

**Bills Committee on Chemical Weapons (Convention) Bill  
Fifth meeting on 19 November 2002**

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

1. Clause 1(2)

Please move a Committee Stage Amendment (CSA) to replace "the Secretary for Commerce and Industry" by "the Secretary for Commerce, Industry and Technology".

2. Clause 2(1)

On the definition of "claimant", please consider whether the word "petitions" should be in singular form.

3. Clause 4

(a) Heading of clause 4

The heading of clause 4 reads "Power of Director to appoint public officers to exercise any of powers, etc., conferred on Director by this Ordinance". Please consider making appropriate amendments to the heading to make it clear what "any of powers, etc." is referred to.

(b) Delegation of power to the Clerical Officer Grade

Clause 4 provides that the Director-General of Trade and Industry "may authorize in writing any public officer employed in the Trade and Industry Department in the Trade Officer Grade or in the Clerical Officer Grade, or any public officer acting in the capacity of Principal Trade Officer in the Trade and Industry Department, to exercise any of the powers and perform any of the duties conferred or imposed on the Director by this Ordinance". In view of the sensitivity of the subject matter of the Bill, the requirement for the Clerical Officer Grade to exercise any of the powers and perform any of the duties conferred or imposed on the Director, and the fact that such delegation of power to the Clerical Officer Grade rarely appears in the existing legislation, please consider whether it is more appropriate to delete "or in the Clerical Officer Grade" from clause 4.

4. 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. The Bills Committee notes from the Administration's written response (LC Paper No. CB(1)305/02-03(04)) that there is no statutory provision for a permanent resident of the Hong Kong Special Administrative Region (HKSAR) to *relinquish* his permanent resident status. However, the Bills Committee also notes that under paragraph 7 of Schedule 1 to the Immigration Ordinance (Cap. 115), a permanent resident of HKSAR *loses* his permanent resident status if, being a person falling within the category in paragraph 2(d), or 2(e), or 2(f) of Schedule 1, has been absent from Hong Kong for a continuous period of not less than 36 months. In this connection, please advise on the following:

- (a) whether a permanent resident of HKSAR, who falls within the category in paragraph 2(d), or 2(e), or 2(f) of Schedule 1 to the Immigration Ordinance and has been absent from Hong Kong for a continuous period of not less than 36 months, will automatically lose his permanent resident status;
- (b) whether the Administration has the discretionary power to decide that the person mentioned in item (a) above will not lose his permanent resident status;
- (c) whether a mechanism is in place to check regularly if there is any permanent resident of HKSAR who loses his permanent resident status under the circumstances mentioned in item (a) above; if yes, please provide information on the mechanism;
- (d) whether a person who has lost his permanent resident status will be formally notified in writing; and
- (e) whether a person who has lost his permanent resident status may apply for reinstatement of the status.

5. Clause 7(1)

Clause 7(1) provides that where a person finds an article that the person believes may be a chemical weapon, the person shall as soon as is practicable notify a member of the Customs and Excise Service or an authorized officer of the finding, and of the whereabouts, of the article. Under clause 29(4), a person who contravenes clause 7(1) commits an offence and is liable on conviction to a fine at level 6 and to

imprisonment for 6 months. The Bills Committee therefore considers it necessary to facilitate a person who finds a chemical weapon to notify a member of the Customs and Excise Service or an authorized officer. In this connection, the Bills Committee notes that "an authorized officer" means a person authorized by the Commissioner of Customs and Excise under clause 3, including any police officer of the rank of inspector or above. As it may not always be possible for the person concerned to locate a member of the Customs and Excise Service or a police inspector at the time when he finds the article, please consider amending the relevant provisions to the effect that the person concerned may notify "any police officer".

Legislative Council Secretariat  
20 November 2002