
International Conference on Chemicals Management

Second session

Geneva, 11–15 May 2009

Item 4 (d) of the provisional agenda*

Implementation of the Strategic Approach to International Chemicals

Management: strengthening of national chemicals management capacities

Submissions by the Asia-Pacific Economic Cooperation Chemical Dialogue Steering Group

Note by the secretariat

1. The secretariat has the honour to circulate, in annexes I–V to the present note, copies of the following submissions by the Asia-Pacific Economic Cooperation Chemical Dialogue Steering Group for the information of participants at the current session:

- Annex I: Letter from the Program Director of the Asia-Pacific Economic Cooperation Secretariat, dated 19 March 2009;
- Annex II: Summary submission on principles for best practice chemical regulation;
- Annex III: Principles for best practice chemical regulation as approved within the framework of the Asia-Pacific Economic Cooperation Chemical Dialogue in May 2008;
- Annex IV: Summary submission on developing clarity and consistency in the implementation of the Globally Harmonized System of Classification and Labelling of Chemicals;
- Annex V: Report of the “virtual” working group on the Globally Harmonized System of Classification and Labelling of Chemicals implementation issues.

2. The documents have been reproduced as received without formal editing.

* SAICM/ICCM.2/1.

Annex I



March 19, 2009

Mr. Matthew Gubb
SAICM Secretariat
Chemicals Branch
Division of Technology, Industry and Economics
United Nations Environment Programme
Chemin des Anémones 11-13
CH - 1219 Chatelaine
Geneva
Switzerland

Subject: APEC Chemical Dialogue Documents for Submission to ICCM2

Dear Mr. Gubb:

I am writing to you on behalf of Ms. Barbara Norton, Chair, APEC Chemical Dialogue Steering Group. The APEC Chemical Dialogue appreciates the invitation for APEC engagement in SAICM. In this regard, we intend to designate Mr. Terrence Koh of the Singapore Chemical Industry Council to represent the APEC Chemical Dialogue at the upcoming ICCM2. We are still in the process of receiving the necessary approvals within APEC for Mr. Koh's participation, but we anticipate receiving such approval shortly.

We also wish to convey to the SAICM Secretariat two APEC documents, which are attached, to be made available as information documents for ICCM2. It is planned that Mr. Koh, on behalf of the APEC Chemical Dialogue, will speak to these submissions at ICCM2 under the appropriate agenda items. The attached documents, for inclusion in the ICCM2 information documents include, 2008/SOM2/CD/002rev1 entitled "Principles for Best Practice Chemical Regulation" and 2008/SOM2/CD/003rev1 entitled "Developing Clarity and Consistency in the Implementation of the Globally Harmonized System for the Classification and Labelling of Chemicals (GHS)" along with summaries of both work products.

We look forward to participating in the ICCM2 and informing the meeting of our work in chemicals management.

Yours sincerely,

Natalie Nii
Program Director, APEC Secretariat

Attachments:

- A. Summary of “Principles for Best Practice Chemical Regulation”
- B. Summary of “Developing Clarity and Consistency in the Implementation of the Globally Harmonized System for the Classification and Labelling of Chemicals (GHS)”
- C. 2008/SOM2/CD/002rev1 “Principles for Best Practice Chemical Regulation”
- D. 2008/SOM2/CD/003rev1 entitled “Developing Clarity and Consistency in the Implementation of the Globally Harmonized System for the Classification and Labelling of Chemicals (GHS)”

cc:

Barbar Norton, Chair, Chemical Dialogue Steering Group
Esther Santana, UNEP
Muhammed Omotola, UNEP

Annex II

Summary: Submission by the Asia-Pacific Economic Cooperation (APEC) Chemical Dialogue on Principles for Best Practice Chemical Regulation

Background

1. APEC is a regional forum that promotes economic growth and trade expansion among its 21 “Member Economies”: Australia; Brunei Darussalam; Canada; Chile; China; Hong Kong, China; Indonesia; Japan; the Republic of Korea; Malaysia; Mexico; New Zealand; Papua New Guinea; Peru; the Philippines; the Russian Federation; Singapore; Chinese Taipei; Thailand; the United States of America; and Viet Nam.
2. APEC member economies represent the most economically dynamic region in the world—an area which has generated nearly 70 percent of global economic growth since 1990—and accounts for more than 2.5 billion, or 41.4 percent of the total world population with a combined Gross Domestic Product (GDP) of 19 trillion US dollars (57.8 percent of global GDP), constituting 47 percent of world trade.
3. APEC meets throughout any one year at senior officials’ level and annually at Ministerial and Leaders level. Specialty groups provide recommendations to Senior Officials and Ministers and Leaders meetings. For more information, see <http://www.apec.org>.
4. APEC works in three broad areas to meet its goals of free and open trade and investment in the Asia-Pacific region:
 - Trade and Investment Liberalization
 - Business Facilitation
 - Economic and Technical Cooperation, including capacity building
5. Under the trade and investment framework, APEC has established a Chemical Dialogue. The Dialogue serves as a public-private sector forum to find solutions to challenges facing economies and the chemical industry in the region. The Chemical Dialogue reflects the recognition of APEC member economies of the importance of engaging the chemical industry and building dialogue and cooperation on critical issues.

Principles for Best Practice Chemical Regulation

6. In 2007, the Chemical Dialogue agreed to develop a set of guidelines and best practices related to chemical regulation, with the aim of providing all member economies in the region a basis for understanding the fundamental policy elements of sound chemical regulatory systems. The effort was also aimed to capturing and coordinating the activities of APEC member economies as efforts to review and revise chemical regulatory systems were being made, and in particular to promote a common approach in the development of chemical regulations.
7. The draft Principles for Best Practice Chemical Regulation were approved by the APEC Chemical Dialogue in May, 2008, and endorsed by the APEC Committee on Trade and Investment, Senior Officials and APEC Ministers Responsible for Trade that same month. Ministers also endorsed a Chemical Dialogue recommendation that the Principles should be submitted to the second International Conference on Chemicals Management (ICCM-2) as a contribution to the Strategic Approach to International Chemicals Management (SAICM). A copy of the Principles is attached.

Implications for the Strategic Approach to International Chemicals Management

8. The APEC Principles for Best Practice Chemical Regulation relate to several important elements of SAICM. First, given the objectives of the APEC Chemical Dialogue, the Principles represent an effort to promote and advance industry involvement in, and enhance the capacity of economies and industry for, the sound management of chemicals under a regulatory framework.
9. The APEC Principles address key concerns raised in the Dubai Declaration on International Chemicals Management. Several elements of the APEC Principles incorporate recommendations made in the Dubai Declaration.
10. The APEC Principles are directly related to key areas of the SAICM Overarching Policy Strategy, which flowed from the commitments made in the Dubai Declaration. Notably, the APEC Principles would, if applied through the Asia-Pacific region, assure that appropriate steps are taken to reduce risks from chemicals, broaden knowledge and information on chemicals in ways that promote sound management, enhance governance opportunities for all stakeholders, and possibly identify areas to enhance cooperation among economies and stakeholders.
11. The Principles complement several other efforts by APEC to enhance chemical regulation in the region. For example, the APEC Chemical Dialogue has compiled a comprehensive set of links to chemical regulatory websites in APEC Member Economies. This information can be accessed through the Chemical Dialogue's webpage, at http://www.apec.org/apec/apec_groups/committee_on_trade/chemical_dialogue.html. Access to the information is provided by clicking on the drop down menu listing participating economies.
12. APEC commends the Principles for Best Practice Chemical Regulation to the attention of all participants at the Second International Conference on Chemicals Management (ICCM-2), and requests that ICCM-2 recognize the Principles as a contribution to capacity building in chemicals management under SAICM.

Annex III

2008/SOM2/CTI/024att2
Forum Doc. No.: 2008/SOM2/CD/002rev1

APEC CHEMICAL DIALOGUE

May 22, 2008

PRINCIPLES FOR BEST PRACTICE CHEMICAL REGULATION

PART 1: PREAMBLE

1.1 Why regulate chemicals?

We use chemicals every day and they are an integral part of our lives. The global production, trade, use, recycling and disposal of chemicals continues to increase with demand. When appropriately managed, chemical products contribute to the social and economic well-being of Member Economies.

It is only through the sound management of chemicals in protecting human health and our environment that economies are able to enjoy the full benefits that the use of chemicals can offer.

The sound management of chemicals may be viewed as the application of managerial best practice to chemicals throughout their life-cycle, so as to minimise risks of health and environmental impacts from the production, use and disposal of chemicals.

The role of government is to provide a policy and regulatory framework to ensure the safe and sustainable use of chemicals and to deliver a business operating environment which stimulates growth, innovation and trade. Governments regulate chemicals to protect human health, worker safety and the environment.

The challenge is to deliver efficient and effective regulation without undue burden on those being regulated.

1.2 What is Chemical Regulation?

Chemical regulation can be defined as a government endorsed measure(s) or intervention(s) that influences the way chemicals are manufactured and used across the product life cycle by industry, the community and individuals.

The challenge is to design and implement regulation which is no more trade restrictive than necessary to achieve its stated objectives.

In practice, regulation is usually a blended approach of voluntary, co-regulatory and legislative mechanisms undertaken in partnership between government, industry and community.

1.3 Why Best Practice Regulation?

The controls imposed on the chemical industry are many and often arise from cross jurisdictional responsibilities that may result in duplication of regulatory effort by Member Economies. These pressure points create an unstable business environment which detracts from other investments in research and development and innovation designed to help increase the competitiveness, efficiency and safety of chemicals in the marketplace of our region.

Achieving good regulation involves the integration of a number of key factors including:

- sound and credible science to identify the problem;
- an effective risk management framework that considers costs and benefits and socio-economic factors;
- regulations that are commensurate with the risk posed;
- flexibility in the application and type of measures to best deliver desired outcomes;
- the avoidance of duplication;
- transparent and consistent approaches and open decision making processes;
- public participation and engagement in partnership approaches; and
- the wide availability of chemical safety information tailored to stakeholders needs.

These factors are applicable to the consideration and development of full spectrum of regulatory measures including voluntary, co-regulatory and/or legislative mechanisms.

The *Principles for Best Practice Chemical Regulation* also provide Member Economies with a mechanism for the identification of areas that would benefit most from regulatory reform, as well as assisting with market reform and openness and the application of best practices where appropriate.

PART 2: PURPOSE OF PRINCIPLES FOR BEST PRACTICE CHEMICAL REGULATION

2.1 APEC Agreed Regulatory Principles

APEC Member Economies already recognize that regulatory reform is a central element in the promotion of open and competitive markets, and a key driver of economic efficiency and consumer well being. This is reflected in the agreement for an APEC-OECD Co-operative Initiative on Regulatory Reform reached in June 2000 and endorsed at the APEC Ministerial Meeting on 12-13 November 2000 in Brunei Darussalam.

Many economies within APEC have individually embarked on ambitious programmes to reduce regulatory burdens and improve the quality and cost-effectiveness of regulations. Member Economies have collectively endorsed regulatory reform principles and policy recommendations at the highest political levels¹.

¹ The 1999 APEC Economic Leader's Declaration, containing the APEC Principles to Enhance Competition and Regulatory Reform, The 1997 OECD Policy Recommendations on Regulatory Reform, and The 1995 OECD Recommendation on Improving the Quality of Government Regulation.

2.2 Benefits of Chemical Specific Best Practice Regulation Principles

Although there is no single model of regulatory reform, the development of a set of guiding principles for best practice chemical regulation aims to promote consistency and facilitate harmonised approaches for cooperation by Member Economies to the regulation of the chemical industry.

The value in Member Economies exploring the development of a best practice framework for chemical regulation lies in the opportunity to address the business uncertainties. This should result in greater innovation, safer technologies, enhanced trade at reduced business costs and is consistent with the objective for the safe and sustainable use of chemicals. Further, regulators in Member Economies benefit from the ability to cooperate on issues of mutual concern, exchange information, coordinate, share burdens associated with potential elements of risk assessment and facilitate risk management solutions where necessary.

2.3 Guidelines and Practical Tools

This document is aimed at providing a suitable framework for Member Economies to use when developing and implementing regulatory measures. The framework is considered broad enough to be utilised by Member Economies regardless of social, political or economic environments or stage of development.

A compendium of case studies and practical experiences may help to promote greater opportunities for learning as well as for cooperation between Member Economies. This cooperation may come from enhanced information sharing/exchange, harmonisation or mutual recognition or through a work share program.

PART 3: PRINCIPLES FOR BEST PRACTICE CHEMICAL REGULATION

According to the OECD and other experts, regulations that conform to best practice are characterised by the following nine principles and features:

PRINCIPLE 1: CHEMICAL REGULATIONS SHOULD BE THE MINIMUM REQUIRED TO ACHIEVE THEIR STATED OBJECTIVES

- Minimum necessary to achieve objectives:
 - Ensure overall benefits justify costs, and ensure that the regulatory approach chosen has higher net benefits than its feasible alternatives.
 - Keep simple to avoid unnecessary restrictions
 - Target at the problem to achieve the objectives
 - Do not impose an unnecessary burden on those affected
 - Do not restrict competition, unless demonstrated net benefit
- Not unduly prescriptive
 - Performance and outcomes focussed
 - General rather than specific
- Accessible, transparent and accountable
 - Readily accessible to the public
 - Easy to understand
 - Flexible enough to deal with special circumstances
 - Open to appeal and review
- Integrated and consistent with other laws
 - Address a specific market failure or other significant problem not addressed by other regulations

- Recognise existing regulations so as to avoid overlap/duplication and international obligations
- Recognise industry voluntary measures
 - Voluntary industry programs such as Responsible Care and the Global Products Strategy provide effective tools to help manage the health, safety and environmental aspects of a chemical throughout its lifecycle.
- Communicated effectively
 - Written in plain language
 - Clear and concise
- Mindful of the compliance burden imposed
 - Proportionate to the problem
 - Set at levels that avoid unnecessary costs
- Enforceable
 - Provides minimum incentives needed for reasonable compliance
 - Able to be monitored and policed effectively
 - Fairly and consistently enforced

PRINCIPLE 2: CHEMICAL REGULATIONS SHOULD ADOPT A RISK MANAGEMENT APPROACH TO DEVELOPING AND ADMINISTERING REGULATION

The term 'risk' refers to the probability that a particular hazard will cause harm, or that it may lead to the occurrence of an undesirable event. The analysis of risk comprises an understanding of both hazards and exposure so that well-defined systems will enhance decision making by contributing to a greater insight into risks and their potential consequences.

It is through strategic analysis of the environment in which the regulatory body operates that those elements that may generate future risks will be identified and assessed. The objective of risk analysis is to develop efficient and effective risk management strategies through the analysis of data to assist in the identification, assessment and management of risk.

The benefits of prudent risk management are:

- a more rigorous basis for strategic planning as a result of a structured consideration of the key elements of risk;
- no costly surprises or unintended consequences to industry;
- better outcomes in terms of program effectiveness and efficiency, e.g., improved service and/or better use of resources;
- greater openness and transparency in decision-making and ongoing management processes; and
- a better preparedness for, and facilitation of, positive outcomes from subsequent internal/external review and audit processes.

PRINCIPLE 3: CHEMICAL REGULATIONS SHOULD MINIMIZE THE IMPACT ON COMPETITION

Regulation should be designed to have minimal impact on competition. Although it may be necessary, for example, to regulate some aspects of commercial practice, regulation should avoid imposing barriers to entry, exit, or innovation. Regulation should not restrict competition unless it can be demonstrated, in a fully transparent manner, that:

- the benefits to the community from a restriction on competition outweigh the costs; and
- that the objectives of regulation can only be achieved by restricting competition.

PRINCIPLE 4: CHEMICALS REGULATORS SHOULD UTILIZE RELEVANT INTERNATIONAL STANDARDS WHEREVER POSSIBLE

The WTO Agreement on Technical Barriers to Trade (TBT) recognizes the important contribution that international standards make in furthering the objectives of the General Agreement of Tariffs and Trade (GATT) 1994 by improving efficiency of production and facilitating international commerce. The Agreement obliges WTO Members to use relevant international standards (if such standards exist or their completion is imminent), or the relevant parts thereof, as a basis for their technical regulations, except when such standards or their relevant parts would be an ineffective or inappropriate means for fulfilling the legitimate objectives pursued.

Within APEC, Member Economies have committed to harmonizing their standards, for example:

- with international standards, wherever possible, by the year 2010 in the case of industrialised economies and 2020 in the case of developing economies;
- for radios and their parts, televisions, video apparatus, refrigerators, air-conditioners, industrial robots, rubber surgical and examination gloves, rubber condoms and food labelling by the year 2000 in case of industrialised economies and the year 2005 in the case of developing economies; and
- for electrical safety and electromagnetic compatibility with the IEC 60335 and CISPR series of standards, respectively, by the year 2004 in the case of industrialised economies and the year 2008 in the case of developing economies.

PRINCIPLE 5: CHEMICAL REGULATIONS SHOULD NOT RESTRICT INTERNATIONAL TRADE FLOWS

There should be no discrimination in the way technical regulations, standards, and conformity assessment procedures are applied between domestic and imported products, nor between imports from different supplying economies. Regulations should not be applied in a way that creates unnecessary obstacles to international trade.

PRINCIPLE 6: CHEMICAL REGULATIONS SHOULD BE DEVELOPED IN CONSULTATION WITH STAKEHOLDERS, SUBJECT TO PUBLIC REVIEW AND COMMENT AND PERIODIC REVIEW

Effective consultation is fundamental in ensuring that the optimal regulatory outcomes are achieved. Consultation ensures that both the regulator and the regulated understand the problems, have alternative options to address the problems, and can identify costs as well as enforcement and compliance mechanisms in administering the regulatory requirements. It also enables civil society to engage directly with government in identifying and addressing problems,

leading to a more engaged and constructive dialogue with all parties involved. Consistent with APEC's Transparency Standards² as agreed by Leaders in 2002 and 2003, consultation should involve procedures that provide for advance notice of proposed rule-making; an adequate comment period; notice of final regulation, which should include a thorough response to comments received; and, adequate time for implementation.

The seven principles for best practice consultation are:

- Continuity - Consultation should be a continuous process that starts early in the policy development process.
- Openness - Consultation should be widely based to ensure it captures the diversity of stakeholders affected by the proposed changes. This includes the affected industry, the general public; trading partners; and relevant departments and agencies at all levels of government.
- Appropriate timeliness - Consultation should start when policy objectives and options are being identified and comments can still be taken into account. Throughout the consultation process, stakeholders and the general public should be given sufficient time to provide considered responses.
- Accessibility - Stakeholder groups and the general public should be informed of consultations through publication of proposed measures (preferably by electronic means), and be provided with information about proposals, via a range of means appropriate to those groups.
- Transparency - Policy agencies need to explain clearly the objectives of the consultation process and the regulation policy framework within which consultations will take place, and provide thorough feedback on how they have taken consultation responses into consideration, including providing a public response to the comments received.
- Consistency and flexibility - Consistent consultation procedures can make it easier for all interested stakeholders to participate.
- Evaluation and review - Policy agencies should evaluate consultation processes and continue to examine ways of making them more effective.

PRINCIPLE 7: CHEMICAL REGULATIONS SHOULD BE FLEXIBLE, NOT PRESCRIPTIVE, AND BE COMPATIBLE WITH THE BUSINESS OPERATING ENVIRONMENT

There are three main types of regulations:

- Design based – which specify the means for attaining the specified outcome.
- Performance based – which specify the desired objective in precise terms but allow the regulated entity to determine its own technique for achieving the outcome. Within the performance-based approach to regulation, market-oriented mechanisms that use economic incentives such as marketable permits and offsets should be explored. A market approach can be extremely valuable in reducing costs or achieving earlier or greater benefits, particularly when the costs of achieving compliance vary across production lines, facilities, or firms.
- Market based – which use economic incentives, such as fees, marketable, tradeable permits, or changes to liability or property rights, to achieve a regulatory goal.

² APEC Transparency Standards available at:
http://www.apecsec.org.sg/apec/leaders__declarations/2003_leaderssttmimplapectranspstd.html.

In general, regulatory instruments should at least be performance-based, that is, they should focus on outcomes rather than inputs. 'Deemed to comply' provisions may be used in instances where certainty is needed. In such cases, regulations might refer to a standard or a number of standards deemed to comply with the regulation. In addition, market-based approaches, where feasible, often can achieve even higher efficiency by focusing on overall outcomes, while allowing an industry to trade the regulatory obligation to the lowest cost producer.

PRINCIPLE 8: CHEMICAL REGULATIONS SHOULD BE SCIENCE-BASED

Good regulation should attempt to standardise the exercise of bureaucratic discretion, so as to reduce discrepancies between government regulators, reduce uncertainty, and lower compliance costs. However, this should not preclude an appropriate degree of flexibility to permit regulators to deal quickly with exceptional or changing circumstances or recognise individual needs. Nor should it ignore the danger of administrative action effectively constituting regulation and thus avoiding disciplines of regulation review. There is a need for transparency and procedural fairness in regulation review, and administrative decisions should be science-based and subject to effective administrative review processes.

PRINCIPLE 9: CHEMICAL REGULATIONS SHOULD HAVE A CLEAR DELINEATION OF REGULATORY RESPONSIBILITIES AND EFFECTIVE AND TRANSPARENT ACCOUNTABILITY MECHANISMS

Overlapping or inconsistent regulation within the jurisdictions of Member Economies can have significant adverse consequences for economic and regulatory efficiency. High level political support is critical for implementing successful regulatory reform initiatives. An integrated policy is essential in ensuring that policies and regulations for all concerned areas are mutually supportive and not duplicative. There is also a need for institutional mechanisms to monitor and enforce the integrated policy and to oversee the cost benefit and regulatory impact assessment processes established to introduce transparency and accountability into the regulation making processes.

The overarching institutional framework for the harmonisation of regulation should:

- Encourage continuous dialogue with the regulated community and other stakeholders regarding conflicting or duplicative mandates to achieve greater regulatory efficiency within and among Member Economies;
- Encourage the timely development of consistent and preferably uniform regulations;
- Discourage regulatory agencies and standards setting bodies from adopting unduly stringent and poorly justified regulations;
- Promote compliance with decisions to rationalise and harmonise areas of regulation.

PART 5: BIBLIOGRAPHY & REFERENCES – to be further developed to include a more comprehensive list of available resources preferably with electronic links to facilitate accessibility

APEC Information Notes on Good Practice for Technical Regulation, APEC SCSC September 2000;

APEC Best Practice for Regional Free Trade and Free Trade Agreements and Other Preferential Arrangements; APEC November 2004

APEC-OECD Integrated Checklist on Regulatory Reform 2005
<http://www.oecd.org/dataoecd/41/9/34989455.pdf>

Best Practice Regulation Handbook, The Office of Best Practice Regulation, Australian Government, November 2006

OECD Guiding Principles for Regulatory Quality and Performance, OECD 2005

Principles and Guidelines for National Standard Setting and Regulatory Action by Ministerial Councils and Standard-Setting Bodies, Council of Australian Governments, June 2004

Rethinking Regulation, Commonwealth of Australia 2006

The Business of Chemicals is Everywhere, APEC website,
http://www.apec.org/apec/apec_groups/committees/committee_on_trade/chemical_dialogue.Media%20libDownload.v1.html?url=/etc/medialib/apec_media_library/downloads/committees/cti/pubs/2003.Par.0002.File.v1.1

Underpinning Australia's Industrial Growth – Government Response, Commonwealth of Australia November 2002

SUPPORTING DOCUMENTATION

The Importance of the Chemical Sector in APEC Member Economies - see Supporting Document A.

Annex IV

Summary: Submission by the Asia-Pacific Economic Cooperation (APEC) Chemical Dialogue on Developing Clarity and Consistency in the Implementation of the Globally Harmonized System for Classification and Labelling of Chemicals (GHS)

Background

1. APEC is a regional forum that promotes economic growth and trade expansion among its 21 “Member Economies”: Australia; Brunei Darussalam; Canada; Chile; China; Hong Kong, China; Indonesia; Japan; the Republic of Korea; Malaysia; Mexico; New Zealand; Papua New Guinea; Peru; the Philippines; the Russian Federation; Singapore; Chinese Taipei; Thailand; the United States of America; and Viet Nam.
2. APEC member economies represent the most economically dynamic region in the world—an area which has generated nearly 70 percent of global economic growth since 1990—and accounts for more than 2.5 billion, or 41.4 percent of the total world population with a combined Gross Domestic Product (GDP) of 19 trillion US dollars (57.8 percent of global GDP), constituting 47 percent of world trade.
3. APEC meets throughout any one year at senior officials level and annually at Ministerial and Leaders level. Specialty groups provide recommendations to Senior Officials and Ministers and Leaders meetings. For more information, see <http://www.apec.org>.
4. APEC works in three broad areas to meet its goals of free and open trade and investment in the Asia-Pacific region:
 - Trade and Investment Liberalization
 - Business Facilitation
 - Economic and Technical Cooperation, including capacity building
5. Under the trade and investment framework, APEC has established a Chemical Dialogue. The Dialogue serves as a public-private sector forum to find solutions to challenges facing economies and the chemical industry in the region. The Chemical Dialogue reflects the recognition of APEC member economies of the importance of engaging the chemical industry and building dialogue and cooperation on critical issues.

APEC Efforts on GHS Implementation

6. In 2007, the Chemical Dialogue discussed implementation of the Globally Harmonized System (GHS) throughout the region, and identified several implementation challenges being faced by member economies. The GHS – if implemented throughout the region in a consistent manner – can significantly reduce transaction costs for businesses and enhance the communication of hazard information to downstream users, consumers, and government agencies. The Dialogue noted the need to ensure clarity and consistency in GHS implementation, and established a small working group to assess mechanisms to update information on implementation activities, means for addressing the diversity in GHS implementation efforts (transitional periods, processes and phasing, mutual recognition systems) and standardized approaches to capacity building.

7. The attached report of the Chemical Dialogue Working Group on GHS implementation was approved by the APEC Chemical Dialogue in May, 2008, and endorsed by the APEC Committee on Trade and Investment that same month. The Committee also endorsed a Chemical Dialogue recommendation that the report should be submitted to the second International Conference on Chemicals Management (ICCM-2) as a contribution to the Strategic Approach to International Chemicals Management (SAICM). A copy of the report (2008/SOM2/CD/003) appears in Annex 1.
8. The Working Group assessed APEC GHS implementation activities to date, including a series of workshops and seminars for member economy officials. While some member economies have noted good progress toward implementation of the GHS, issues critical to the timely implementation of the GHS were noted. These included, among others:
 - Absence of legislative frameworks
 - Domestic regulatory amendments and reform initiatives
 - Limited access to information, particularly on training and education
 - Transitional arrangements and the opportunity for flexibility in transition periods
 - Lack of financial and human resources
 - Ability to share information and classification information between economies
 - Testing capacity and classification databases
9. The Working Group also identified other international activities to support GHS implementation, including the efforts of UNITAR/ILO, the significant work of the countries of ASEAN (particularly in assessing regional capacity and in conducting several workshops), and the recent initiatives of the U.N. Sub-Committee of Experts on the GHS). The Chemical Dialogue noted that the APEC work on GHS is intended as a value-added contribution and does not seek to duplicate the work of the U.N. Sub-Committee.
10. In adopting the report, the Chemical Dialogue adopted several recommendations related to further work on the GHS.
 - APEC member economies were encouraged to consider and report on additional collective activities that could be undertaken by APEC in response to GHS implementation issues.
 - Annexes 1 and 2 of the Working Group report provide a starting point for the selection of a metric to assess progress toward GHS implementation in the region, as well as a recommended reporting format. The Dialogue will undertake further work to develop the implementation metric.
 - The Chemical Dialogue agreed to a recommendation to develop guidance relevant to the implementation of the GHS for the consumer products sector. The model guidance developed under this project will promote mutual understanding on GHS implementation for consumer products, and enhance consumer and government understanding as well.
 - The Working Group report will be submitted to the U.N. Sub-Committee of Experts on GHS for information and as a contribution to its work.
 - A status report on member economy implementation of the GHS will be compiled and submitted to APEC Trade Ministers by November, 2008.

Implications for the Strategic Approach to International Chemicals Management

11. The APEC Working Group report on GHS implementation supports several elements of SAICM. The report represents an effort to promote and advance industry involvement in, and enhance the capacity of economies and industry to implement the GHS system and leverage the benefits of that system.
12. The APEC GHS report is also linked to key areas of the SAICM Overarching Policy Strategy. Addressing the implementation issues raised in the Working Group report will help assure that appropriate steps are taken to reduce risks from chemicals through implementation of the GHS, broaden knowledge and information on chemicals in ways that promote sound management, enhance governance opportunities for all stakeholders, and possibly identify additional areas for coordination and cooperation among economies and stakeholders.
13. APEC commends the Working Group report on GHS implementation to the attention of all participants at the Second International Conference on Chemicals Management (ICCM-2), and requests that ICCM-2 recognize the report as a contribution to the chemicals management objectives identified in SAICM.

Annex V

2008/SOM2/CTI/024att1
Forum Doc. No.: 2008/SOM2/CD/003rev1

APEC CHEMICAL DIALOGUE

DEVELOPING CLARITY AND CONSISTENCY IN THE IMPLEMENTATION OF THE GLOBALLY HARMONISED SYSTEM FOR THE CLASSIFICATION AND LABELLING OF CHEMICALS (GHS)

Report of the 'Virtual' Working Group on GHS Implementation Issues

May 22, 2008

Background

1. At the 6th meeting of the APEC Chemical Dialogue held in Cairns, Australia on 28 June 2007, APEC member economies drew attention to their efforts to implement the Globally Harmonised System for the Classification and Labelling of Chemicals (GHS). The Chemical Dialogue meeting also noted the outcomes of an informal Round-Table meeting to discuss implementation of the GHS and the challenges being faced by member economies.
2. In relation to GHS implementation, the Chemical Dialogue:
 - Noted the need to ensure clarity and consistency in approach so that implementation did not result in barriers to trade. In this regard, Canada, Chile, China, Indonesia, Japan, Malaysia, Singapore, Thailand, the United States and Vietnam provided oral updates on implementation of the Globally Harmonized System of Classification and Labelling of Chemicals (GHS).
 - Encouraged member economies to provide written reports to the Secretariat by July 10, 2007 so a status report could be compiled by the Friends of the Chair for submission to the APEC Meeting of Ministers in September 2007.
 - Noted the outcomes of the June 27 2007 informal GHS implementation roundtable were considered.
3. The Chemical Dialogue agreed to establish a small group within the Friends of the Chair process to identify implementation issues and determine a work plan for addressing these. Australia agreed to coordinate the group. New Zealand, Chinese Taipei, and the United States also volunteered to join the group. Economies were asked to consult internally. The group was to operate virtually, work with the APEC Secretariat to enhance the utility of information on GHS for member economies, and prepare a report and recommendations for consideration by the CDSG at SOM I 2008. Issues for consideration by the group were to include:
 - a. Information update mechanisms;
 - b. Ways of addressing the diversity in transitional periods, processes and phasing, with the prospect of mutual recognition of systems during the transitional process; and,
 - c. Standardized approaches to capacity building, including how to respond to unintended differences in approach.

APEC Implementation Activities to Date

4. The Working Group noted relevant work already undertaken in respect to GHS implementation under the APEC umbrella.

5. Specifically noted was the letter of June 2005 from the Chemical Dialogue Co-Chairs to UNITAR seeking assistance in advancing the adoption of the GHS through training initiatives aimed at increasing awareness and capacity building. The Chemical Dialogue had specifically sought the following information for dissemination to APEC member economies:
 - URL link to updated calendar of past and future GHS events
 - Direct links to UNITAR training tools
 - List of GHS experts that APEC economies may contact on an individual basis
 - Status of the FAQ system
 - Examples of GHS classification
6. The website of the WSSD Global Partnership (UNITAR, ILO and OECD) for Capacity Building to Implement the GHS now addresses the issues raised by the Chemical Dialogue.
http://www.unitar.org/cwm/ghs_partnership/index.htm
7. Amongst the most recent initiatives to address GHS implementation issues was the APEC Seminar on 'Globally Harmonised System (GHS) Implementation and Technical Assistance which was held in Bangkok, Thailand in September 2006. 147 participants from international and economy level organisations, institutions and companies attended in addition to nine APEC economies (Canada, Chile, Chinese Taipei, Japan, Malaysia, Mexico, Philippines, Singapore, Thailand, and Vietnam). The Seminar was aimed at information exchange including sharing of ideas on the implementation of the GHS. Reports by member economies attending this Seminar highlighted the fact that some economies were more advanced in implementing the GHS than others. It therefore seems possible that the GHS-implementation experiences of these economies could be useful to others.
8. Issues identified by the various economies attending the APEC Seminar as being critical to the timely implementation of the GHS included:
 - Absence of legislative frameworks,
 - Domestic regulatory amendments and reform initiatives,
 - Limited access to information, especially in regard to training/education and the introduction of GHS,
 - Transitional arrangements and the opportunity for flexibility during transition periods,
 - Limited knowledge and lack of resources (financial and human) within SME and government agencies,
 - Ability to share information and classification outcomes between economies,
 - Testing capacity and classification databases,
 - International harmonisation in pesticide standards (FAO, WHO) [The Working Group notes however that WHO has reported to the UNSCEGHS that pesticide classification by hazard will be adjusted to conform to the GHS and outlined at http://www.who.int/ipcs/publications/pesticides_hazard/en/,] and
 - International harmonisation in toxic substances including the Basel Convention and PIC to ensure any inconsistency with GHS is minimised.
9. The Working Group noted that some member economies, for example, Singapore and Malaysia had indicated good progress in relation to the adoption of the GHS. Malaysia reported that it planned to implement GHS by the end of 2008 and that industry was looking forward to earlier implementation in 2007. It was also noted that four working groups would be established to 'operationalise' GHS implementation based on the four main sectors viz industrial workplace, agriculture, transport and consumer products and that new regulations would probably be gazetted in 2007/2008. Singapore indicated confidence in implementing GHS by 2007 and had conducted training and awareness seminars to help companies adapt to GHS standards. Software for verifying the compliance of GHS safety data sheets had been developed by Singapore and could (possibly) be shared with other economies. Also noted was that New Zealand had adopted a GHS based hazard classification framework in 2001 and had been working on an implementation program since that time. Since July 2006, all hazardous substances had been covered by this GHS-based legislative framework, although transitional provisions allowed for staged implementation generally through to July 2008. However, in order to better align New Zealand's implementation timetable with those of its major trading partners, provision had been made for the acceptance of labelling in accordance with the requirements of certain specified overseas jurisdictions until the end of 2010.

10. Given the extent of progress reported by some economies, the Working Group considers that there may be opportunities for economies more advanced with GHS implementation to further assist in knowledge and information transfer within the region. The availability of new legislation/regulation as potential legislative models for others and the sharing of classification outcomes could significantly progress GHS adoption and harmonisation thereby minimising trade barriers.

Other International Activities to Support GHS Implementation

11. The Working Group notes that international activity to support the understanding and implementation of the GHS has been extensive. By way of example:

UNITAR/ILO GHS Capacity Building Program

Initiation of the WSSD GHS Partnership by UNITAR, ILO and OECD

12. In April 2002, UNITAR and ILO, in collaboration with OECD, initiated the *WSSD Global Partnership for Capacity Building to Implement the GHS* as a way to mobilize resources and implement a number of specific support activities to strengthen capacities at all levels and sectors – in particular in developing and transition economies – towards implementing the GHS in sectors such as industrial workplaces, agriculture, transport and consumer products. Currently, the Partnership is comprised of over 25 governments, international organizations, business and industry groups, and public interest and labour organizations, and continues to grow. Any parties interested in joining the Partnership are welcome to contact UNITAR. The Partnership website is: http://www.unitar.org/cwm/ghs_partnership/index.htm

Regional GHS Capacity Assessment for ASEAN

13. In follow-up to the recommendations of the Regional Workshop for Chemical Hazard Communication and GHS Implementation for Members of ASEAN in October 2005, the LESTARI Institute of Universiti Kebangsaan, Malaysia (UKM), in collaboration with UNITAR, developed a Regional GHS Capacity Assessment for the Association of South East Asian Nations (ASEAN). This report provides information on the existing regional infrastructure within ASEAN related to chemical hazard communication, including details on working groups and other relevant bodies within the ASEAN Secretariat, as well as other existing organisations at the regional and member economy levels. Through surveys of relevant contact points in each of the members, the report also includes information on the status of GHS implementation and chemicals management in the 10 members of ASEAN. It is intended that the information included in this report will be used to inform efforts for targeted capacity building to integrate the GHS into the work areas of the ASEAN Secretariat and to facilitate the completion of a Regional GHS Implementation Strategy in 2007. The assessment can be found at: http://www.unitar.org/cwm/publications/cbl/ghs/view_all_year.aspx

ASEAN OSHNET GHS Workshop

14. As a contribution to the development of a regional GHS implementation strategy in ASEAN, UNITAR co-sponsored the *ASEAN OSHNET GHS Workshop* which took place in Kuala Lumpur, Malaysia, 6-8 March 2006 and was attended by 52 representatives from the ASEAN members. The focus of the workshop was to develop an ASEAN regional GHS standard for the occupational safety and health sector (workplace), the result of which was a draft set of “ASEAN Guidelines on Chemical Classification, Labelling and SDSs” (based on the GHS). This effort contributes to regional GHS implementation in the workplace sector. The report can be found at http://www.unitar.org/cwm/publications/cbl/ghs/view_all_year.aspx
15. In order to increase the involvement of public interest and labour organizations in the GHS implementation process, a regional workshop for NGOs in the ASEAN region was held on 7-8 May 2007 in Jakarta, Indonesia. It was expected that the workshop would discuss the results of a regional NGO assessment conducted by Earth Council Asia-Pacific in collaboration with UNITAR/ILO, and consider modalities for a regional network for information sharing on the GHS and chemical safety.
16. In addition, UNITAR and ILO, in cooperation with the ASEAN Secretariat and the Government of Indonesia and with financial support from the European Union, the Government of Switzerland and the Organisation for the Prohibition of Chemical Weapons (OPCW), held a “GHS Conference for ASEAN:

Towards 2008 and Beyond", 9-11 May 2007 in Jakarta, Indonesia. The conference included participants from all 10 members of ASEAN, as well as representatives from business and industry, and public interest and labour organisations. The workshop participants reviewed the progress made and agreed on a regional GHS implementation roadmap. Building on past and ongoing activities, this document will provide a framework for GHS implementation towards 2008 and beyond. The proposed regional GHS implementation strategy for ASEAN can be found at www.knrci.or.id/templates/knrci/files/Proposed%20Regional%20GHS%20Implementation%20Strategy%20for%20ASEAN_draft_26April07.pdf

17. While a number of regional strategies and workshops have been held since 2004, several geographic regions are requesting support for regional approaches to GHS implementation. For 2007-2009, UNITAR/ILO have received requests for regional capacity building activities in South America, where the Governments of Brazil and Uruguay have indicated their support for a workshop in this region, and the Government of Argentina has informally indicated its interest and capacity to host this event. The workshop would be a follow-up to the successful regional workshop held in Brazil in 2004. The workshop would examine progress to date since the last workshop and challenges faced in regional and economy-level GHS implementation.
18. Most recently, UNITAR in cooperation with the Government of Indonesia has completed a Project on Training and Capacity Building for the Implementation of the Globally Harmonized System of Classification and Labelling of Chemicals (GHS) in Indonesia 2005 – 2007. The outcome includes a National Strategic Plan for the Implementation of the GHS in Indonesia up to 2010.
19. The work of UNITAR in cooperation with other international organisations and governments is outlined at <http://www.unitar.org/cwm/ghs/index.html>. The website includes a library of GHS capacity building materials. This library was prepared in the context of the UNITAR/ILO GHS Capacity Building Program and is a contribution to the WSSD Global Partnership for Capacity Building to Implement the GHS. A CD ROM version is also available to provide these materials to those who do not have regular access to the internet. Interested parties are encouraged to contact UNITAR for a copy of the CD ROM or to submit electronic versions of chemical hazard communication-related documents for future editions. As noted above, the website addresses issues raised by the Chemical Dialogue Co-Chairs in July 2005.
20. Having regard to the above (which is by no means an exhaustive list of activities), it is clear that the work of UNITAR has been extensive and has contributed significantly in preparing economies for the adoption of the GHS and remains ongoing. As a result, many economies have indicated that they are well advanced in their introduction of the GHS (mainly in regard to workplace chemicals). It therefore suggests that the experience of these economies could be drawn upon to advance the adoption of the GHS in those economies yet to make significant progress. These more advanced economies in terms of GHS implementation may have legislation, guidelines for classification, labelling and the preparation of Safety Data Sheets, implementation plans, software (eg Singapore) etc that support their approach to GHS and which could be shared for the benefit of others.

Recent Initiatives of the United Nations Sub-Committee of Experts on the GHS (UNSCEGHS) in Addressing Issues Relating to the Implementation of the GHS in Member Economies

21. In order to encourage an international and harmonised approach to the implementation of the GHS (including addressing issues that may possibly affect all economies eg transition periods, mutual recognition and consistency in interpretation), it is highly desirable that the work on implementing the GHS be focused in a single organisation with international influence. In this regard, several functions of the UNSCEGHS, as described in paragraph 1.1.3.2.1 of the GHS document, are relevant, viz:
 - (a) To act as custodian of the GHS, managing and giving direction to the harmonization process...;
 - (c) To promote understanding and use of the GHS and to encourage feedback;
 - (d) To make the GHS available for worldwide use and application;
 - (e) To make guidance available on the application of the GHS.
22. The Working Group noted that Australia, (joined by South Africa, Canada, United States, United Kingdom, Thailand and the World Health Organisation) had submitted a paper for consideration at the December 2007 UNSEGH meeting (14th Session) which proposed a UNSCEGHS Working Group be

established within the UNSCEGHS framework to facilitate a more useful and targeted exchange of information relating to GHS implementation issues. The paper proposed that this group meet or exchange information by email or internet between GHS Sub-Committee sessions, and/or meet face-to-face in the margins of the GHS Sub-Committee or other international meetings. As well as providing a mechanism for a general exchange of information, this UNSCEGHS working group could also provide a focus on specific issues faced by individual sectors and allow the sharing of information from experiences or on issues of GHS implementation in areas, for example, dealing with consumer chemicals, pesticides, or workplace chemicals.

23. The 14th Session of the UNSCEGHS agreed to the establishment of this informal working group with the following provisional terms of reference:

- Facilitate exchange of information relating to GHS implementation in economies;
- Provide a forum for discussion for particular issues faced by specific sectors and allow the sharing of information from experiences on sector-specific GHS implementation dealing with, for example, consumer chemicals, transport, workplace, etc. This should not prevent each economy submitting their implementation issues directly to the Sub-Committee. If transport-related issues are identified, these will be referred to the TDG Sub-Committee;
- Identify general issues arising in the implementation of the GHS, such as building block approaches, problems relating to specific hazard classes or categories, transitional arrangements, and training;
- Analyse and summarise issues identified on the implementation of the GHS. If possible, provide suggestions for how such issues can be addressed in a harmonized way to be submitted to the Sub-Committees for their consideration and resolution.

24. The Working Group noted that GHS implementation issues already identified to the UNSCEGHS (but not necessarily agreed within the UNSCEGHS) included the following which were generally consistent with implementation issues raised within the Chemicals Dialogue.

- Different implementation timetables between countries leading to potential need to managing transition periods. Consistency in label changes would deliver maximum efficiencies globally, although competent authorities will need to make decisions on transition periods to meet their own regulatory requirements. Different versions of labels are in the marketplace simultaneously now and transition into GHS may introduce in the interim, “new” label elements (e.g. new pictograms in the GHS). Consideration of managing potential confusion of consumers and workers may be needed.
- Possible implementation of GHS classification but without all aspects of labelling eg signal words or pictograms being adopted. This will be a decision for the competent authority(ies), and any “partial implementation” of the GHS will need to be considered against the overall commitment to GHS implementation, the principles of GHS adoption and any potential loss of benefit of the GHS system *in toto*. (Except for the transport sector which only uses pictograms, this would be inconsistent with the GHS as signal words and pictograms are not building blocks.)
- GHS classification issues including the need to avoid duplication of effort, promote consistency and the need to consider options for the sharing of classification experiences.
- Training, outreach and awareness raising. Competent authorities in different sectors and different economies may have varying approaches to training as a result of different levels of user competency, types of industries and workplaces, cultural and social requirements. As UNITAR has well-developed approaches to training in developing economies, it may be appropriate to recommend material be extended to developed economies. (It is noted however, that in response to strong demand from pilot economies and others, and supported by the discussions at the November 2005 Global GHS Workshop and the UNITAR/ILO Program Advisory Group, UNITAR/ILO are developing GHS training courses. The training courses are being developed by experts engaged by UNITAR, supported by a technical advisory group that provides feedback to course materials as they evolve.)
- Trade facilitation arrangements during transition periods. As economies adopt different implementation schedules, some arrangement to minimise trade disruption during transition periods may be necessary.

25. These issues might provide a source of topics that could be referred to the recently established UNSCEGHS Working Group on GHS Implementation Issues.

OPTIONS FOR ADDRESSING ISSUES OF CONCERN IDENTIFIED BY THE CHEMICALS DIALOGUE

26. The Chemical Dialogue has identified the following issues for specific consideration by the Working Group:
- a. Information update mechanisms;
 - b. Ways of addressing the diversity in transitional periods, processes and phasing, with the prospect of mutual recognition of systems during the transitional process; and,
 - c. Standardized approaches to capacity building, including how to respond to unintended differences in approach.
27. Against the background of APEC activity to date and the extensive work of UNITAR in cooperation with other international organisations, often with the financial support of individual governments, the working group has considered a range of possible actions and activities in response to the specific considerations requested by the Chemical Dialogue.

(a) Information update mechanisms.

28. The sharing of information is considered critical to the adoption of the GHS and in working with other governments and industry to achieve GHS benefits. Efforts in this regard may need to extend well beyond GHS implementation dates.
29. The Working Group notes that several possible approaches exist to promote information exchange. These include:
- Regular and detailed reporting by both government and industry of progress in implementing the GHS. These reports should be in some detail and should highlight *inter-alia*, the status of GHS implementation, the availability of relevant documentation, implementation issues of concern to government, industry and other stakeholders and contact points for further information. Regular review would highlight areas of good progress as well as issues requiring further action.
 - Routine exchange of personnel between economies. This would help to build confidence in the GHS implementation process and ensure that available information and resources are known to all member economies and used to the fullest extent possible.
 - A more significant approach to information exchange through the appointment of GHS Coordinators in each APEC member economy with the responsibility to act as an information clearinghouse and as a liaison point with other economies. Regular contact between Coordinators would allow the opportunity to discuss GHS adoption, coordinate the exchange of personnel and information and encourage overall cooperative work programs. For those APEC economies who participate in the UNSCEGHS, heads of delegations could serve this role.
 - On a more formal level, establishing a forum (or individual sector-specific forums) specifically to address (either within individual economies or under the APEC umbrella) GHS issues, including information exchange, and to promote a harmonised/consistent approach to the adoption of GHS across individual or all chemical sectors. Membership might include the GHS Coordinators. The forum(s) could review progress in member economies and suggest how information might be most effectively shared between members. In this regard, some working group members noted that each sector (chemicals, consumer products, agriculture, including pesticides) had their own unique differences such as target user/consumers, levels of exposure, the need for labelling based on the likelihood of injury and so on. These unique characteristics could therefore result in the need for differences in harmonized/compatible approaches to the adoption of GHS including capacity building, transition processes and transitional periods in each sector. It might therefore be more efficient if a forum for each sector addressed sector-specific issues separately, and then combined

the proposals from each sector into a report to appropriate regulators or the Chemicals Dialogue. However, while these initiatives may promote discussion on GHS implementation, the Working Group suggests that the role of the UNSCEGHS to play the pivotal role in achieving international agreement on GHS implementation should not be lost or diminished. In turn, the UNSCEGHS needs to recognise that APEC member economies are not well represented on the UNSCEGHS (Refer Table 1) and should therefore be encouraged to engage with the UNSCEGHS and to participate in its work.

Table 1: APEC Member Economies Also Participating in Recent Meetings of the UN Sub-Committee of Experts on GHS

APEC Member Economies	APEC Member Economies Who Have Participated in Recent Meetings of the UNSCEGHS
Australia Brunei Darussalam Canada Chile People's Republic of China Hong Kong, China Indonesia Japan Republic of Korea Malaysia Mexico New Zealand Papua New Guinea Peru Philippines Russia Singapore Chinese Taipei Thailand United States of America Viet Nam	Australia Canada Peoples Republic of China Japan New Zealand United States of America <u>Observers:</u> Indonesia Philippines Republic of Korea Russia Thailand

- Information exchange in respect to GHS implementation experiences eg via a GHS information website specifically for APEC economies. This could help to maximise the adoption of the GHS in the most coordinated way amongst APEC member economies. The website could be interactive allowing information to be added in real time and could be coordinated and managed by an individual economy, international organisation or other third party. Funding and management arrangements would need to be agreed. An international organisation such as UNITAR might be more appropriate to manage the APEC-specific website thereby complementing its broader training and capacity building programs. Alternatively, the existing UNITAR website is already available for this purpose and the UNSCEGHS website includes individual economy status reports on GHS implementation.
- Ensure availability of GHS-related legislation and related administrative instruments. Information exchange should extend to ensuring that each economy make available in a public and easily accessible manner, the details of the regulations, codes of practice, guidelines, and other regulatory and non-regulatory instruments that are essential to the understanding of, and compliance with the GHS as implemented. This is essential (especially for industry) to ensuring understanding, successful implementation and compliance.

- Full participation in the work of the UNSCEGHS, particularly in relation to GHS implementation issues particularly now that a UNSCEGHS Working Group has been established to specifically address these issues.

(b) Ways of addressing the diversity in transitional periods, processes and phasing, with the prospect of mutual recognition of systems during the transitional process.

30. In regard to transitional periods, processes, phasing and mutual recognition during transitional periods, the Working Group notes that these issues have both specific economy and international implications. For example, determining transitional periods and related provisions may require the negotiation of both bilateral and possibly, multilateral agreements. Practically, such agreements would seem to be the responsibility of individual economies. Alternatively, an internationally agreed transitional period could be agreed, possibly through the UN Sub Committee of Experts on the GHS (UNSCEGHS). However, in reality it seems unlikely that an internationally agreed transition period (presumably in parallel with mutual recognition) would be accepted as most economies are unlikely to accept other economies' classifications (and in some cases, labels) which do not comply with their own legislative requirements, their level of adoption of the GHS or other factors relevant to their approach to chemicals management. At present, economies do not necessarily accept each other's labels and the GHS is unlikely to change that position.
31. Consequently, the Working Group considers that addressing diversity in transitional periods, processes and phasing, with the prospect of mutual recognition during any transitional period may only result from bi- and possibly multilateral agreements initiated by individual economies. However, agreed transitional periods for both substances and mixtures as has been determined by the EU would greatly assist the business community, including the chemicals industry which is likely to be required to manage the implementation of the GHS internationally and simultaneously within the various economies. Industry has also commented that transition periods for implementation should not commence until the regulations are in place and that the rules are understood. Short transition and implementation periods should be avoided. Support for the approach, and the determination of reasonable transition periods amongst APEC member economies might be given by way of endorsement by the Chemical Dialogue. Similar support through the UNSCEGHS would help to further promote a uniform implementation timetable.
32. Should the Working Group's suggestion (above) that a forum (or individual sector-specific forums) be established amongst APEC member economies to specifically address GHS issues, exchange information and to promote harmonised/consistent approach to the adoption of GHS, then an important consideration of those forums could be to consider and agree on a mutually agreeable date of implementation or a phased approach with target dates for each step while also offering support to address problems that might be encountered during the transition process.

(c) Standardized approaches to capacity building, including how to respond to unintended differences in approach.

33. The approach to capacity building and resolving differences in approach to GHS as well as GHS outcomes may include a mix of the following.
 - Developing guidance documents. Guidance documents would promote a more in-depth understanding of the classification and labelling process and encourage consistent outcomes. Economies may elect to develop their own materials or to take advantage of the work of others. In this regard it is understood that the EU is preparing guidance material which it is anticipated will be available in 2009. It would seem highly desirable that these EU Guidelines be reviewed by interested APEC economies for suitability. Similarly, Japan is also developing guidance materials with respect to the risk-based options for labelling consumer products. It is also understood that UNITAR are also developing training modules which may also help to standardise approaches to classification. New Zealand has recently revised its User Guide to classification under its GHS based regulatory framework and has also published codes of practice for labelling and for safety data sheets which adopt the GHS approach.

- Promoting Work-sharing Arrangements. Work-sharing arrangements might include a range of activities including the exchange of chemical assessment and classification outcomes to be reviewed and used by other member economies. Chemical classification priorities might also be established and then allocated to individual economies to undertake thereby sharing the initial burden of chemicals assessment and classification. Over time, the exchange of outcomes and a sharing of work will develop confidence and understanding allowing work-sharing to be gradually expanded. Self-classification by chemical producers should be encouraged as much as possible.
- Publishing and sharing all outcomes. All outcomes should be shared with others, thereby allowing their review and use. Over time this would also help to build confidence and capacity. For example, Chinese Taipei has noted that it has completed GHS classification of more than 1600 chemical substances in Traditional Chinese. New Zealand has classified several thousand substances under its GHS based classification framework and around 5500 of these are currently available on a publicly accessible database, together with the data used to derive the classifications.
- Coordination and peer review. As suggested above, a GHS forum to review disputed classifications/assessments and promote consistency in all aspects of GHS implementation could be established. Individual economies with expertise/experience might act in the capacity of a mentor, trainer, advisor or peer reviewer if necessary. Issues of concern might also be referred to the UNSCEGHS. (**Note:** Different classification outcomes may arise as a result of different data, the application of expert judgement and varying economy-specific policies towards scientific interpretation of data eg carcinogenicity).
- Exchange of personnel (subject to confidentiality arrangements).
- Supporting international approaches eg through UNITAR to develop training programs that are focused on capacity building that underpin practical implementation of the GHS and are directed to those who undertake chemicals assessment, classification and labelling.
- Encouraging industry, particularly companies operating in multiple economies to establish training programs for employees. (Though noting the need to have available, the administrative and legislative requirements of individual economies to ensure a complete understanding of legislative requirements and any specific administrative arrangements). Training needs may vary between the sectors.
- Supporting the UNSCEGHS by participating fully in the work of the UNSCEGHS, particularly the UNSCEGHS Working Group established specifically to address GHS implementation issues.

Other Possible Implementation Issues to be Addressed.

34. The Working Group also noted that, in addition to the issues of possible concern identified by the Chemicals Dialogue, there could, to varying degrees, be other issues that may have implications for the adoption of the GHS at both the individual economy and international level. These issues have not yet been investigated as they were not raised as issues of concern by the Chemicals Dialogue. These issues include:
- The extent of GHS harmonisation with major trading partners. For example, is the GHS to be adopted *totally* despite the absence of positions of trading partners? There is also uncertainty arising from the possibility that economies may elect not to adopt all aspects of the GHS under the provisions of the "building block approach". In terms of improving trade, the *status quo* may remain.
 - The availability of data on which to base classification decisions by government or industry or to review and endorse industry-based classification outcomes. Associated issues include how to respond to conflicting data, data from different chemical manufacturers and issues of confidentiality and data protection. While these issues can arise at present, the need for an international approach is more compelling under GHS arrangements to achieve desired GHS outcomes.
 - The approach to chemicals from different manufacturing sources with different levels of impurities, though such differences may be reflected in the hazard statements, labelling and Safety Data Sheets – although this could be confusing for users.
 - The extent to which risk assessment will be used in determining label content,

- The approach to the education of diverse users (householders, farmers, professional users) in the interpretation and comprehension of GHS pictograms and GHS-modified labels including approaches to managing possible user confusion arising from concurrent “old” and “new GHS” chemical labels in the marketplace.
- The appropriateness of regulation. Desirably, regulations should be developed following stakeholder consultation leading to a clear understanding and availability of legislative requirements. (NOTE: One industry sector provided information on the necessary elements (in their view) for inclusion in regulations relating to GHS. As these comments may be useful for regulators, they have been included at Annex 1 to this report).

Consistency in Approach with Other Multi Economy Associations

35. The working group noted that similar GHS implementation discussions had been undertaken within ASEAN. In particular, the Group noted the outcomes of the GHS Conference for ASEAN: ‘Implementation Towards 2008 and Beyond’ held in Jakarta, Indonesia from 9-11 May 2007 and specifically, the Regional GHS Implementation Strategy for ASEAN prepared by the Institute for Environment and Development (LESTARI), Universiti Kebangsaan, Malaysia under the auspices of the UNITAR, ILO, OECD Global Capacity Building Program. The report can be found at <http://www.unitar.org/cwm/ghs/ghs12-3.html> .
36. In summary, in order to develop the Regional GHS Implementation Roadmap for ASEAN, a scenario for GHS implementation in ASEAN by 2008 has been proposed, ***accompanied by a detailed work plan***. Elements of this plan which have some commonality with the options proposed by the virtual group are highlighted ***. Given that many APEC member economies are also members of ASEAN, consistency in the planning and approach towards implementation of the GHS would seem highly desirable. The proposed ASEAN plan and associated actions foreshadow that by 2008:

At the regional level:

- Regional GHS Implementation Roadmap is agreed and implemented.
- ASEAN-OSHNET Guidelines on Chemical Classification, Labelling and Safety Data Sheets are agreed and adopted by ASEAN members . ***
- GHS elements are incorporated into the Integrated Pest Management (IPM) Programme that was promoted under the Strategic Plan of Action (2005-2010) of the ASEAN Cooperation on Food, Agriculture and Forestry.
- ASEAN Protocol 9 (transport) is amended by incorporating international technical documents that are in-line with GHS.
- Capacity across the four key sectors, i.e. industrial workplace, agriculture, transport and consumer products in the region in terms of GHS implementation is enhanced through a multi-stakeholder approach. ***
- A committee/working group for consumer products in ASEAN is established. ***
- An ASEAN Steering Committee on the GHS (ASCGHS) is established, if feasible. ***
- An ASEAN Group of Resource Persons on the GHS (AGRPGHS) is established, if feasible. ***
- Harmonise the Building Block Approach (BBA) among the ASEAN member Countries. ***
- Transition period for GHS implementation is identified. ***

- Incentives for coordinated implementation of GHS among ASEAN members are identified. ***
- Issues regarding Confidential Business Information (CBI) have been identified and discussed.

At the ASEAN Member level:

All the ASEAN members have established a National Coordinating Committee for GHS Implementation (NCCGHS) or equivalent agency or body. ***

- A multilingual (at least in English and the member's language) website is established that identifies GHS implementation status across the four key sectors and other GHS related information.
- The Building Block Approach (BBA) across the four sectors is harmonised.
- Member-level GHS Implementation Strategy is established and implemented.
- Member's capacity enhanced across the four key sectors, i.e industrial workplace, agriculture, transport and consumer products through a multi-stakeholder approach. ***
- Infrastructures for implementation of member's GHS legislation, where applicable, are established.
- Harmonise the approach towards CBI across the four key sectors.

DEVELOPMENT OF A WORK PLAN

37. The APEC Chemical Dialogue requested the Virtual Working Group to establish a work plan for addressing key GHS implementation issues. Without broad knowledge of activities underway within individual APEC economies, the current extent of GHS implementation, or a sense of the importance/priority that the Chemical Dialogue and individual member economies may place on initiatives to assist in the implementation of the GHS as identified in this report, the Working Group has not yet proposed a work plan to guide future activities.
38. However, a possible template for reporting existing activities that may have benefit to other economies or in identifying those Working Group proposals that would be of most value has been included at Annex 2. Once completed, it may help to guide the Chemical Dialogue in advancing future GHS implementation activities within an overall agreed work plan.
39. In this regard, and as an example to Chemical Dialogue members, the Working Group received advice of several initiatives underway in member economies which are in-keeping with Working Group proposals, would be appropriate to add to the Table at Annex 2 and which may be of interest to other members. For example:

Australia

- A workplace chemicals regulation framework built around the GHS was now well advanced with documentation and public comment available through a web-site at <http://www.ascc.gov.au/ascc/AboutUs/PublicComment/OpenComment/WorkplaceHazardousChemicalsPublicComment.htm>
- An industry "Roundtable" had been set up to exchange views on the implementation of the GHS in the non-workplace sectors and to jointly investigate implementation issues of possible concern to stakeholders.

- A situational analysis was underway to determine the impact of adopting GHS classification and labelling criteria on current chemicals classification and labelling requirements with a view to determining the extent of possible changes in requirements and a better understanding of the impact of GHS on existing regulations, product labelling, costs etc.
- An assessment of chemicals and trade data had been initiated by industry to assess possible trade-related benefits of GHS adoption.

Japan

- A project is planned to develop guidance material for the implementation of the GHS in the consumer products sector which may be used as a model for use by other economies.

Chinese Taipei

- An English version of the GHS web site had been established.
- The classification of 1600 chemical substances had been completed in Traditional Chinese

New Zealand

- The existing GHS based classification regulations (2001) are being revised to update these to reflect the content of the second revised edition of the GHS. The current regulations can be found at http://www.legislation.govt.nz/regulation/public/2001/0113/latest/DLM33833.html?search=ts_regulation_Hazardous&sr=1
- *The User Guide to Thresholds and Classifications under the HSNO Act* which provides guidance on how to classify chemicals under the New Zealand GHS based regulatory framework has recently been revised and is available at <http://www.ermanz.govt.nz/resources/publications/htmlfiles/ugtcholder.html>
- The HSNO Chemical Classification Information Database (CCID) is available at <http://www.ermanz.govt.nz/hs/compliance/chemicals.html> This database contains around 5500 chemicals which have been classified against the GHS based regulations, and provides the data used to derive these classifications. While the classifications are denoted by the New Zealand codes for identifying classification categories, a table is provided that provides a correlation of these with the GHS categories. Differences that currently exist between the two systems are noted in this table.
- Codes of practice for labelling and for safety data sheets which are based on the GHS principles are available from the New Zealand chemical industry association, NZCIC <http://www.nzcic.org.nz/>

CONCLUSIONS

- The work of the Chemical Dialogue in regard to the implementation of the GHS complements the work of other international bodies by providing a coordinated and considered assessment of issues of concern in regard to the practical implementation of the GHS.
- In preparing for the implementation of the GHS, the Working Group agrees that there is a need for a coordinated and preferably internationally harmonised approach to the adoption and practical implementation of the GHS. In this regard, the Working Group notes the extensive and highly valuable work already undertaken by the global partnership of the joint UNITAR/ILO/OECD Global GHS Training and Capacity Building Program and published internationally at http://www.unitar.org/cwm/ghs_partnership/index.htm to assist economies and associations of economies in their efforts to prepare for the implementation of the GHS. There remains opportunity for the Chemical Dialogue and individual member economies to continue to influence training and education efforts.

- The Working Group also notes the efforts of the APEC Chemical Dialogue in encouraging UNITAR to address GHS implementation issues in response to the concerns of APEC member economies.
- At the international level, the Working Group suggests strong support for the pivotal role of the UNSCEGHS in encouraging the adoption of the GHS and responding to issues of concern in a globally harmonised manner. In particular, it is noted that the functions of UNSCEGHS, as described in paragraph 1.1.3.2.1 of the GHS document, includes the following responsibilities which are relevant to the implementation of the GHS by APEC member economies:
 - (b) To act as custodian of the GHS, managing and giving direction to the harmonization process...;
 - (f) To promote understanding and use of the GHS and to encourage feedback;
 - (g) To make the GHS available for worldwide use and application;
 - (h) To make guidance available on the application of the GHS.
- Having regard to the role and responsibilities of the UNSCEGHS, the Working Group suggests that the UNSCEGHS is the body which is best placed to respond to the specific needs of individual economies including APEC economies. However, building on the complementary role which can be played by the Chemical Dialogue in influencing the timely and consistent adoption of the GHS, the specific GHS implementation needs and concerns of APEC economies could be addressed by the Chemical Dialogue and, if necessary, referred to the UNSCEGHS. This does not preclude the need for implementation initiatives at the individual economy level including implementation strategies that 'share of the burden' of GHS implementation and encourage the adoption of the GHS commensurate with the needs of individual economies. In this regard, the Working Group notes that several APEC economies have indicated good progress in the implementation of the GHS. The outcomes of those efforts could be useful to others.
- APEC economies are not well represented within the UNSCEGHS and should seek to actively participate in the work of the UNSCEGHS (especially the newly created informal working group established to address GHS implementation issues) to ensure that their needs and concerns are addressed.
- The Working Group proposes a number of strategies and initiatives aimed at assisting APEC economies to build capacity to deal with the GHS, encourage information sharing and the exchange and use of work completed by others. This work could be supported by the UNSCEGHS and UNITAR, particularly in developing practical guidance on how to undertake GHS classification and labelling for those economies with limited resources or experience, particularly in the absence of existing regulatory frameworks. The regular and specific reporting of progress with GHS implementation and experiences which have been successful in member economies is proposed (ANNEX 2). Activities of most benefit should be identified by the Chemical Dialogue for further development and wider application.
- To avoid potential trade barriers and to maximise the benefits offered by the GHS, it is desirable that, to the extent possible, the GHS should be implemented consistently across all economies. However, if consistent implementation is considered an unattainable goal, then compatible implementation should be pursued. In this regard it is noted that implementation strategies are being developed for other associations of economies eg ASEAN which may also provide guidance for other economies.

RECOMMENDATIONS

40. The Working Group recommends that:

- 1) Based on the options proposed by the Working Group to assist member economies advance the implementation of the GHS, the Chemical Dialogue request APEC member economies to consider, report and identify those actions, activities and documents considered most essential to be further pursued to promote the timely, consistent (or compatible) implementation of the GHS, noting that some economies, as members of other associations of economies, have already committed to a GHS implementation plan. In the first instance and where the GHS has been implemented, the general availability to stakeholders of GHS-related regulations and associated instruments such as

guidelines and codes of practice that underpin the implementation of the GHS are considered of particular importance which should be widely available.

- 2) To assist the Chemical Dialogue in identifying ongoing GHS implementation issues, both individual member economies and industry groups be invited to provide regular and detailed status reports on GHS implementation that highlight progress in implementing the GHS as well as impediments to implementation that may benefit from wider discussion, Chemical Dialogue input and possible referral to the UNSCEGHS.
- 3) The Chemical Dialogue note the role of the UN Sub-Committee of Experts on GHS in making guidance available on the application of the GHS and the recent formation by the UNSCEGHS of a Working Group to consider and address at the international level, implementation issues associated with the global introduction of the GHS.
- 4) APEC member economies seek to more actively participate in the meetings of the UNSCEGHS and in particular either as individual economies or through the Chemical Dialogue, refer GHS implementation issues to the UNSCEGHS Working Group on GHS Implementation for consideration.
- 5) APEC member economies ensure familiarity with the extensive training resources already developed by UNITAR.
- 6) The Chemical Dialogue encourages continued discussion on GHS implementation issues between individual APEC economies and also with the UNSCEGHS.

**APPENDIX 1: Suggested Elements for Inclusion in GHS Regulation
(As Suggested by an Industry Sector)**

ELEMENT
GENERAL
Availability of final regulations
Opportunity for public to comment on the regulations
Transition period
List any deviations from UN Purple Book and reasoning behind them
If the regulation contains a economy-specific hazard classification list...is this list mandatory?
What is scope of adoption of GHS (by sector industrial, consumer, pesticides, transport)?
Identify hazard categories adopted for each sector (industrial, consumer, pesticides, transport)?
Identify classes adopted within hazard categories for each sector
Identify cut-offs for carcinogens, mutagens, repro hazards
If GHS is not adopted by all agencies, how is company to resolve conflicting requirements
Relationship between thresholds for a listed (regulated) chemical vs. use of GHS cut-offs for classification.
Effective date should address products already in the supply chain
Information on training for interested parties, including the international community
Penalties, if any
Standards of measures, terminology
Language, bilingual
LABELLING
Define if there a specified maximum number of symbols
Size of symbols, including provisions for small packages
Clear definition of small packages
Are R&D samples required to be labelled?
In-process materials?
In-plant labelling
Define if maximum number of precautionary phrases to be used
Define label template
Allow display of blank hazard diamonds
Describe any "supplementary" labelling information; if applicable, describe prescribed location on label template where data are required
Hierarchy of standard statements
SDS
Define distribution requirements for SDS
When the conversion is made to GHS format, does that trigger the need to send the SDS to all existing customers or can the new SDS just be sent with new orders?
Responsible for preparing SDS
Define SDS template
Define maximum number of precautionary phrases to be used in Section 2
Hierarchy of standard statements
Link to MSDS
Renew, update
DISCLOSURE
Define disclosure requirements

APPENDIX 2

This table outlines the principal initiatives proposed by the *APEC Chemical Dialogue Virtual Working Group on GHS Implementation Issues* that may assist APEC Economies in the implementation of the GHS. The proposed initiatives form a suite of possible activities for consideration by individual Economies. The reporting of actions by individual APEC Economies may allow further discussion on the extent of benefits experienced which in turn may lead to a sharing of experiences and the exchange of information on successful measures for the smooth implementation of the GHS. It may also help identify implementation issues that could be referred to the *UN Sub-Committee of Experts on GHS* for international consideration.

Economy

Implementation Activity	Intended Action Yes/No	Progress	Comment (eg usefulness, capacity to share outputs/outcomes, impediments to adoption of GHS, suggested activity to resolve implementation concerns)	Date of Completion or Implementation
1 General				
1.1 Domestic Legislative framework implemented to support GHS.				
1.2 Note the availability of a National Strategic Plan for the Implementation of the GHS in Indonesia up to 2010 (developed in cooperation with UNITAR). Utilise as appropriate.				
2 For APEC Economies who are also Members of ASEAN				
2.1 Adopt Regional GHS Implementation Strategy for ASEAN as developed by UNITAR, ILO and ASEAN Secretariat, May 2007.				
2.2 Adoption within workplace sector of "ASEAN Guidelines on Chemical Classification, Labelling and SDSs" (based on the GHS) developed at ASEAN OSHNET GHS Workshop, March 2006.				
3 Engagement with UNSCEGHS				
3.1 Participation in meetings of UNSCEGHS				
3.2 Implementation issues of concern referred to UNSCEGHS <i>Working Group on Implementation Issues</i> .				

4 Classification & Labelling Resources				
4.1 Develop Guidelines for Classification, Labelling and SDS preparation.				
4.2 Establish Classification Database.				
5 Specific Worksharing & Information Exchange Activities				
5.1 Exchange of personnel between economies.				
5.2 Appointment of GHS Coordinator or individual sector coordinators.				
5.3 Establishment of GHS Implementation Steering Group(s).				
5.4 Arrangements (forums, database, website) to share information and classification outcomes.				
5.5 Develop website to support information exchange.				
6 Education and Training				
6.1 Access to GHS training and education for government/industry/consumers.				
6.2 Adoption of Training and Capacity Building Program for the Implementation of the Globally Harmonized System of Classification and Labelling of Chemicals (GHS) in Indonesia 2005 – 2007.				
6.3 Note (and utilise) Draft Basic GHS Training Course currently under development by UNITAR.				
7 Other Implementation Activities				
7.1 Negotiation of bi- or multilateral agreements to minimise trade disruption during GHS transitional periods.				