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**Background brief for the Bills Committee on
Pesticides (Amendment) Bill 2013**

Purpose

This paper sets out the background of the Pesticides (Amendment) Bill 2013 ("the Bill") and gives a brief account of the discussions by the Panel on Food Safety and Environmental Hygiene ("the Panel") on the Administration's proposal to amend the Pesticides Ordinance (Cap. 133) to implement the requirements of 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").

Background

Regulation of the use of pesticides

2. Pesticides are commonly applied in domestic premises and public places to control pests, as well as in agricultural production to improve yield and quality. At present, the importation, manufacture, sale, possession and supply of pesticides are regulated under the Pesticides Ordinance and the main enforcement agency is the Agriculture, Fisheries and Conservation Department ("AFCD"). Under the Ordinance, all pesticides intended for sale in Hong Kong must be registered with the Director of Agriculture, Fisheries and Conservation ("DAFC"). A person cannot import, manufacture, sell or supply registered pesticides except under a licence issued by DAFC. For unregistered pesticides, the Ordinance prohibits their import, manufacture, sale, supply or possession except under a permit issued by DAFC. In addition, the Import and Export Ordinance (Cap. 60) requires each shipment of pesticides entering or leaving Hong Kong to be covered by an import and export licence except if it is in transit or air transshipment cargo.

3. Pesticides are registered on active ingredients only. On registration, they are classified either as Part I pesticides (i.e. in a ready-to-use form for domestic applications), or as Part II pesticides (i.e. all other pesticides including those in a concentrate form for professional and horticultural applications). According to the Administration, AFCD would only register pesticides categorized as slightly or moderately hazardous by the World Health Organization ("WHO"). Pesticides categorized as extremely hazardous by WHO are not allowed to be registered.

Proposals in 2007

4. The Administration put forward in 2007 a package of legislative proposals to amend the Pesticides Ordinance and its subsidiary legislation to enhance the control of pesticides. The proposals aimed to, among others, fulfil the obligations under the Stockholm Convention and the Rotterdam Convention, as well as introduce a product registration system and a user control scheme.

5. Many local pesticide suppliers and pesticide users expressed grave concern about the proposed product registration system and the user control scheme. The local suppliers were concerned that they would not be able to provide the required technical data for product registration which were only available to the overseas manufacturers. As such, the introduction of a product registration system would unintentionally result in a dramatic drop in the number of pesticide products available in the local market. As regards the proposed user control scheme, there was concern that the licensing requirement for pest control companies might result in small pest control companies being driven out of business due to high operational costs. Pesticide applicators were also concerned that a substantial number of them would fail to be registered as the training requirement under the proposed user scheme was too stringent. There was also concern over the availability of suitable training courses for elderly farmers and individuals of low education level.

Refined proposal in 2011

6. The Panel was briefed by the Administration at its meeting on 12 July 2011 on its improved approach on the control of pesticides. Under the improved approach, AFCD would continue to ensure that registered pesticides would be safe for use by the public. For unregistered pesticides, AFCD would make use of the permit system so that only trained professionals would be allowed to handle them. AFCD would also continue to assist the trade in enhancing the standard of using pesticides by devising suitable training syllabus for pesticide applicators; drawing up Codes of Practice for the sectors of pest control companies and workers, sports turf management personnel and local

farmers; and promoting public awareness on the safe and proper use of pesticides. According to the Administration, the trade supported the improved approach as well as the proposed legislative amendments to fulfil the obligations under the Stockholm Convention and the Rotterdam Convention.

The Bill

7. The Administration introduced the Bill into the Legislative Council ("LegCo") on 30 January 2013 to amend the Pesticides Ordinance (Cap. 133) to -

- (a) implement the requirements of the Stockholm Convention and the Rotterdam Convention;
- (b) apply the Ordinance to the Government;
- (c) protect public officers from liability while exercising powers and performing functions under the Ordinance;
- (d) rationalize the powers of entry for routine inspection;
- (e) amend the provision about the appeal procedure under the Ordinance; and
- (f) make related, consequential and miscellaneous amendments.

Key features of the proposal are detailed in the LegCo Brief on the Bill (FH CR 2/3231/03).

Discussions by the Panel

Legislative proposals

8. Noting that the Stockholm Convention had been extended to the Hong Kong Special Administrative Region since August 2004, some members considered that it had taken too long for the Administration to carry out the necessary legislative work for fulfilling the convention requirements. While members called for the early introduction of the legislative proposals, they also urged the Administration to consult the trade and maintain a balance between the interests of the trade and the public.

9. Noting that the Bill would mainly cover legislative amendments relating to the Stockholm Convention and the Rotterdam Convention, some members expressed concern about how the Administration would address issues such as the user control scheme and the use of unregistered pesticides. The Administration advised that the user control scheme had been replaced by the dedicated codes of practice for the various types of pesticide applicators whereas the use of unregistered pesticides would be regulated by permit. As these improved measures were administrative in nature, legislative amendments were not necessary.

10. Noting the voluntary nature of the dedicated codes of practice, there was a suggestion of including the codes of practice in the Bill in order to provide better protection for the public. The Administration expressed reservations about this suggestion, as penalty clause for non-compliance would be necessary should the codes of practice be included in the legislation. The Administration was requested to seek further advice from the Department of Justice on the suggestion of incorporating the codes of practice in the Bill and report the advice when the Bill was submitted to LegCo.

Training for pesticide applicators

11. Members expressed concern about the provision of training to pesticides applicators, particularly those who were of low education level such as local farmers and pest control workers. They were concerned that farmers might be held legally liable if they unknowingly used unregistered pesticides without permit. The Administration assured members that AFCD had been providing technical advice and support on safe and proper use of pesticides to local farmers. The percentage of pest control workers who had received training on the use of pesticides increased from 10% in 2007 to 59% in 2010. The Administration would continue to provide relevant training for farmers on pesticides commonly used in Hong Kong.

Relevant papers

12. A list of the relevant papers on the LegCo website is in the **Appendix**.

Relevant papers on the Pesticides Ordinance (Cap. 133)

Meeting	Date of meeting	Paper
Panel on Food Safety and Environmental Hygiene	13.2.2007 (Item IV)	Agenda Minutes CB(2)1079/06-07(01)
	12.7.2011 (Item VI)	Agenda Minutes CB(2)2305/10-11(06)

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