

**LegCo Panel on Commerce and Industry
Meeting on 9 July 2001**

Chemical Weapons (Convention) Bill

INTRODUCTION

This paper sets out the gist of a proposed Chemical Weapons (Convention) Bill (“the Bill”).

BACKGROUND

The Convention

2. The “Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction” (the Convention), which came into force on 29 April 1997, is an international treaty that aims at banning the development, production, use and retention of chemical weapons. The People’s Republic of China is a signatory to the Convention and the Central People’s Government has extended the application of the Convention to the Hong Kong Special Administrative Region under Article 153 of the Basic Law.

3. The main requirements under the Convention are:

- (a) General obligations : Each State Party is required to ban the use and development of chemical weapons¹ and to destroy any chemical weapons or related production facilities in its possession or located in any place under its jurisdiction or control;
- (b) Declarations : Each State Party is required to make annual declarations on forecast and actual production, consumption, storage, transfer, facilities used in such processes and other

¹ “Chemical weapons”, as defined in the Convention, include any toxic chemicals and their precursors except where intended for purposes not prohibited under the Convention; munitions and devices specifically designed to cause death or other harm through the toxic properties of toxic chemicals; and any equipment specifically designed for use directly in connection with the employment of these munitions and devices.

related activities concerning the toxic chemicals and their precursors listed in the three Schedules to the Convention. The three Schedules respectively cover toxic chemicals with little or no known industrial applications; chemicals which have some industrial applications; and chemicals which have widespread industrial applications. The facilities producing other organic chemicals not listed in the three Schedules exceeding a certain specified amount will also have to be declared. Moreover, a State Party may be asked by the Secretariat of the Convention to provide clarification regarding activities, whether they have been declared or not, that cause doubt of another State Party about its compliance with the Convention; and

- (c) Inspections : A State Party must allow and facilitate inspections of all declared sites and activities within its territory by an inspection team sent by the Secretariat of the Convention. Facilities not declared are also subject to inspection if another State Party doubts that contravention of the Convention has occurred.

Existing Controls on Chemical Weapons and Products

4. At present, the import and export of chemicals listed in the three Schedules to the Convention are already subject to licensing control administered by the Trade and Industry Department under the Import and Export Ordinance and the Import and Export (Strategic Commodities) Regulations. The Weapons of Mass Destruction (Control of Provision of Services) Ordinance also prohibits the provision of services intended to assist the development, production, acquisition and stockpiling of chemical, biological and nuclear weapons.

5. For the purposes of fully fulfilling the requirements of the Convention, the Government also needs legal authority to:

- (a) ban the use, development, possession etc of chemical weapons, and seize chemical weapons found in Hong Kong for disposal in accordance with the Convention;
- (b) control and monitor the production and related activities pertinent to toxic chemicals and their precursors;

- (c) require the submission of information from manufacturers, traders, research and medical institutions, testing laboratories etc. for the purposes of compiling annual declarations to the Secretariat of the Convention; and
- (d) grant access to facilities in Hong Kong to inspection teams sent by the Secretariat of the Convention to conduct inspections.

THE BILL

6. The Bill will ban the use, development, production, possession and transfer of chemical weapons. In addition, any person who finds an article which he believes to be a chemical weapon will be required to report to the Commissioner of Customs and Excise (“the Commissioner”). All chemical weapons seized or found, whether or not in connection with an offence under the Ordinance, will be forfeited to the Government and may be disposed of by the Commissioner.

7. Development, production, use, possession and transfer of toxic chemicals and their precursors which are intended for industrial, agricultural, research, medical, and other peaceful uses are permitted under the Convention, but such activities are subject to declaration and inspection requirements under the Convention. In this connection, the Bill will empower the Director-General of Trade and Industry (DGTI) to require a person to obtain a permit before he can operate a facility involving production, consumption, storage, acquisition and transfer of chemicals listed in the three Schedules to the Convention. Such persons will also be required to file regular reports to DGTI detailing the activities relating to the scheduled chemicals. Separately, a person will be required to make a notification to DGTI if he produces other organic chemicals not listed in the three Schedules exceeding a certain specified amount. In addition, the Bill will enable DGTI to demand information which is relevant to the preparation of a declaration on chemicals required under the Convention.

8. The Customs and Excise Department will be responsible for the enforcement of the Ordinance. It will have enforcement powers similar to those provided for in the Import and Export Ordinance, including the powers of investigation, seizure and forfeiture. The Commissioner will also have the power to demand information that is relevant to a declaration required under the Convention, and to issue an authorisation granting to an inspection team sent by the Secretariat of the Convention access and entry to a facility in Hong Kong and the right to conduct unobstructed inspection.

9. Judging from the findings of a survey conducted among manufacturers, traders, research and medical institutions, testing laboratories etc, the implementation of the Ordinance is not expected to have a significant impact on such parties. The Trade and Industry Department will, in consultation with other relevant Government agencies, conduct an awareness programme in due course to familiarise the relevant parties of the requirements under the Ordinance.

WAY FORWARD

10. The drafting of the Bill is in its final stage. We plan to introduce the Bill into the Legislative Council in the next legislative session. The full implementation of the Convention through the Ordinance will underline Hong Kong's commitment to international arrangement regarding non-proliferation, and help ensure Hong Kong's continued access to a full range of chemicals needed for local industrial, research, medical and trading purposes.

Commerce and Industry Bureau
June 2001