

Hazardous Chemicals Control Bill

**List of follow-up actions arising from the discussion
at the meeting on 12 January 2007**

The Administration's Responses

- (1) Between spelling out the requirements of the two Conventions in the relevant clauses of the Bill and deleting all references to the two Conventions from the Bill, which is a better alternative from the Administration's perspective and why.

As explained before, the Bill seeks to provide for the prohibition of the import, export, manufacture and use of non-pesticide hazardous chemicals except under and in accordance with an activity-based permit. The permit system under the Bill applies in the same manner to (a) non-pesticide hazardous chemicals regulated under the two Conventions; and (b) non-pesticide hazardous chemicals not regulated under the two Conventions. The permit system enables the relevant key requirements of the two Conventions to be implemented. We do not consider it appropriate to specify all the detailed requirements of the Conventions in the Bill, which would limit the flexibility we need to administer the permit system.

2. Our policy intent is to make express reference to the requirements of the two Conventions in the provisions of the Bill. We note the alternative approach of the Bill of not making any references to the requirements of the Conventions in the Bill. We believe the Administration's approach is preferable to not making any references to the Convention requirements at all from a transparency of law perspective, since it expressly empowers the Director while at the same time imposes a statutory obligation for him to have regard to the Convention requirements when performing his statutory functions. In the light of Members' comments, the Administration has indicated its willingness to qualify the scope of the Convention requirements by reference to those relating to the "manufacture, import, export, use and disposal" of non-pesticide hazardous chemicals.

3. As to the alternative approach of not making references to the requirements of the two Conventions, it is understood that in this case the Director may continue to perform his statutory functions having regard to and in a manner consistent with the Convention requirements,

so long as this does not contradict the express wording of the Bill.

(2) To advise the liability of the Government and the relevant public officers in the event of non-compliance with the provisions in the Bill.

4. Our position on this issue was explained at the last meeting. We are now considering the matter further internally and will revert when we are in a position to do so.

(3) To revert back to the Bills Committee the Administration's stance on regulating the possession and transaction of scheduled chemicals.

5. The Bill now regulates the import, export, manufacture and use of non-pesticide hazardous chemicals, having regard to the fact that the two Conventions do not impose any control requirements relating to possession and transaction of such chemicals. We do not consider it appropriate to expand the scope of the Bill to cover these two activities. This said, as possession of the chemicals is an integral component of the four regulated activities (i.e. import, export, manufacture and use), the permits to be issued under the Bill would contain conditions relating to the proper possession of the chemicals. The permits would also contain conditions restricting the transfer of the chemicals to a third party. Moreover, there are existing environmental legislation dealing with environmental pollution, and environmental pollution caused by improperly stored or handled scheduled chemicals may be dealt with under the existing legislation.

Environmental Protection Department
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