hong Kong |
| By Email: | psbprs@epd.gov.hk |
| By Facsimile: | 2318 1877 |

**Annex A**

## Findings of the Landfill Survey on Disposal of Plastic Shopping Bags

(Unit: Estimated Annual Disposal)

| | Mid 2009 | | Mid 2010 | |
|---|---|---|---|---|
| **Retailer Category** | **MM/Yr** | **%** | **MM/Yr** | **%** |
| Supermarkets | 488.22 | 10.44% | 84.22 | 1.90% |
| Convenience Stores | 89.98 | 1.92% | 15.33 | 0.34% |
| Medicare and Cosmetic Bags | 79.14 | 1.69% | 53.57 | 1.21% |
| ***Sub-total*** | ***657.34*** | ***14.05%*** | ***153.12*** | ***3.45%*** |
| Bakeries and Cake Shops | 262.18 | 5.60% | 316.66 | 7.13% |
| Department Stores and Home Accessories Shops | 47.62 | 1.02% | 41.41 | 0.93% |
| Cooked Food Outlets | 326.98 | 6.99% | 349.68 | 7.87% |
| Books, Stationeries, Gifts and Novelties Shops | 20.53 | 0.44% | 20.69 | 0.47% |
| Fashion and Footwear Shops | 34.79 | 0.74% | 52.28 | 1.18% |
| Electrical and Telecom Shops | 9.95 | 0.21% | 10.69 | 0.24% |
| Newspaper and Magazine Bags | 121.43 | 2.60% | 98.79 | 2.22% |
| Others | 3197.71 | 68.35% | 3400.42 | 76.52% |
| ***Sub-total*** | ***4021.19*** | ***85.95%*** | ***4290.62*** | ***96.55%*** |
| ***Grand Total*** | ***4678.53*** | ***100.00%*** | ***4443.74*** | ***100.00%*** |

Note:

- Plastic shopping bag means a bag (i) that is made wholly or partly of plastic; and (ii) there is a handle, handle hole, perforated line for tearing out a handle hole, carrying string or strap, or any other carrying device on, or attached to, it.

- The landfill surveys conducted in mid-2009 and mid-2010 respectively covered the survey on disposal of the following types of bags at landfills (these figures are excluded from the above table) –

| | Mid 2009 | Mid 2010 |
|---|---|---|
| | MM/Yr | MM/Yr |
| (a) Reusable Bags | 9.88 | 17.74 |
| (b) Paper Shopping Bags | 27.95 | 43.40 |
| (c) Plastic Garbage Bags | 1126.15 | 1429.72 |

**Annex B**

## Comparison of Measures to Reduce the Use of Plastic Shopping Bags in Hong Kong and Other Jurisdictions

| | | Hong Kong | Taiwan | Mainland | Ireland |
|---|---|---|---|---|---|
| 1. | Definition of plastic shopping bags | • Bags that are made of plastic and equipped with a carrying device (e.g. handle) | • Bags that are made of plastic for the purpose of carrying goods by customers | • Bags that are made of plastic and have carrying functions | • Bags that are made of plastic and are provided to customers at point of sale for carrying goods |
| 2. | Plastic shopping bags not subject to levy or charge | • Bags sold individually or in a pre-packaged pack at HKD 5 or above | • Bags solely used for carrying fish, meats, vegetables, fruits and other raw merchandise or foods<br>• Bags sold as commercial goods<br>• Bags used by manufacturers for packaging their products<br>• Packaging bags for medicine in a medicare hospital | • Bags for carrying fresh food, cooked food, noodles etc. for hygiene or food safety reasons | • Plastic bags solely used to contain -<br>◊ fresh fish and fresh fish products,<br>◊ fresh meat and fresh meat products, or<br>◊ fresh poultry and fresh poultry products,<br>or such products that are contained in packaging (including a bag)<br>• Plastic bags solely used to contain<br>◊ fruit, nuts or vegetables,<br>◊ confectionery,<br>◊ dairy products,<br>◊ cooked food, whether cold or hot, or<br>◊ ice |

| | | **Hong Kong** | **Taiwan** | **Mainland** | **Ireland** |
|---|---|---|---|---|---|
| 3. | Amount of levy or charge | • Not less than HKD 0.5 each | • Determined by retailers | • Determined by retailers, subject to certain requirements (e.g. not less than cost, clearly priced and no discount or rebate, etc) | • EUR 0.15 each as at 2002 |
| 4. | Use of levy or charge | • Remitted to Government for depositing into the General Revenue | • Retained by retailers | • Retained by retailers | • Remitted to Government for depositing into a dedicated environment fund |
| 5. | Retail outlets subject to the scheme | • Chain or large supermarkets, convenience stores, personal health and beauty stores, drug stores, department stores, etc. | • Government departments or agencies, schools and public hospitals<br>• Department stores, shopping malls, warehouse stores, supermarkets and convenience stores | All retail outlets in supermarkets, shops and malls as well as commodity trading markets (irrespective of size and nature of business) | • At any shop, supermarket, service station or other sales outlet |

## Ireland's Environmental Levy Scheme on Plastic Shopping Bags – Exemption for Food Hygiene

(a) plastic bags solely used to contain –

- (i) fresh fish and fresh fish products,
- (ii) fresh meat and fresh meat products, or
- (iii) fresh poultry and fresh poultry products

(b) plastic bags solely used to contain the products referred to in paragraph (a) where such products are contained in packaging, (including a bag)

(c) plastic bags solely used to contain –

- (i) fruit, nuts or vegetables,
- (ii) confectionery,
- (iii) dairy products,
- (iv) cooked food, whether cold or hot, or
- (v) ice

provided that such products are not otherwise contained in packaging

**Annex D**

# Different Types of Bags and the Applicability of the Mandatory Producer Responsibility Scheme

| | Bags | Covered under the First Phase? | Covered under the Mainstream Proposals for the Next Phase? | Remarks |
|---|---|---|---|---|
| 1. |  (Plastic Shopping Bags) | Yes | Yes | • As defined in Schedule 2, Product Eco-responsibility Ordinance, ‘plastic’ includes polyethylene, polypropylene, polyvinyl, chloride and nylon. |
| 2. |  (Non-woven Bags) | Yes | Yes | • Non-woven bags are commonly made of polypropylene, which is a type of plastic. |

| | Bags | Covered under the First Phase? | Covered under the Mainstream Proposals for the Next Phase? | Remarks |
|---|---|---|---|---|
| 3. |  (Paper Bags with Plastic Lamination) | Yes | Yes | • Due to the plastic content in the lamination, these paper bags fall under the current definition of 'plastic shopping bags'.<br><br>By the same token, paper bags with other plastic content, say in the handling device or other decorative elements, also fall under the current definition of 'plastic shopping bags'.<br><br>• There are only minimal cases of these bags being subject to the mandatory charge given that these types of bags are not commonly used by the prescribed retailers (mainly supermarkets, beauty and medicare stores) under the existing Scheme. This might change in future if retailers that sell clothing, footwear and associated products as well as various types of other consumer goods etc. are also covered by the Levy Scheme. |
| 4. |  (Flat-top Bags) | No | Yes | • Flat-top bags do not fall under the current definition of 'plastic shopping bags', as such bags do not include a carrying device.<br><br>• Under the mainstream proposals contained in the consultation document, the statutory definition of 'plastic shopping bags' could consequentially be amended to also cover bags without a carrying device. |

Please fold here. 請在此對摺

# 關於擴大塑膠購物袋環保徵費計劃公眾諮詢
# 回應表格

## Public Consultation on the Extension of the Environmental Levy Scheme on Plastic Shopping Bags

## Response Form

Please fold and seal here. 請在此對摺及封口

POSTAGE WILL BE PAID BY LICENSEE
郵費由持牌人支付

NO POSTAGE STAMP NECESSARY IF POSTED IN HONG KONG
如在本港投寄毋須貼上郵票

BUSINESS REPLY SERVICE LICENCE NO.
商業回郵牌號：7590

香港灣仔
告士打道五號
税務大樓四十五樓
四五二二室
環境保護署
廢物管理政策科

Environmental Protection Department
Waste Management Policy Division

Room 4522, 45th floor, Revenue Tower
5 Gloucester Road
Hong Kong

Please fold and seal here. 請在此對摺及封口

Please fold and seal here. 請在此對摺及封口

**Annex E**

# Response Form

## Part I. (Note)

This is a ☐ corporate response (representing the views of a group or an organization),

☐ private response (representing the views of an individual),

by ______________________________________________

(name of person or organization)

at ____________________ and ____________________

(telephone) (email)

***Note:*** *The Government may wish, either in discussion with others or in any subsequent report, whether privately or publicly, to be able to refer to and attribute views submitted in this response. Any request to treat all or part of a response in confidence will be respected, but if no such request is made, it will be assumed that the response is not intended to be confidential.*

## Part II.

Specific Questions for Consultation

**Q1: The Government proposes to extend the levy scheme on PSBs to cover all retailers. Do you agree with this direction? [cf. Chapter 3]**

Views: ______________________________________________

______________________________________________

______________________________________________

**Q2: Should you agree with the Government's proposal in extending the coverage of the Levy Scheme to all r etailers, do you agree that all retailers, regardless of their business scale, should be covered? [cf. Chapter 4]**

Views: ______________________________________________

______________________________________________

______________________________________________

**Q3: Should exemption be granted to PSBs that are directly and solely used for food hygiene purposes? Are there other circumstances where the use of PSBs is also justifiable on the grounds of food hygiene? [cf. Chapter 4]**

Views: ______________________________________________

______________________________________________

______________________________________________

**Q4: Apart from those PSBs used on food hygiene grounds, should we also include flat-top bags (those bags without handles) into the definition of PSBs and be regulated? [cf. Chapter 4]**

Views: ______________________________________________

______________________________________________

______________________________________________

**Q5: When extending the scope of the PRS to all retailers, our analysis revealed that requiring retailers to remit the charge collected to the Government would add cost to the operation of the retailers (in particular the SMEs). Given that the purpose of the PRS is not to raise government revenues but to deter indiscriminate use of PSBs through economic disincentive, should we adopt the Government's proposed approach to reduce indiscriminate PSB use by introducing legislation on a mandatory charge by retailers where the charges collected need not be remitted to the Government as the practice already adopted in the Mainland and Taiwan? [cf. Chapter 5]**

Views: ______________________________________________

______________________________________________

______________________________________________

Other Views

| |
|---|
| |

www.epd.gov.hk