Ref: A3PSubmission-ChemicalRegDiscussionpaperFeb2010final

10 February 2009

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Dear Jenny (Secretariat),

Re: Submission on the Draft Discussion Paper – "A National Scheme for Assessment, Registration and Control of Use of Agricultural and Veterinary Chemicals."

Thank you for the opportunity to make a written submission on the draft Discussion Paper – "A National Scheme for Assessment, Registration and Control of Use of Agricultural and Veterinary Chemicals" (Discussion Paper) released by the Product Safety and Integrity Committee (PSIC) formed under the Primary Industry Standing Committee (PISC), in turn a subset of the Council of Australian Governments (COAG).

Australian Plantation Products and Paper Industry Council (A3P) is the national industry association representing the interests of all segments of the plantation-based wood products and paper manufacturing industry. A3P member's employ more than 13,500 people in plantation management, sawmills, panel board, and paper manufacturing plants, mainly in rural and regional areas. Each year A3P members create and sell more than $4 billion of products, produce more than 12 million cubic metres of logs, 3 million cubic metres of sawn timber and more than 2 million tonnes of paper. A list of A3P members and statistics on their operations is available from the A3P website: www.a3p.asn.au.

A3P members include significant land/plantation managers and wood processors who have a keen interest in ensuring efficient and effective regulation of agricultural and veterinary (agvet) chemicals, due to the essential use of viable chemical solutions in forest growing applications and processed timber end-products.

A brief perspective on forestry and forest industries in Australia:

- 1.9 million hectares of plantations compared to 147 million hectares of native forests;
- Forestry, milling, timber & paper manufacturing industries in Australia employs approximately 76,800 people and has a $2 billion per year trade deficit in forest & wood products;
- Agvet chemicals are essential for efficient, economic and environmentally sensitive wood production and timber treatment;
- Forestry is a relatively small player in the broader Australian agvet chemical market – the plantation forest industry accounts for less than 0.7% of the total Australian spend on pesticides (Jenkin & Tomkins 2006);
- The majority of plantations have only one or two agvet chemical applications over a ten (10) to thirty (30) year period, and so relative chemical use is small compared to the total life of the plantation crop;

Recommendation 1: *That PSIC note: although plantation forestry is a relatively small chemical use, it and its related industries are economically significant and important to rural economies and employment, and agvet chemicals are essential for effective and sustainable plantation forestry.*

- ***The role of, and general comment on, the Discussion Paper***

As detailed in the Discussion Paper: "*Assessment, registration and control of use of agricultural and veterinary chemicals are managed through the National Registration Scheme. The regulatory coverage of the scheme includes a range of products including some surface disinfectants, pool and spa sanitisers, anti fouling paints and timber preservatives as well as agricultural and veterinary products. The Scheme is a two tiered partnership between the Commonwealth and state and territory governments. Assessment, registration and all other activities up to the point of retail sale are controlled nationally, by the Australian Pesticides and Veterinary Medicines Authority (APVMA). Control of use - activities beyond the point of retail sale - is managed by state and territory governments. Overlapping the regulatory controls is a collection of quality assurance systems, some purely private, others with public-private partnerships. There are also generic controls, such as those over hazardous substances and dangerous goods, that includes agvet chemicals." (page 10 – Discussion Paper)*

As can be seen in the Discussion Paper, the definition of agvet chemicals covers a vast array of products and uses, adding complexity and difficulty to the task of regulating this area. One of the key issues of concern for the timber industry, with chemical regulation policy development and implementation, has been the lack of coordination and cohesion within the different levels of chemical regulation. That is, the national and state levels of chemical control and regulation in Australia exhibited different aspects of regulation, timeliness of outcomes, and levels of funding and resourcing, while in general the aims of regulation are the same.

A3P notes the key feedback sought from stakeholders via the Discussion Paper is:

- "*alternative structures and governance frameworks for integrating agvet chemical assessment, authorisation and control of use;*
- *advantages and disadvantages in the ways in which control of use is carried out;*
- *improvements to priority setting and efficiency of agvet assessment and authorisation;*
- *the case for and against cost recovery of control of use regulation; and*
- *where possible evidence to support positions/submissions." (page 4 - Discussion Paper)*

A3P intends, in this submission, to provide feedback on as many of the points as possible with a focus on agvets role in plantation forestry, and will attempt to disseminate plantation managers' experiences with the current regulatory framework.

As detailed in the Discussion Paper: *"There are many possible national frameworks in which it might be possible to manage control of use of agvet chemicals. These range from inclusion of control of use in the package of regulatory services provided by a single national body to continued separate provision by state agencies with some greater coordination or harmonisation than currently exists. While there are many possible ways to provide some greater consistency of control than currently exists, it may be that only a few of them offer practical solutions that are effective and efficient.*

At its most basic the choice breaks down to:

- *incorporating control of use into the activities of a single national regulator…., or;*
- *choosing one from the many options available for greater harmonisation of control of use by state agencies……. (page 51 – Discussion Paper)*

A3P supports in-principle the development of a regulatory framework that:

1. Strengthens the current role and capability of APVMA through providing adequate funding and resources; and
2. Exploration of the most cost-effective and effective option for greater efficiency of capabilities by state agencies (i.e. build on existing structures rather than create a single national regulator).

Recommendation 2: *The PSIC note A3P's in-principle support of strengthening APVMA and exploration of the most efficient, cost-effective and effective option for greater harmonisation of control of use by state agencies.*

- ***Points Concerning Chemical Regulation***

From a forest industry perspective, the following points should be addressed in the development of chemical regulation:

Governance and Policy Development

- Policy development should be underpinned by quality science not based on populist opinion;
- A structured framework for stakeholder engagement in policy development and regulation review has merit (this provides a process for valid community concerns to be raised and addressed);
- Streamlining of regulation and administration (i.e. a one stop shop for advice and information on agvet chemicals and their use) is a worthy goal as the subject is broad and confusing for new entrants;
- Consistent national regulation would be more efficient especially for companies who work across State borders, however regional differences may still need to be considered;
- The relatively small size of the forestry sector in terms of chemical use is an issue:
    - The forestry sector is too small for the specific development and regulation of chemicals, therefore forestry has had to piggyback on the development of chemicals for other agricultural uses or overseas development;
    - Forestry needs the flexibility to use agvet chemicals in off-label situations – e.g. use an agvet registered herbicide even though the label does not specifically mention the crop or forestry use; and
    - As a result the classification of 'minor use' is an important issue for Australian forestry;
- The cost and timeframes of chemical registration could be reduced by taking into account relevant data used in the registration of the chemicals in other countries;
- A distinction should be made between chemical applications on crops for human & stock consumption, and non-food (industrial or environmental) crops such as trees;
- Chemical impact assessment should take into account frequency of use. An example is chemicals that are used only once or twice over a 10-30 year period are considered to be far less likely to have negative impacts.

Regulation up to Point of Sale

- An efficient (risk-based) registration system should include clearly stated protocols and timeframes for assessment. Consideration of additional factors such as cumulative loads (plantation forestry use herbicides once or twice in 30 years), seasonality of use, and site characteristics should be incorporated into any proposed registration system;
- Grouping chemicals by land-use (plantation forestry), or by generic crop use etc would be one means of streamlining the registration system;
- Registration needs to be responsive and flexible to new technologies and have the ability to consider overseas data, where relevant;
- End users need to be actively consulted in the registration and reviews of chemicals to ensure the registration and labelling is fit for purpose;
- Unless sufficiently funded and resourced, any proposal concerning testing to ensure safety of products by APVMA or related group funded by APVMA would be seen to result in delays to the registration of new chemicals.

Regulation after Sale (Control of Use)

- Regional differences in the appropriateness and efficacy of agvet chemicals needs to be recognised and acknowledged, e.g. efficacy of certain chemicals are different in Queensland and Tasmania;

- The current education & licensing systems, such as the AgVet Chemical Users Course and the Victorian Agricultural Chemical User Permit seem to work well;
- In regard to competency of commercial chemical applicators there is some confusion about who in an organisation needs training, and/or a license – clear consistent practical regulations on training and licensing would be beneficial;
- Flexibility of 'off-label' use for 'minor users' such as forestry is needed to ensure efficient and effective chemical use. The current Victorian legislation is seen to be sensible, practical and effective, and could be used as an applicable framework basis of a standard for regulation after sale, and for off-label use.

Funding and Cost Recovery

- The first objective should be a chemical regulation framework which is consistent, streamlined, continually simplified, flexible, clear and unambiguous, efficient, in order to achieve the desired outcomes at the lowest possible cost;
- A3P supports:
    1. APVMA being allocated sufficient funding and resources to carry out its functions in a timely manner
    2. Government funding public good activities of the APVMA;
    3. ensuring that there are sufficient funding and resources for adequate compliance and enforcement activities.

Recommendation 4: *The PSIC consider the points detailed above in the consolidation of stakeholder input into the resulting Report.*

- ***Questions Answered***

Answers to specific questions of interest posed in the Discussion Paper are appended as **Attachment 1**.

Recommendation 5: *The PSIC consider the specific issues detailed in* ***Attachment*** *1 to this submission in the Discussion Paper before finalisation.*

A3P urges the PSIC to consider the recommendations detailed above when finalising the Discussion Paper and subsequent PIMC Report. The plantation timber industry looks forward to working constructively with the PSIC and PIMC as the PIMC Report is developed, finalised and the resulting recommendations are implemented.

Yours sincerely

RICHARD STANTON
Chief Executive Officer

Published by A3P - Braddon, ACT, Australia

ATTACHMENT 1: Draft Discussion Paper Questions.

Section 5	**Introduction**
Q1	***In either the current state and territory control of use or APVMA responsibilities for agvet chemicals are there any gaps, overlaps or unnecessary inclusions, and, if so, what are they?***
Answer	There will always, inevitably, be gaps, overlaps and unnecessary inclusions. It seems unrealistic that these can be completely eliminated, because by nature no regulatory process at either Federal or State/Territory level can be one hundred percent effective or timely. For example, Victoria allows use of a pesticide chemical off-label with certain provisos, whereas other States (e.g. SA) are more rigid in their Control of Use regulations and implementation. That is one gap between the current state control of use policy which is easily identified, and which some attempt through this or subsequent process should be made to unify. Note that it is A3P's strong view that the Victorian approach is more sensible than rigid application of label use. As a general comment APVMA is still seen by the forest industry to be a very relevant organisation. It is further suggested that; • A clear regulatory and operating focus for APVMA should be defined and implemented; • APVMA is adequately resourced both financially, and with trained customer-focused staff in order to undertake existing, new or extended regulatory roles; • And that the timelines for processes, or to obtain approvals, are streamlined and minimised.
Section 6	**The National Registration Scheme**
Q2	***How effective are the current registration arrangements for facilitating adequate chemical access for minor uses?***
Answer	It has been observed that the APVMA simply do not have the resources to adequately deal with issues concerning 'minor uses'. Again the funding and resource situation with the APVMA should be of major concern for any regulatory review. To the forest industry's knowledge there has been one commercial attempt to deal with this (a company called Minor Essentials) that was not successful.
Section 7	**Issues for Consideration in Developing a National Framework**
Q3	***What particular costs or benefits would arise from greater integration of assessment, authorisation and control of use of agvet chemicals?***
Answer	The present approach of APVMA regulation up to the point of retail sale is sensible but again constrained by the inadequate funding and resourcing of the APVMA. Question 3 suggests there may be proposed an even greater burden placed on the organisation, and potentially increase in fees and charges associated with these activities, which is unlikely to find acceptance from the agricultural chemical companies. It is suggested further thought being given to increased funding streams from Federal and state governments.

Q4	***What do you take the precautionary principle to mean? What are the potential costs or benefits that could arise from adoption of a more precautionary approach in circumstances where lack of full scientific certainty exists in agvet chemical assessment, registration or control of use?***
Answer	*The **precautionary principle** is defined as follows:* *Where there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation. In the application of the precautionary principle, public and private decisions should be guided by:* *(i) careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment; and* *(ii) an assessment of the risk-weighted consequences of various options. (Intergovernmental Agreement on the Environment, May 1992, p 13)* The precautionary principle is often seriously and deliberately misinterpreted. It is suggested the key words in operational terms are 'risk-weighted consequences'. The whole basis of application of agricultural chemicals is one of risk management. Too often, some groups tend to the position that if there is any risk, it is unacceptable. Lack of full scientific certainty is not unique to the use of chemicals in agriculture. The same lack of certainty affects the use of therapeutic drugs and veterinary medicines, and of other chemicals throughout other industries. It is considered dangerous, to place in the hands of persons with inadequate experience, practical knowledge and sometimes bias, the administrative power to curtail beneficial use. It is the field operator who should have the right to decide whether or not an operation can be carried out on a risk-managed basis within regulatory guidelines. Excessive bureaucratic regulation can be seen as damaging. It is seen that the term "precautionary principal" could be indeed interpreted in almost any way. People may interpret this as don't do anything unless you are 100% certain there will be no adverse effects, this is seen as not a realistic expectation.
Q5	***How responsively and effectively does the APVMA appear to take up information provided by industry or signatories to the National Registration Scheme?***
Answer	Again it is seen that the APVMA is under-resourced, which is seen as the primary source of delay in responding to industry information, including the long and costly time label changes and new registrations are subject to.
Q6	***How could information be more effectively provided by industry or signatories to the National Registration Scheme and how could it be better integrated into the APVMA's regulatory activities?***
Answer	No specific comment

Section 8	Assessment Registration and Access to Chemicals
Q7	***What would be the advantages/disadvantages of adopting an assessment process for new chemicals or products based on an agreed time for an agreed data set?***
Answer	A3P sees this idea has merit but again potential successful implementation would be constrained by limitations on resources.
Q8	***What are the most important ways in which the efficiency of the APVMA's assessment process could be enhanced?***
Answer	No specific comment
Q9	***How close is the alignment between chemical/product risk and effort in the assessment process and how best could it be enhanced?***
Answer	No specific comment
Q10	***What is the benchmark against which the performance of the APVMA should be assessed?***
Answer	The benchmark should not be the European Union (EU) regulation of chemicals (i.e. REACH). Australian conditions are very different to most of the EU, with much lower population densities and climatic conditions, and vegetation. It is seen that a reasonably rigid approach would not be successful rather we need a flexible regulatory system. The EU approach is seen to have value. It is further suggested that benchmarking Australian performance against multiple existing 'standard's' would be useful. A comparison with EU, USA, Canadian etc standards is suggested, not neglecting New Zealand where there is already some common ground (Poison scheduling/labelling).
Q11	***What is the evidence that assessment would be more efficiently performed without the APVMA being required to carry out either efficacy or trade assessment? How would the risks that are currently managed through APVMA assessment of efficacy or trade risk be adequately managed in the absence of that responsibility?***
Answer	No specific comment
Q12	***What would be the advantages and disadvantages of introducing a requirement for re-registration of agvet chemicals after a set time?***
Answer	Again under-resourcing of APVMA would make this proposal very difficult to implement.
Q13	***Is there a case to be made for revision of the APVMA's compliance powers and. If so, what improvements are needed?***
Answer	No specific comment
Q14	***Is there evidence to suggest that there would be net benefits from government budgetary support of applications for minor use permits?***

Answer	No specific comment
Q15	***What role, if any, could off label access to chemicals for minor use play in an integrated national system?***
Answer	No specific comment
Q16	***What are alternative systems for minor use and specialty crops/animals?***
Answer	No specific comment
Section 9	**Control of Use**
Q17	***What is the evidence that a particular approach to control of use is/is not effective and efficient:*** • ***In agricultural use, or;*** • ***In urban amenity horticulture or sectors such as management of golf courses and other sporting venues, or;*** • ***In pest and weed control?***
Answer	No specific comment
Q18	***Is there a need for flexibility of control of use to respond to local or regional issues, and how could such flexible arrangements be delivered by a single national regulator, if at all?***
Answer	No specific comment
Q19	***What is the evidence that government penalties are more effective than industry incentives in achieving compliance with chemical use rules?***
Answer	No specific comment
Q20	***To what extent is there a need for a balance to be determined between government compliance action and industry mechanisms?***
Answer	No specific comment
Section 10	**Competencies, training, accreditation and licensing**
Q21	***What evidence is there that training is effective in improving agvet chemical use?***
Answer	No specific comment
Q22	***Should there be a required level of training for access to agvet chemicals and, if so, what should be the basis for establishing that requirement (eg level of training and scope of operation, such as commercial operator or private landholder)?***

Answer	No specific comment
Section 11	**Competencies, training, accreditation and licensing**
Q23	***Under what conditions could a single national regulator be expected to deliver assessment, authorisation and control of use services effectively and efficiently and, if so, would there be a need for flexibility at a regional level?***
Answer	No specific comment
Q24	***Is there a harmonised model of governance that would provide control of use by state agencies that was effective, efficient, integrated with assessment and authorisation and consistent across jurisdictions:*** • ***From the models considered in section 11, or;*** • ***Alternatives not mentioned here?***
Answer	A3P supports in-principle the development of a regulatory framework that: • Strengthens the current role and capability of APVMA through providing adequate funding and resources; and • Exploration of the most cost-effective and effective option for greater efficiency of capabilities by state agencies (i.e. build on existing structures rather than create a single national regulator).
Q25	***With respect to permit applications, regional knowledge and access to local advice what would be some of the disadvantages and advantages of control of use by either:*** • ***A single national authority, or;*** • ***Harmonised provision by state agencies?***
Answer	The idea of harmonised provision by State agencies will be difficult to achieve. It is seen that if the States were to be given the powers to issue permits, they would need appropriately trained personnel to assess the permit requests. This could lead to a reversion to some extent, to the situation that existed before the formation of the NRA/APVMA. It is seen that permits should remain the preserve of the APVMA but some States could free up their Control of Use along the lines of the Victorian State Government approach.

Section 12	Funding issues
Q26	***What other key principles need to be considered in assessing the case for or against cost recovery?***
Answer	As a result from this review A3P would seek a chemical regulation framework that is consistent, streamlined, continually simplified, flexible, clear and unambiguous, efficient, in order to achieve the desired outcomes at the lowest possible cost.
Section 13	**Is Cost Recovery of Control of Use Appropriate**
Q27	***What other arguments are there in support of government funding of control of use regulation, particularly monitoring compliance, investigation and enforcement?***
Answer	No specific comment
Q28	***What is the view of stakeholders regarding the arguments made for cost recovery of monitoring compliance, investigation and enforcement, particularly:*** • ***Cost recovery would not be inconsistent with Government's policy objectives;*** • ***The regulated industry is a beneficiary of the regulatory activities; and*** • ***The users of agvet chemicals create the need for the regulatory activity.***
Answer	Suggestions include: APVMA being allocated sufficient funding and resources to carry out its functions in a timely manner; government funding public good activities of the APVMA; and ensuring that there are sufficient funding and resources for adequate compliance and enforcement activities; are considered to have merit by A3P.
Q29	***What is the potential impact of cost recovery of control of use regulation on:*** • ***Manufacturers, if it results in higher regulatory fees; and*** • ***The users of agvet chemicals, if it results in higher prices for agvet chemicals?***
Answer	No specific comment
Q30	***What are the potential risks that an increase in the cost of agvet chemicals will result in higher levels of improper usage?***
Answer	No specific comment

[End of Submission]