

立法會
Legislative Council

LC Paper No. CB(1) 1992/05-06
(These minutes have been seen
by the Administration)

Ref: CB1/BC/2/05/2

**Bills Committee on
Hazardous Chemicals Control Bill**

**Minutes of the first meeting
held on Wednesday, 28 June 2006, at 8:30 am
in Conference Room B of the Legislative Council Building**

- Members present** : Hon CHOY So-yuk, JP (Chairman)
Hon SIN Chung-kai, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon Andrew LEUNG Kwan-yuen, SBS, JP
- Public officers attending** : Environmental Protection Department

Mr Esmond LEE
Deputy Director of Environmental Protection

Dr Stephanie MA
Senior Environmental Protection Officer

Department of Justice

Ms Frances HUI
Senior Government Counsel

Ms Phyllis POON
Government Counsel
- Clerk in attendance** : Miss Becky YU
Chief Assistant Secretary (1)1
- Staff in attendance** : Miss Monna LAI
Assistant Legal Adviser 7

Mrs Mary TANG
Senior Assistant Secretary (1)2
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I. Election of Chairman

Nominated by Mr Andrew LEUNG and seconded by Ms Audrey EU, Miss CHOY So-yuk was elected Chairman of the Bills Committee.

II. Meeting with the Administration

(LC Paper No. CB(3) 552/05-06	-- The Bill
Ref: EPD CR 9/30/18 V	-- The Legislative Council Brief
LC Paper No. LS68/05-06	-- Legal Service Division Report
LC Paper No. CB(1) 1799/05-06(01)	-- Background brief on Bills Committee on Hazardous Chemicals Control Bill
LC Paper No. CB(1) 1799/05-06(02)	-- Assistant Legal Adviser's letter dated 12 June 2006 to the Administration
LC Paper No. CB(1) 1799/05-06(03)	-- Administration's response to CB(1) 1799/05-06(02))

2. The Committee deliberated (Index of proceedings attached at **Annex A**).
3. The Administration was requested to -
 - (a) review the definition of “manufacture” under clause 2 to reflect the policy intent of excluding scheduled chemicals which were unintentionally produced;
 - (b) review the drafting of the Bill in respect of the mode of implementation of the Stockholm Convention and the Rotterdam Convention applicable to Hong Kong in local legislation to ensure consistency with other similar legislation, including the Waste Disposal (Amendment) Ordinance, particularly when the proposed scope of control under the Bill was wider than the two Conventions to cover non-convention chemicals. Consideration should be given to specifying convention and non-convention chemicals in different schedules for the sake of clarity. Legislative amendments to convention chemicals could be subject to negative vetting while non-convention chemicals should be done by positive resolution; and
 - (c) consider amalgamating the Bill and the Pesticides Ordinance (Cap. 133) to establish a complete control regime on hazardous chemicals in the long run.
4. Members agreed to put a notice on the LegCo's website to invite public views on the Bill.

5. The next meeting would be held in September 2006, the date of which had yet to be confirmed.
6. There being no other business, the meeting ended at 9:55 am.

Council Business Division 1
Legislative Council Secretariat
17 July 2006

**Proceedings of the meeting of the
Bills Committee on Hazardous Chemicals Control Bill
Meeting on Wednesday, 28 June 2006, at 8:30 am
in Conference Room B of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000000 - 000200	Miss CHOY So-yuk Mr Andrew LEUNG Ms Audrey EU	Election of Chairman Miss CHOY So-yuk was elected Chairman of the Bills Committee	
000201 - 001555	Administration	Briefing on the Hazardous Chemicals Control Bill (the Bill)	
001556 - 001904	Mr SIN Chung-kai Administration Chairman	Enquiry on whether possession of hazardous chemicals was subject to control under the Bill Administration's explanation that the Bill aimed to regulate the manufacture, export, import and use of hazardous chemicals through a licensing system. It was not necessary to control possession of such chemicals under the Bill so long as their use was to be regulated	
001905 - 002936	Ms Audrey EU Administration Chairman	Enquiry on the harmful effects of the scheduled hazardous chemicals and their usage in daily life Administration's explanation - (a) the Bill would only regulate raw hazardous chemicals. In general, it would not be applicable if such chemicals were a constituent element of a manufactured product (see, for example, sections 2 and 3 of Part 2 of Schedule 1 to the Bill); (b) Type 1 chemicals with high toxicity, including hexachlorobenzene (HCB) and polychlorinated biphenyls (PCB), were regulated by the Stockholm Convention (SC). However, time-limited exemptions were granted to some developing countries to use HCB as an intermediate in the manufacture of some pesticides; and	

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		(c) PCB was previously used in transformers and capacitors but it was no longer used because an alternative had been found. A very minute amount of PCB might be present in manufactured products, such as starters for fluorescent lamps and carbon paper. The concentration and volume of such PCB were unlikely to exceed 0.005% and 0.05 litre respectively, thereby not being subject to control	
002937 - 003029	ALA7 Administration Chairman	Administration's confirmation that those who were in possession of scheduled hazardous chemicals would need to apply for permits to use them upon passage of the Bill	
003030 - 003519	Chairman Administration Ms Audrey EU	Enquiry on whether there was any control on the release of scheduled hazardous chemicals as a by-product Administration's explanation that the Bill would only regulate hazardous chemicals in the raw form and not unintentionally produced by-products	
003520 - 003730	Chairman Administration Ms Audrey EU	Members' concern that the definition of "manufacture" under clause 2 of the Bill, particularly the phrase "causing the chemical to be manufactured" would cover by-products which were unintentionally produced	The Administration to review the definition of "manufacture" under clause 2 to reflect the policy intent of excluding scheduled chemicals which were unintentionally produced
003731 - 004729	ALA7 Administration	Points raised by ALA7 - (a) enquiry on the control of hazardous chemicals set out in Annex A to SC and measures to reduce or eliminate releases from unintentional production;	

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		<p>(b) concern about the power of the Director of Environmental Protection (the Director) under clause 13 to incorporate requirements under SC and the Rotterdam Convention (RC) which were not specified in the Bill as conditions of a permit and to impose other conditions which were more stringent than those of the two Conventions. Such conditions were however not specified nor subject to the scrutiny of the Legislature;</p> <p>(c) concerns on the application of clause 13 to other similar clauses in the Bill; and</p> <p>(d) reference should be made to the discussion on the Waste Disposal (Amendment) Bill (WD(A) Bill) on the mode of implementation of Hong Kong's obligations under the Basel Convention</p> <p>Administration's explanation -</p> <p>(a) hazardous chemicals regulated under SC but not included in the Bill were pesticides which were already subject to control under the existing Pesticides Ordinance (Cap. 133);</p> <p>(b) the draft Hong Kong Special Administrative Region Implementation Plan for SC had set out measures to reduce emission of unintentionally produced Persistent Organic Pollutants (POPs) i.e. dioxins and furans. These included tightening emission standards for crematoria and introducing more stringent motor vehicle emission standards</p>	

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		<p>(c) The long title of the Bill set out clearly that the hazardous chemicals under control of the Bill would include (but not limited to) chemicals under SC and RC. This aimed to allow greater flexibility in controlling non-convention chemicals; and</p> <p>(d) power conferred to the Director in varying permit conditions was set out in clause 13</p>	
004730 - 004938	ALA7 Administration	<p>Provisions under the WD(A) Bill relating to Hong Kong's obligations under the Basel Convention were subsequently deleted to avoid creating an undesirable precedent on the mode of implementation of international conventions applicable to Hong Kong in local legislation without scrutiny by the Legislative Council</p> <p>Administration's explanation -</p> <p>(a) the inclusion of provisions in the Bill setting out the scope of power of the Director in varying permit conditions, which had to be consistent with SC and RC, would facilitate traders and other readers' understanding as to the duties of the Director and the extent to which the Director might exercise his powers under the Bill; and</p> <p>(b) similar provisions were provided under the new Protection of Endangered Species of Animals and Plants Ordinance</p> <p>ALA7's response that there was no such similar provisions in the new Protection of Endangered Species of Animals and Plants Ordinance</p>	

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004939 - 005106	Chairman Administration	<p>Chairman’s query on the need to make reference to international conventions in clause 13 when the relevant provisions were not included in the Bill for scrutiny by the Legislature. Besides, similar provisions had been deleted from WD(A) Bill</p> <p>Administration’s explanation that clause 13(3) would put it beyond doubt that the Director had no power to vary the conditions of a permit if by doing so it would be inconsistent with the requirements under SC and RC</p>	
005107 - 005706	ALA7 Administration Chairman	<p>ALA7’s concerns -</p> <p>(a) the affected trades would not be aware of the requirements as the relevant provisions under SC and RC applicable to Hong Kong were not set out in the Bill; and</p> <p>(b) clause 13(3) allowed the Director to “vary the conditions of a permit even if the variation may result in a more stringent measure than any of those required by the Conventions”</p> <p>Administration’s explanation that clause 11 empowered the Director to impose conditions on permits for the protection of public health and the environment.</p>	<p>The Administration to review the drafting of the Bill in respect of the mode of implementation of SC and RC applicable to Hong Kong in local legislation to ensure consistency with other similar legislation, including the Waste Disposal (Amendment) Ordinance, particularly when the proposed scope of control under the Bill was wider than the two Conventions to cover non-convention chemicals.</p>

Time marker	Speaker	Subject(s)	Action required
005707 - 010100	Ms Audrey EU Administration Chairman	<p>Enquiry on criteria for inclusion of chemicals under the Schedules and the procedures for amendment</p> <p>Administration's explanation -</p> <p>(a) clause 5 provided that the criteria adopted by SC and RC in determining whether a chemical was a hazardous chemical would be taken into account;</p> <p>(b) reference would also be made to toxicity or eco-toxicity data that had been generated according to scientifically recognized methods; and</p> <p>(c) under clause 50, the Secretary might by order published in the Gazette amend Schedules 1 and 2 and such orders would be subsidiary legislation to be scrutinized by the Legislature under the negative vetting procedure</p>	
010101 - 010351	Ms Audrey EU Administration Chairman	<p>Member's concern about the extent of power conferred on the Director and the limited time allowed in the scrutiny of subsidiary legislation</p> <p>Administration's explanation -</p> <p>(a) before consideration could be given to including a chemical in the Schedules to the Bill, there would be consultation with the trades and scientific studies on the toxicity of the chemical; and</p> <p>(b) scrutiny period could be extended if more time was required to examine the subsidiary legislation</p>	

Time marker	Speaker	Subject(s)	Action required
010352 - 010645	Mr SIN Chung-kai Administration Chairman	Member's suggestions - (a) amendments to Schedules involving convention chemicals could be introduced in the form of subsidiary legislation subject to the negative vetting procedure; (b) amendments to Schedules involving non-convention chemicals could be introduced in the form of a resolution subject to the positive vetting procedure; and (c) apart from Schedules 1 and 2 for Type 1 and Type 2 convention chemicals, consideration would be given to introducing separate Schedules in the Bill for non-convention chemicals	The Administration to consider member's suggestions
010646 - 010958	Ms Audrey EU Administration	Member's concern about the need for consistency in the application of international conventions in local legislation	
010959 - 011113	ALA7	ALA7's explanation on the difference between subsidiary legislation and resolutions - (a) LegCo Briefs would be provided for resolutions but not necessarily for subsidiary legislation; and (b) there were time constraints in the scrutiny of subsidiary legislation Administration's confirmation that LegCo Briefs were normally provided on subsidiary legislation	
011114 - 011301	Mr SIN Chung-kai Administration Chairman	Member's support for inclusion and amendments relating to non-convention chemicals to be introduced in the form of a resolution to facilitate scrutiny by the Legislature	

Time marker	Speaker	Subject(s)	Action required
011302 - 011439	Mr SIN Chung-kai Chairman	Members' request that consideration be given to amalgamating the Bill and the Pesticides Ordinance (Cap. 133) to establish a complete control regime on hazardous chemicals in the long run	The Administration to consider amalgamating the Bill and the Pesticides Ordinance (Cap. 133) to establish a complete control regime on hazardous chemicals in the long run
011440 - 011739	Chairman Administration	Chairman's enquiry on the target of eliminating PCB by 2028 Administration's explanation on its commitment that PCB contained in 191 existing high-voltage capacitors be required to be disposed of by 2028	
011740 - 012240	Chairman Mr SIN Chung-kai Administration Ms Audrey EU	Members' agreement to invite public views on the Bill at the next meeting to be scheduled in September 2006	