

**Bills Committee on Chemical Weapons (Convention) Bill
Fourth meeting on 24 October 2002**

List of follow-up actions to be taken by the Administration

1. Clause 5(e)

Clause 5(e) provides that no person shall engage in military preparations, or in preparations of a military nature, intending to use a chemical weapon. As the relevant provision in the Convention only covers "military preparations", please consider whether it is justified to add "preparations of a military nature" in clause 5(e).

2. Clause 5(f)

Clause 5(f) provides that no person shall assist, encourage or induce, in any way, anyone to engage in any activity prohibited under the Convention. While this subclause is modelled on the relevant provision in the Convention, please consider the need for including this subclause in the Bill as offences like aiding and abetting have already been covered by existing laws.

3. Clause 6(1)

Clause 6(1) provides that section 5 applies to acts done in Hong Kong, and acts done outside Hong Kong by Chinese nationals who are Hong Kong permanent residents. Please advise whether there is any existing mechanism for a person to give up the status of Chinese national or that of Hong Kong permanent resident and if so, please provide details of the mechanism.

4. Declaration to the Organization for the Prohibition of Chemical Weapons (OPCW) on riot control agents

According to the comparison table provided by the Administration (LC Paper No. CB(1)98/02-03(02)), the "Bill does not have any provision pertaining to riot control agent. This is because Article III of the Convention only requires a State Party to make declaration in respect of riot control agents that it holds for riot control purposes. The Government will collect such information through administrative means and make declaration to the OPCW accordingly". In this connection, please advise on the types and quantities of riot control agents possessed by law enforcement authorities in Hong Kong for riot control purposes, and the law enforcement authorities involved.

5. Possession and use of controlled chemicals for law enforcement including riot control purposes

As "Purposes not prohibited under this Convention" means, among other things, law enforcement including domestic riot control purposes, it seems that law enforcement authorities may possess and use controlled chemicals for such purposes.

- (a) To keep the Legislative Council (LegCo) informed of the situation, please consider providing annual reports to the relevant LegCo Panel on the information about the types and quantities of the controlled chemicals imported and possessed by law enforcement authorities in Hong Kong for law enforcement including riot control purposes; and
- (b) Article 14 of the Basic Law provides that the Government of the Hong Kong Special Administrative Region (HKSAR) may, when necessary, ask the Central People's Government for assistance from the garrison in the maintenance of public order and in disaster relief. It seems that the garrison may possess and use controlled chemicals for law enforcement including riot control purposes. As Article 14 also provides that in addition to abiding by national laws, members of the garrison shall abide by the laws of the HKSAR, please clarify whether the Bill has binding effect on the garrison.

Legislative Council Secretariat
25 October 2002