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Paper for the House Committee

**Report of the Subcommittee on
Pesticides Ordinance (Amendment of Schedule 1) Notice 2014**

Purpose

This paper reports on the deliberations of the Subcommittee on Pesticides Ordinance (Amendment of Schedule 1) Notice 2014 ("the Subcommittee").

Background

2. The Stockholm Convention on Persistent Organic Pollutants¹ ("the Stockholm Convention") and the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade² ("the Rotterdam Convention") are international treaties aimed at protecting human health and the environment from persistent organic pollutants and hazardous chemicals, including pesticides and other industrial chemicals. The People's Republic of China ("PRC") is a signatory to the Stockholm Convention and the Rotterdam Convention (referred collectively as "the two Conventions"). The Central People's Government ("CPG") has applied the Stockholm Convention and the Rotterdam Convention to the Hong Kong Special Administrative Region ("HKSAR") since 11 November 2004 and 26 August 2008 respectively.

¹ The Stockholm Convention aims to protect human health and the environment from the potentially harmful persistent organic pollutants. In implementing the Convention, governments will take measures to restrict the production/use and/or reduction/ultimate elimination of the persistent organic pollutants identified by the United Nations Environment Programme.

² The Rotterdam Convention aims to promote shared responsibility and cooperative efforts among the contracting parties in the international trade of certain hazardous chemicals and pesticides in order to protect human health and the environment from potential harm. The Convention has introduced a mandatory Prior Informed Consent Procedure to monitor and control the import and export of certain hazardous chemicals and disseminate national import decisions to the contracting parties.

3. To comply with the requirements of the two Conventions³ in respect of pesticides, the Administration introduced the Pesticides (Amendment) Bill 2013 ("the Amendment Bill") into the Legislative Council ("LegCo") in February 2013 to amend the Pesticides Ordinance (Cap. 133) ("the Ordinance") to prohibit the export or use of pesticides covered by the two Conventions except under a permit issued by the Director of Agriculture, Fisheries and Conservation ("DAFC"). It was further proposed that the lists of pesticides controlled under the two Conventions were set out in two schedules to the Ordinance. Schedule 1 to the Ordinance set out the pesticides listed under the Stockholm Convention, whereas Schedule 2 set out the pesticides listed under the Rotterdam Convention. The Amendment Bill was passed at the Council meeting of 17 July 2013. The Pesticides (Amendment) Ordinance 2013 commenced operation on 27 January 2014.

The Notice

4. Section 19A(1)(a) of the Ordinance provides that SFH may, by notice published in the Gazette, add any Convention-regulated pesticide to Schedule 1 or 2. SFH has made the Pesticides Ordinance (Amendment of Schedule 1) Notice 2014 ("the Notice") to add the following six pesticides into Schedule 1 to the Ordinance -

- (i) *alpha hexachlorocyclohexane (CAS No: 319-84-6);*
- (ii) *beta hexachlorocyclohexane (CAS No: 319-85-7);*
- (iii) *chlordecone (CAS No: 143-50-0);*
- (iv) *lindane (CAS No: 58-89-9);*
- (v) *pentachlorobenzene (CAS No: 608-93-5); and*
- (vi) *technical endosulfan (CAS No: 115-29-7) and its related isomers (CAS No: 959-98-8; 33213-65-9).*

The Notice will come into operation on 1 June 2014.

The Subcommittee

5. At the House Committee meeting on 11 April 2014, Members agreed to form a subcommittee to scrutinize the Notice. The membership list of the Subcommittee is in **Appendix I**. Under the chairmanship of Hon Cyd HO,

³ To comply with the requirements of both Conventions in respect of non-pesticide hazardous chemicals, the Hazardous Chemicals Control Ordinance (Cap. 595) was enacted in 2007 and commenced operation in 2008.

the Subcommittee has held one meeting with the Administration and also invited views from interested parties, including those deputations and individuals who have previously given views to the Bills Committee on Pesticides (Amendment) Bill 2013 ("the former Bills Committee"). A list of organizations/individuals which/who have made written submissions to the Subcommittee is in **Appendix II**.

6. To allow sufficient time for the Subcommittee to invite views from interested parties, the Subcommittee agreed that the Chairman should move a motion at the Council meeting of 7 May 2014 to extend the scrutiny period of the Notice to that of 28 May 2014. However, the motion was not dealt with at the Council of 7 May 2014 and the deadline for amending the Notice expired on 28 April 2014.

Deliberations of the Subcommittee

Inclusion of the Stockholm Convention-regulated pesticides to Schedule 1 to the Ordinance

7. Members are advised that when the Amendment Bill was introduced into LegCo in February 2013, of the 15 pesticides listed under the Stockholm Convention, five were added to the Stockholm Convention in 2009 and one in 2011, and PRC had yet to accede to their inclusion at that time. As such, only nine of the 15 pesticides listed under the Stockholm Convention that PRC had already acceded to were covered in Schedule 1 to the Ordinance. In January 2014, CPG notified the Government of HKSAR that ratification for inclusion of the remaining six pesticides by PRC had been completed. Therefore, the Administration needs to amend Schedule 1 to the Ordinance to include these six pesticides to fully meet the requirements of the Stockholm Convention.

8. While members raise no objection to the Notice, they consider that, on the premise of public health and safety, the Administration should proceed to the introduction of the legislative amendments as early as possible when it comes to notice that new pesticides have been included in the Convention. Members have enquired whether HKSAR Government could amend Schedule 1 to the Ordinance to include pesticides regulated by the Stockholm Convention which PRC have yet to accede to their inclusion.

9. The Administration has advised that according to Article 153 of the Basic Law, the application to HKSAR of international agreements to which PRC is or becomes a party shall be decided by CPG, in accordance with the

circumstances and needs of the Region, and after seeking the views of the government of the Region. According to the legal advice sought by the Administration, legislative amendments to Schedule 1 to the Ordinance should be introduced after PRC has acceded to the inclusion of the six pesticides, so as to avoid any possible legal doubts.

10. The Administration has pointed out that at present, the import, manufacture, sale and supply of pesticides in Hong Kong is regulated under the Ordinance. Under section 4 of the Ordinance, DAFC shall maintain a register⁴ of pesticides. Section 7(1) of the Ordinance provides that a person must not import, manufacture, sell or supply registered pesticides except under a licence issued by DAFC. For pesticides that are not listed on the register, section 8(1) of the Ordinance prohibits their import, manufacture, sale, supply, possession or use except under a permit issued by DAFC. The Administration has stressed that for pesticides regulated by the two Conventions that are not yet included in the Schedules to the Ordinance, DAFC may at any time cancel the registration of such pesticides if they are registered pesticides, and hence the import, manufacture, sale, supply, possession or use of such pesticides will still be subject to regulatory requirements under the Ordinance. The Agriculture, Fisheries and Conservation Department ("AFCD") regularly reviews all registered pesticides, and if new information demonstrates that the continued use of a registered pesticide will pose unacceptable risks to human health or the environment, DAFC will cancel its registration. None of the six pesticides are currently registered under the Ordinance, and there are no records of imports, exports, re-exports or use of them in the past three years.

11. While appreciating that the six pesticides have been regulated through the current registration and licensing/permit system under the Ordinance, members maintain their view that the Administration should consider, in future, the early introduction of the amendments to the Schedules to the Ordinance for better protection of public health. The Administration has advised that it will seek advice from the Department of Justice in this regard in future when such a need arises.

Other issues discussed

Safe use of pesticides in schools and elderly care homes

⁴ The register of pesticides is in two parts. Part I contains a list of all pesticides which are in a form ready for immediate use without going through any treatment or process and which are for general domestic use and Part II contains a list of all other pesticides.

12. Hon Albert CHAN has expressed concern about the safe and proper use of pesticides in schools and elderly care homes and the health risks posed to school students and the elders. He has suggested that the Food and Health Bureau ("FHB") should provide the trade's Codes of Practice on the safe and proper use of pesticides to the Education Bureau ("EDB") and the Labour and Welfare Bureau ("LWB") for their onward distribution to schools and elderly care homes so that they can follow the guidelines set out in the Codes of Practice.

13. Hon Tommy CHEUNG, however, considers that the making available of the trade's Code of Practice to schools and elderly care homes may not necessarily enhance the safe and proper use of pesticides. As members of the public may not be conversant with the various chemical names of a given pesticide, AFCD should advise schools and elderly care homes not to use a particular pesticide and provide common names which may be used for that particular pesticide. Information on the safe practice in using hazardous pesticides and precautionary and control measures should be made available to the public.

14. Members note the Administration's advice that AFCD has stepped up its promotional and publicity efforts targeted at schools, including publishing a set of educational leaflets on the safe and proper use of pesticides in schools, organizing promotional campaigns and talks to schools as well as their service providers. The set of leaflets has been uploaded onto the websites of EDB and AFCD for reference of schools and members of the public. AFCD has provided on its website information regarding the common Chinese names of pesticides as well as relevant official websites for public reference. The Food and Environmental Hygiene Department ("FEHD") has drawn up a set of occupational safety and health guidelines for pest control operators, providing information on the precautionary measures to prevent accidental poisoning or harm to human health, and this set of guidelines is available on the website of FEHD for public inspection.

15. At the Subcommittee's request, the Administration has undertaken that FHB will follow up Hon Albert CHAN's suggestion with EDB and LWB respectively for distributing the Code of Practice to schools and elderly care homes.

Progress of follow up actions for further promoting the safe and proper use of pesticides

16. Members note that in light of the views expressed by the former Bills Committee and the concerns of the public on the safe and proper use of

pesticides, the Administration has undertaken to roll out a series of follow-up actions for further promoting the safe and proper use of pesticides. At the request of the Subcommittee, the Administration has provided supplementary information⁵ on the progress of the follow-up actions. The Administration has also advised that it intends to revert to the Panel on Food Safety and Environmental Hygiene ("the FSEH Panel") on the progress of the follow-up actions in the second half of 2014.

17. On members' concern about the health hazards posed by the two commonly used pesticides (namely, paraquat dichloride and diazinon), the Administration has informed members that taking into account the public concern about possible adverse impact of these two pesticides to the environment and human health, DAFC cancelled the registration of diazinon in Part 1 of the register on 1 January 2014. AFCD also plans to cancel the registration of both paraquat dichloride and diazinon in Part II of the register at the end of 2014.

Referral to the FSEH Panel

18. The Subcommittee has agreed to refer the issues referred to in paragraphs 12, 15 and 16 above to the FSEH Panel for follow up.

Recommendation

19. The Subcommittee raises no objection to the Notice and does not propose any amendments to the Notice.

Advice sought

20. Members are invited to note the deliberations of the Subcommittee.

Council Business Division 2
Legislative Council Secretariat
13 May 2014

⁵ For details of the supplementary information, please refer to LC Paper No. CB(2)1378/13-14(02).

**Subcommittee on
Pesticides Ordinance (Amendment of Schedule 1) Notice 2014**

Membership List

Chairman	Hon Cyd HO Sau-lan
Members	Hon Emily LAU Wai-hing, JP Hon Tommy CHEUNG Yu-yan, SBS, JP Hon Alan LEONG Kah-kit, SC Hon Albert CHAN Wai-yip Hon WONG Yuk-man Hon Steven HO Chun-yin Hon SIN Chung-kai, SBS, JP (Total : 8 Members)
Clerk	Ms Alice LEUNG
Legal adviser	Miss Winnie LO
Date	22 April 2014

**Subcommittee on
Pesticides Ordinance (Amendment of Schedule 1) Notice 2014**

List of organizations/individuals which/who have submitted written views to the Subcommittee

1. Green Lantau Association
2. Mr Paul Melsom
3. Ms Nuria CHIU
4. The Hong Kong Pest Management Association