

立法會
Legislative Council

LC Paper No. LS68/05-06

**Paper for the House Committee Meeting
on 26 May 2006**

**Legal Service Division Report on
Hazardous Chemicals Control Bill**

I. SUMMARY

- 1. Objects of the Bill** To provide for the regulation of non-pesticide hazardous chemicals; and to comply with the Stockholm Convention on Persistent Organic Pollutants (“the Stockholm Convention”) and the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (“the Rotterdam Convention”).
- 2. Comments** The Bill provides for:
(a) prohibition of import, export, manufacture or use of non-pesticide hazardous chemicals except under and in accordance with an activity-based permit; and
(b) compliance with the requirements of the Stockholm Convention and the Rotterdam Convention. Except in transit and air transshipment cargo, an import/export licence has to be obtained for the import/export of non-pesticide hazardous chemicals, similar to the existing arrangement adopted for hazardous pesticides.
- 3. Public Consultation** The Administration held a stakeholder consultation workshop and a briefing session for the relevant trade and stakeholders. The Government was requested to provide enough guidelines on the permit application procedures and consider the cost implications on the trade. Concerns relating to the control over air transshipment cargo was raised. The Advisory Council on the Environment was also consulted.
- 4. Consultation with LegCo Panel** The Panel on Environmental Affairs was consulted on 27 February 2006. While members generally raised no objection, they were concerned about the impact of the proposed regulatory regime on importers/exporters. Questions were raised as to whether the Administration had notified the affected trades about the proposed control regime and whether assistance would be provided to facilitate customs clearance.
- 5. Conclusion** The Legal Service Division is still scrutinizing the legal and drafting aspects of the Bill. In view of the concerns raised by Members and the industry, Members may wish to form a Bills Committee to study the Bill in detail.

II. REPORT

Objects of the Bill

- (a) To provide for the prohibition of import, export, manufacture and use of “non-pesticide hazardous chemicals”¹, except under and in accordance with an activity-based permit.
- (b) To comply with the requirements on the control of non-pesticide hazardous chemicals under the Stockholm Convention on Persistent Organic Pollutants (“the Stockholm Convention”) and the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (“the Rotterdam Convention”).

LegCo Brief Reference

- 2. EPD CR 9/30/18 V issued by the Environmental Protection Department on 10 May 2006.

Date of First Reading

- 3. 24 May 2006.

Comments

- 4. The Bill provides for:
 - (a) prohibition of import, export, manufacture or use of non-pesticide hazardous chemicals (as listed in Schedule 1 and Schedule 2 to the Bill) except under and in accordance with the following activity-based permits:
 - (i) the manufacture of any Type 1 chemical is not allowed, except where the chemical is for use for laboratory-scale research purpose or as a reference standard and the manufacture of the chemical is carried out under and in accordance with a permit issued under the Bill;
 - (ii) the import into Hong Kong, the export from Hong Kong or the

¹ “Non-pesticide hazardous chemicals” mean any chemical, other than a chemical that is a pesticide, that has potentially harmful or adverse effect on human health or the environment.

use of any Type 1 chemical is not allowed except where it is carried out under and in accordance with a permit issued under the Bill; and

- (iii) the import into Hong Kong, the export from Hong Kong, or the manufacture or use of any Type 2 chemical is not allowed except where it is carried out under and in accordance with a permit issued under the Bill.
- (b) compliance with the requirements on the control of non-pesticide hazardous chemicals under the Stockholm Convention and the Rotterdam Convention. Type 1 chemicals (set out in Schedule 1) include two non-pesticide industrial chemicals regulated under the Stockholm Convention, one of which is also regulated under the Rotterdam Convention. Type 2 chemicals (set out in Schedule 2) include ten non-pesticide industrial chemicals regulated under the Rotterdam Convention. Except in cases of transit and air transshipment cargo, an import/export licence has to be obtained under the consignment-based licensing system under the Import and Export Ordinance (Cap. 60) for the import/export of any non-pesticide hazardous chemicals, in a way very similar to the arrangement adopted in respect of hazardous pesticides under the Ordinance. The Import and Export (General) Regulations (Cap. 60A) will be amended as part of the Bill. In respect of exported hazardous chemicals regulated under the Rotterdam Convention, the licence will require the provision of information such as a safety data sheet, labelling and information on precautionary measures to accompany the export.

5. In the light of comments from carriers about their difficulty in complying with the import/export licensing requirements relating to transit and air transshipment cargo, the Bill proposes that instead of applying for import/export licences, they are required to:

- (a) obtain permits for the import/export of those chemicals;
- (b) obtain explicit permissions from both export and import countries; and
- (c) notify EPD within a period of seven days of arrival of the cargo the details of the cargo with relevant documents.

6. This Bill shall come into operation on a day to be appointed by the Secretary for the Environment, Transport and Works by notice published in the Gazette.

Public consultation

7. According to the LegCo Brief:
- (a) the Administration held a stakeholder consultation workshop on the preparation of the draft Hong Kong Implementation Plan for the Stockholm Convention (“HKIP”) on 18 November 2005 (“the Consultation Workshop”);
 - (b) on 3 March 2006, the Administration held a briefing session for the relevant trade and stakeholders and clarified the legislative proposals. Following the briefing session, the Administration received written substantive comments from the Business Environment Council Limited and Carrier Liaison Group. In gist, the Business Environment Council Limited was supportive. It asked that the Government should provide enough guidelines on the permit application procedures and consider the cost implications on the trade. It also asked for a cost effective licensing approach for transshipment of scheduled chemicals and scheduled chemicals in transit. The Carrier Liaison Group’s main concern relates to the import/export control over air transshipment cargo. It has proposed that all proposed licences or permits must be in electronic form and e-process enabled. It has also made a general proposal of a “one for all” general licence to the carriers for the purpose of applying for transshipment licence/permit for all commodities; and
 - (c) on 13 March 2006, the Administration consulted the Advisory Council on the Environment on the draft HKIP, including the legislative proposals. The Council supported the initiatives in the draft HKIP and the legislative proposals.

Consultation with LegCo Panel

8. The draft HKIP was discussed by the Panel on Environmental Affairs (“the Panel”) at its meeting on 27 February 2006. While members generally raised no objection to the introduction of control on persistent organic pollutants, they were concerned about the impact of the proposed regulatory regime on importers/exporters. Questions were raised as to whether the Administration had notified the affected trades about the proposed control regime and whether assistance would be provided to facilitate them in their customs clearance. According to the Administration, the Environmental Protection Department (“EPD”) had conducted a survey to ascertain the impact of the Stockholm Convention on Hong Kong. Findings indicated that there had not been any current trading and/or domestic use of chemicals covered by the Stockholm Convention in Hong Kong. The trades which might be affected by the proposed regulatory regime would be carriers involved in the transportation of chemicals on account of the need to comply with the Rotterdam Convention. In

November 2005, EPD held the Consultation Workshop with stakeholders, including the logistics trade which would be further consulted on the legislative proposals pertaining to the Bill.

9. Members may refer to the Paper for the Panel on Draft Hong Kong Implementation Plan under the Stockholm Convention on Persistent Organic Pollutants (Ref: LC Paper No. CB(1)950/05-06(03)) and the minutes of the Panel meeting on 27 February 2006 (Ref: LC Paper No. CB(1)1121/05-06) for details.

Conclusion

10. The Legal Service Division is still scrutinizing the legal and drafting aspects of the Bill. In view of the concerns raised by Members and the industry, Members may wish to form a bills committee to study the Bill in detail.

Prepared by

LAI Shun-wo, Monna
Assistant Legal Adviser
Legislative Council Secretariat
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