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For discussion on 16 May 2011

Proposal for Banning All Forms of Asbestos

PURPOSE

This paper seeks Member's advice on a proposal to amend the Air Pollution Control Ordinance (APCO) (Cap.311) for extending the current ban on import and sale of blue and brown asbestos to all other forms of asbestos and banning the supply and new use of all forms of asbestos.

BACKGROUND

2. Asbestos is a proven carcinogen which can cause asbestosis, lung cancer and mesothelioma¹ when inhaled. It includes the more common forms of chrysotile (white asbestos), amosite (brown asbestos) and crocidolite (blue asbestos) and the less common forms of fibrous actinolite, fibrous anthophyllite and fibrous tremolite. Due to its very high tensile strength and good heat and chemical resistance, it had been widely used before the mid-1980s in friction, fireproofing, insulation and building materials.

3. The import and sale of the more hazardous crocidolite and amosite were already banned since 1996 under the APCO. To avert the release into the ambient environment of asbestos fibres, the APCO requires engagement of registered qualified professionals to conduct certain work involving asbestos containing materials and engage in asbestos related activities in accordance with the provisions of the APCO and following a set of codes of practice. Besides, asbestos waste must be properly handled and disposed of in accordance with the Waste Disposal Ordinance (WDO) (Cap. 354).

¹ Mesothelioma is a rare form of cancer that develops from the protective lining that covers body's internal organs mainly caused by exposure to asbestos.

Since April 2008, a permit system to control the import, export, manufacture and use of asbestos other than chrysotile has also been implemented under the Hazardous Chemicals Control Ordinance (Cap. 595).

LATEST DEVELOPMENTS

4. It has been an international trend to extend the ban on the import, sale and use of asbestos to white asbestos when proven substitutes are available. For example, the European Union has banned all forms of asbestos including white asbestos since 2005 except for using as diaphragms in certain chlorine plants for safety reason while the United Kingdom has banned white asbestos since 1999 with exemptions for safety-critical uses without suitable substitutes up to January 2005.

5. With safe and proven alternatives for white asbestos products becoming widely available in the market and increased awareness of hazards of asbestos, the use of asbestos products in building services, fire proofing, electrical and mechanical installations as well as vehicles in Hong Kong should by and large have been replaced with non-asbestos alternatives. The import of white asbestos into Hong Kong had also substantially decreased from 577 tonnes in 1996 when control on asbestos under the APCO became effective to 35 tonnes in 2010. In fact, asbestos was not used in new public housing projects since 1984. Buildings built after mid-1980s should in general be free from asbestos other than in some illegal structures.

THE PROPOSED CONTROLS

6. With these developments, and in order to further abate the risk of asbestos and better protect the public from exposure to environmental asbestos, we propose to amend the APCO to extend the ban on import and sale of blue and brown asbestos to prohibiting the import, sale, supply and new use of all forms of asbestos.

7. We propose to amend the APCO to introduce the following controls of asbestos-

- (a) Extending the import and sale ban to all forms of asbestos

With effect from the effective date of the relevant amended provisions of APCO, the current ban on import and sale of blue and brown asbestos will be extended to cover also chrysotile (white asbestos), fibrous actinolite, fibrous anthophyllite and fibrous tremolite.

(b) Ban on supply and new use of asbestos

With effect from the effective date of the relevant amended provisions of APCO, supply and new use of asbestos will be banned.

8. The proposed ban on supply and new use of asbestos would prevent any dismantled asbestos from re-entering the market or being re-used. The proposed controls would not apply where the asbestos or the substance or item made with or containing asbestos was in use before a specified date as the existing use of asbestos containing materials would not pose a health risk if they are in good condition and undisturbed. If the existing asbestos containing materials are to be removed, the current controls on asbestos abatement work under the APCO and disposal of chemical waste under the WDO will guard against release of asbestos into the ambient environment.

9. We propose to remove the current exemption for transshipment goods under section 80(6) of APCO in order to avoid potential health hazard due to possible release of asbestos fibres into the environment in course of loading, unloading and repackaging.

10. To ensure that asbestos illegally imported, sold, supplied or used will be properly dealt with, we propose that the Authority be empowered to issue a notice requiring the offender to discontinue the import, sale, supply or use of asbestos or product containing asbestos and to properly remove, dispose of or destroy the concerned asbestos or product containing asbestos upon discovery of an offence.

11. Similar to the current ban on import and sale of blue and brown asbestos, we propose that the Authority may grant exemption to the proposed controls to cater for special situations if he is of the view that such an exemption is warranted and that the exemption would be unlikely to lead to a health risk to the community. The Authority may also impose conditions to an exemption or withdraw any exemption previously granted. We also propose to adopt the existing level of penalty that any person who cannot comply with the proposed controls will, on conviction, be liable to a fine of \$200,000 and to imprisonment for 6 month.

12. The above proposals can further protect the public from the adverse health risk of asbestos and is in line with the practices of advanced economies such as the European Union in controlling asbestos and asbestos containing materials.

CONSULTATION AND WAY FORWARD

13. We have commenced consultation with stakeholders on the proposed controls to invite their comments on the proposal. We would take into consideration their views when finalizing the proposal and preparing the necessary legislative amendments.

14. To allow sufficient time for the affected trades to identify and source alternative asbestos-free products if needed, we intend to implement the proposed controls by end of 2012.

ADVICE SOUGHT

15. Members are invited to advise on the above proposal for banning all forms of asbestos.

Environmental Protection Department
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