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Secretary for the Environment, Transport
and Works

Environmental Protection Department
(Attn: Mr Esmond LEE,
Dep Dir of Env Protection(4))
46/F, Revenue Tower
5 Gloucester Road
Wan Chai, Hong Kong

By Fax (2511 6775) and By Post

15 January 2007

Dear Mr LEE

Hazardous Chemicals Control Bill (“the Bill”)

I refer to your letter dated 12 January 2007.

My doubt on the inconsistency of the English and Chinese versions of section 10(4)(a)(i) has been clearly set out in paragraph 2 of my letter dated 12 June 2006. It appears that in the English version, the word “may” gives the Director a discretion when he issues or renews the relevant permits while in the Chinese version, the words “不得” mean that, subject to the exceptions provided, it is mandatory for the Director not to issue or renew the permits. However, the provision does not elaborate on the Director’s obligation in the exceptional circumstances.

The drafting of section 10(4)(a) appears to be different from the other provisions of the Bill:

- (a) sections 6(1), 7(1), 8(1), and 9(1) prohibit the manufacture, export, import and use of a scheduled chemical by providing that “Except under and in accordance with a permit, a person shall not manufacture, export, import or use any scheduled chemical.” in its English version and “除根據和按照許可證的規定外，任何人不得製造、出口、入口或使用任何受管制化學品。” in its Chinese version. The words “shall not” and “不得” is used to denote the prohibition; and
- (b) in the other provisions of the Bill, the word “may” is used in the English version and “可” is used in the Chinese version to denote that the Director has a discretion. Section 13(3) provides that “The Director may not vary the conditions of a permit if the variation would be

inconsistent with any of the requirements under the Rotterdam Convention and the Stockholm Convention, but may 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.”. The Chinese version provides that “如署長更改許可證的條件，會抵觸在《鹿特丹公約》及《斯得哥爾摩公約》下的任何規定，則他不可如此更改該等條件，然而即使署長更改許可證的條件可導致的措施，較該等公約所規定的任何措施為嚴苛，他仍可如此更改該等條件。”.

Please clarify the discrepancy between section 10(4)(a)(i) and the other provisions.

It is appreciated that your reply in both Chinese and English could reach us by close of play, 22 January 2007.

Yours sincerely

(Monna LAI)
Assistant Legal Adviser