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Exemptions:	The public version of this paper will have exempt material removed from Annex D under Exemption 2 of the Code of Practice on Access to Government Information – ‘information that would harm the frankness and candour of internal discussion’. Paragraph 9 and Annex C will have exempt material removed under Exemption 13 of the Code of Practice on Access to Government Information - ‘commercially confidential information’		

HEALTH AND SAFETY COMMISSION

UK voting strategy for the 29th Adaptation to Technical Progress (29th ATP) of the Dangerous Substances Directive (DSD) - 67/548/EEC

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Cleared by S Caldwell on 19 August 2003

Issue

1. Recommendation to the Minister for forthcoming EU vote on the 29th Adaptation to Technical Progress (29th ATP) to the Dangerous Substances Directive (DSD).

Timing

2. Urgent. An EC voting meeting is expected to take place in October and early consideration is necessary to enable the Minister to be advised in good time.

Recommendation

3. You agree to the recommendation to vote for the proposal and for the Chair to write to the Minister of State, Des Browne, accordingly.

Background

4. The DSD provides an EC wide scheme requiring suppliers of chemicals to give health and safety information to their customers (see **Annex A**). The DSD is regularly updated through Commission Directives known as Adaptations to Technical Progress (ATPs). These ATPs are mainly concerned with updating Annex 1 of the DSD, which is a list of agreed classifications and labels. On occasions Annex 5 is updated, this sets out agreed methods for testing chemicals to identify dangerous properties.

5. ATP proposals are developed by Member States (MS) experts (in meetings open to industry and employee's representatives) and involve detailed negotiation to reach a consensus.
6. Formal agreement is reached by way of a vote on the Commission's proposal. Because of the commitment to make subsequent legislation, this vote is dealt with by officials after agreeing the line with Ministers.

Argument

7. We expect a vote in October on the next (the 29th) ATP. The formal text will only be issued 21 days before the vote but as the changes (to Annexes 1 and 5) have been subject to detailed discussions and since informal versions of the proposal have been circulated, we are confident we know the content (see **Annex B** for summary). The implementation period is not yet known but is likely to be 18 months.
8. HSE officials advise that the proposals for changes are acceptable. They are based on sound science and represent important clarification about the properties of dangerous chemicals.
9. → ←
10. The proposed changes to Annex 5 of the Dangerous Substances Directive represent important improvements and are not controversial.

Consultation

11. The negotiations have taken place over many years and during this time there has been close consultation with SCHIP, the Advisory Committee on Toxic Substances (ACTS) sub committee established to deal with these issues. In view of the available time ACTS itself is being consulted by post. We do not expect adverse comment. The emerging proposals have been made publicly available on the HSE web site during the negotiations.

Presentation

12. Effective control of chemicals requires high quality and reliable hazard information. The proposal will deliver this and will further develop the single market in chemicals.

Costs and Benefits

13. When national regulations are made to implement the directive there will be costs to industry in terms of relabelling and the revision of safety data sheets. However experience from previous adaptations shows that such costs diminish significantly with a suitable transition period, and in the case of labels (which are regularly revised for marketing reasons) become negligible. For this reason we will press for a transition period of at least 18 months.

14. In some cases the discovery of an unexpected hazardous property may have an impact on the commercial viability of a chemical and lead to a loss of sales. This can have significant impact on the producers. It is possible that some of the chemicals in the proposal may be affected in this way by reclassification, in particular those in paragraph 9 above.
15. A draft Initial Regulatory Impact assessment (RIA) is at **Annex C** and considers particularly the small business impact of the proposed changes. This will be progressively updated as the proposal moves forwards.

Financial/Resource Implications for HSE

16. The proposal does not introduce any new area of regulation. The resource impact with respect to the changes in UK implementing regulations will be minimal

Environmental Implications

17. Some of the changes will contribute to reducing risks to the environment from chemicals by the provision of more accurate information.

Other Implications

18. European – amendments to the Dangerous Substances Directive help develop the EU chemical single market.
19. Local Authority, Devolution and Other implications – none.
20. Small and medium-sized enterprises – CHIP is a continuing challenge for small companies but some of the changes will aid compliance with health and environmental law by clarifying the dangers of certain chemicals. The preliminary RIA sought to identify costs falling on SMEs in particular.

Action

21. HSE will check the final proposal against the earlier draft. Subject to any comments from you on the current version (Annex B) and to the draft Directive being substantially as expected, the Chair will write to Des Browne proposing that, if he is content, officials should vote in favour of the proposal (a draft letter is at Annex C)