

For discussion
on 23 April 2001

Legislative Council Panel on Food Safety and Environmental Hygiene

STRENGTHENING CONTROL ON PESTICIDES

PURPOSE

This paper seeks Members' views on our proposal to enhance the control of pesticides.

BACKGROUND

2. Pesticides are used extensively in agricultural production to improve yield and quality. They are also commonly applied in domestic premises as well as in public areas and public transport to control disease vectors. If used improperly, they may cause serious harm to the health of humans, animals or the environment.

3. At present, all pesticides are regulated under the Pesticides Ordinance, Cap. 133 (the Ordinance). The Ordinance empowers the Director of Agriculture, Fisheries and Conservation (DAFC) to register pesticides and to regulate their manufacture, import, supply and sale through licensing control.

4. In administering the system, Agriculture, Fisheries and Conservation Department (AFCD) currently adopts an approach based on active ingredients rather than pesticide products. Only active ingredients of pesticides are registered and are classified either in Part I (i.e. in a ready-to-use form for domestic applications) or in Part II (i.e. in a concentrate form for commercial and horticultural applications). The two-part registration system allows pesticide traders to put on the market any pesticide products so long as the active ingredients are already registered. According to a survey conducted in June 2000, there were 539 pesticide products containing Part I active ingredients and 267 pesticide products containing Part II active ingredients available in the market.

PROBLEMS WITH THE PRESENT SYSTEM

5. The key problems with the present pesticide control system are as follows: -

- (a) There is insufficient control over the nature and the amount of other non-active chemicals in the pesticide products, even though these substances may be potentially hazardous;

- (b) The current two-part registration system is inadequate to cope with the wide range of pesticide products available on the market;
- (c) There is no control over names used for pesticide products. This can confuse consumers as well as health professionals in the event of medical emergencies; and
- (d) The existing Ordinance does not regulate the use of pesticides or restrict access to the use of hazardous registered pesticides.

Annex

6. We have reviewed the existing control measures, those in place in other countries (summarized in the Annex) and relevant international standards on pesticide control from the Food and Agriculture Organization and Organization for Economic Cooperation and Development.

THE PROPOSAL

7. We propose to amend the Ordinance and its subsidiary regulation to improve control on pesticides so as to enhance public safety. Detailed proposals are outlined in the following paragraphs.

(a) Improvements to the registration system

8. We propose to replace the “active ingredient” approach with a “product” approach. The new registration system will cover both active and inert ingredients of each product, its concentrations and formulation as well as its intended use. The existing Pesticide Register will be re-structured into four categories to reflect differences in toxicity, persistence, use pattern, and environmental and health hazards of pesticide products, as follows: -

- (i) Category A – General
 - domestic ready-to-use pesticide products.
(e.g. mothballs, aerosol sprays, bait stations, mosquito coils.)
- (ii) Category B – General
 - pesticide products in a concentrate form for general use.
(e.g. biopesticides, botanical extracts, low risk pesticides for home gardens.)
- (iii) Category C – Restricted
 - pesticides for plant protection used in agriculture and horticulture.
(e.g. concentrates for crop production, sports turf, landscaping.)
- (iv) Category D – Restricted
 - pesticides for control of disease vectors and higher risk non-

agricultural pesticides.

(e.g. concentrates and special formulations for public health pests and termite control, and antifouling agents.)

9. Under this proposed registration system, we will assess the safety of products and the accuracy of labels of all pesticide products before they are registered and placed on the market. We will require suppliers to avoid using similar product names for different pesticide products and, where necessary, prevent individual manufacturers from supplying the same product under different product names.

(b) Restrict Access to pesticides

10. We propose that more hazardous pesticide products should only be available for use by qualified and trained users. Categories A and B pesticide products will be made available to the general public with little or no restrictions. Categories C and D pesticide products will only be made available to licensed pest control service providers and authorized farmers.

(c) License pest control service providers

11. We propose to regulate pest control service providers (mainly companies) to ensure public safety by introducing licensing arrangements similar to existing ones for pesticide manufacturers, importers, wholesalers and retailers. Any pest control service provider who applies registered pesticides in public places or in private places in exchange for compensation will need a licence to operate and to have access to restricted pesticides. We will evaluate an applicant's capabilities in handling pesticides safely and, if satisfied, will issue an operator licence with appropriate conditions. We will require pest control service providers to follow user instructions on the label as a condition of their licences.

(d) Register pesticide applicators

12. To ensure that the people actually handling more hazardous pesticides have knowledge about safe use of these products, we also propose a registration system for pesticide applicators. Any person who has satisfactorily completed an approved training course provided by training institutes (vocational training colleges or equivalent) may seek registration. Such training courses for applicators are available for about \$2,000 per participant. Alternatively, a candidate may sit our assessment to gain registration. This assessment will evaluate the applicator's ability to handle and apply pesticides safely. Registration will be renewable every five years based on the track records of the applicator. We may revoke the registration if an applicator is convicted of any breach of the Ordinance. Pest control service providers will only be permitted to employ registered pesticide applicators.

(e) Require farmers to undertake training

13. Under the proposal, farmers will be required to complete a practical training course before being authorized to possess and use Category C pesticide products for farming purpose. The authorization may be revoked if a farmer is convicted of an offence under the Ordinance. AFCD will offer training to farmers as an extension to existing farmer training programmes in pesticide applications.

(f) Increase law enforcement power and adjust penalties

14. The existing provisions of the Ordinance only allow AFCD inspectors to enter premises and seize articles under a warrant issued by a magistrate. We propose to empower them to enter and search any place, and seize and detain chemicals and documents when they have reason to suspect that an offence has been committed, with a view to facilitating the enforcement of the Ordinance. We will also take the opportunity to bring the levels of fines under the Ordinance in line with inflation since 1991. The maximum revised fine will be \$100,000 (i.e. Level 6 penalty). Existing provisions for imprisonment of offenders will be retained.

(g) Deregulate the retail of Category A pesticide products

15. In other countries including Canada, the United Kingdom and the United States, the retail of registered domestic ready-to-use pesticide products does not require a licence. To streamline control procedures without compromising public safety, we propose to implement a similar system by repealing the current licensing requirement for pesticide retailers who only sell Category A pesticide products while we will continue to prohibit the sale of unregistered or improperly labelled pesticide products. AFCD will issue guidelines for the retailers to comply. Inspections on the retail outlets will be carried out to ensure compliance. The deregulation of retail licensing proposed is expected to benefit the current 2,000 licensed retailers involving a total of about 3,000 retail outlets.

(h) Adjustments to fees and charges

16. At present, we issue a licence to each pesticide dealer covering all pesticide-related activities including manufacturing, import/supply and retail. Currently, the licence fee is the same regardless of whether the dealer is engaged in one activity only, such as wholesale, but not in the other activities. Apart from deregulating the retail of Category A pesticide products, we now plan to charge separately for the specific activities each dealer undertakes. For those involved in only one activity this will reduce the cost of operation.

(i) Transitional arrangement

17. We propose a transitional period of two years to allow for registration of pesticide products under the new registration system, to license pest control

service providers, to register pesticide applicators, and to train and authorize farmers before the new control system comes into effect.

CONSULTATION

18. We are conducting a public consultation exercise on the proposals. So far, we have consulted some 3,000 parties concerned including farmers' associations, pesticide and pest control trade associations, existing pesticide licensees, green groups, public utilities, etc., and organized a number of public forums for open discussion. We also consulted the Advisory Council on Food and Environmental Hygiene on 1 March 2001.

19. Through the consultation process, we have already modified our proposals to minimize the compliance costs and have only recommended the introduction of measures essential to protect public safety. The costs that pest control companies will have to absorb relate largely to the training of applicators, the provision of appropriate protective clothing and the keeping of records of use of hazardous pesticides. We estimate these will add maximum of about 3% to overall operating costs for pest control companies, assuming none of these essential elements were in place already. But the benefits of the new control in terms of improved public safety and better protection of their workers and the community will outweigh the increase in costs. The impact on farmers is expected to be minimal.

THE NEXT STEP

20. The proposals have the general support of the trade and the Advisory Council on Food and Environmental Hygiene. We plan to start preparing the necessary amendments to the Pesticides Ordinance and its subsidiary legislation and introduce them to the Legislative Council within the next legislative year.

ADVICE SOUGHT

21. Members are invited to comment on the proposals set out in paragraphs 8 to 17 above.

Annex

COMPARISON OF PESTICIDE CONTROL IN SELECTED COUNTRIES

| Control Mechanism | Hong Kong | Australia | Singapore | UK | Canada | USA |
|-----------------------------------|---|---|---|---|--|---|
| Registration of pesticides | <p>Current</p> <ul style="list-style-type: none"> • Active ingredient • Registration is for life <p>Proposed</p> <ul style="list-style-type: none"> • Product registration • Registration is for life | <ul style="list-style-type: none"> • Product • Renew every year | <ul style="list-style-type: none"> • Product • Registration is for life | <ul style="list-style-type: none"> • Product • Registration is for life | <ul style="list-style-type: none"> • Product • Renew every 5 years | <ul style="list-style-type: none"> • Product • Renew every year |

| Control Mechanism | Hong Kong | Australia | Singapore | UK | Canada | USA |
|--|---|--|--|---|--|---|
| Classification of pesticide product | <p>Current</p> <ul style="list-style-type: none"> • General domestic ready-to-use • Others <p>Proposed</p> <ul style="list-style-type: none"> • Category A : General domestic ready-to-use • Category B : General use concentrates • Category C : Restricted agricultural use • Category D : Restricted public health and special pest control applications | <ul style="list-style-type: none"> • Agricultural / household / home garden product • Veterinary product | <ul style="list-style-type: none"> • Agricultural product • Public health / domestic product • Concentrate product (restricted) | <ul style="list-style-type: none"> • Amateur products • Professional products • Agricultural products • Non-agricultural products | <ul style="list-style-type: none"> • Domestic product • Commercial use-product (agricultural / industrial activities) • Restricted use product • Manufacturing use product | <ul style="list-style-type: none"> • General use product • Restricted use product |
| Licensing of pest control service providers | <p>Current</p> <ul style="list-style-type: none"> • No licensing requirement <p>Proposed</p> <ul style="list-style-type: none"> • Licensing requirement • Renew licence every year | <ul style="list-style-type: none"> • Yes • Renew every year | <ul style="list-style-type: none"> • Yes • Renew every 3 years | <ul style="list-style-type: none"> • No • Statutory code of practice for companies to follow | <ul style="list-style-type: none"> • Yes (for using restricted pesticides) • Usually renew every year, varies from province to province | <ul style="list-style-type: none"> • Yes • Renew every year |

| Control Mechanism | Hong Kong | Australia | Singapore | UK | Canada | USA |
|-------------------------------|---|--|--|---|---|---|
| Control on applicators | <p>Current</p> <ul style="list-style-type: none"> • No licensing requirement <p>Proposed</p> <ul style="list-style-type: none"> • Registration of applicators after assessment or training. Renew registration every 5 years. • Authorization of farmers | <ul style="list-style-type: none"> • Yes (for trainees, technicians, technical managers) • Renew every year • Proficiency assessment required | <ul style="list-style-type: none"> • Yes (for pest control technicians, workers/ agricultural pesticide operators for commercial cultivation) • Renew licence every 3 years • Proficiency assessment required | <ul style="list-style-type: none"> • Yes (for agricultural / professional pesticide user) • No need to renew • Proficiency assessment required • Statutory code of practice for users to follow | <ul style="list-style-type: none"> • Yes (for applicators using commercial and restricted pesticides) • Renewal period less than 5 years, varies from province to province • Proficiency assessment required | <ul style="list-style-type: none"> • Yes (for applicators using restricted pesticides) • Renewal period from 1 year to 4 years, varies from State to State • Proficiency assessment required |

| Control Mechanism | Hong Kong | Australia | Singapore | UK | Canada | USA |
|--------------------------|---|--|--|--|--|--|
| Label | <p>Current</p> <ul style="list-style-type: none"> • Labeling of active ingredients is compulsory under the Pesticides Regulation (Cap 133, sub leg) but prior approval for labeling of pesticide products is not required. • Label is not legally binding (i.e. It is not an offence if user instructions are not followed) <p>Proposed</p> <ul style="list-style-type: none"> • Require prior approval • Label legally binding to licensed pest control service providers, registered applicators and authorized farmers | <ul style="list-style-type: none"> • Require prior approval • Label is legally binding | <ul style="list-style-type: none"> • Require prior approval • Label is not legally binding | <ul style="list-style-type: none"> • Require prior approval • Label is legally binding | <ul style="list-style-type: none"> • Require prior approval • Label is legally binding | <ul style="list-style-type: none"> • Require prior approval • Label is legally binding |