



Hon Trevor Mallard
Minister for the Environment
Minister of Labour
Minister of Broadcasting
Minister for State Owned Enterprises
Associate Minister of Finance

ENV1069

16 January 2008

Philippa Stevens
President
New Zealand Plant Protection Society
PO Box 11 094
HASTINGS

Dear Philippa

Thank you for your letter dated 7 December 2007 which included the issues paper from the New Zealand Plant Protection Society which discussed New Zealand's need for access to new pesticide innovations.

The paper usefully highlights the tensions in this area, in particular between:

- Older, cheaper but more hazardous products and newer, less hazardous but more expensive products;
- Adequate scrutiny of risks and the compliance costs of that scrutiny acting as a barrier to innovation.

There is also public unease about the use of pesticides, leading to calls to reconsider the use of older pesticides because of environmental and health concerns. As the paper notes, despite what the government may see as an appropriate level of regulation, other regulators (for example, supermarket chains) are introducing their own private standards in response to that unease.

The Society recommends that "serious consideration be given to reviewing the nature of data protection available for pesticide registrations, especially the period of data protection for new generation products and the data protection for reassessments of generic products, to ensure New Zealand primary industries retain their ability to compete in the international market."

Firstly, the Hazardous Substances and New Organisms (HSNO) Act 1996 follows the respective provisions in the Agricultural Compounds & Veterinary Medicines (ACVM) Act 1997 and the Medicines Act 1981 for innovative agricultural compounds and innovative medicines, respectively. From the HSNO Act perspective, the period for data protection depends on the provisions in these two Acts. It is important to make sure that no inconsistencies develop between data protection for agricultural compounds and for medicines, as the same substance may be used in both circumstances.

You will be aware that the HSNO Act has already been amended to allow for personalised approvals where a hazardous substance or new organism is the subject of an innovative agricultural compound or medicine application. Additionally, the criteria for rapid assessment of hazardous substances have been expanded to include where a new formulation has a lesser degree of hazard compared with that originally approved.

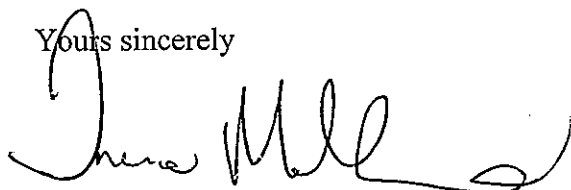
The Environmental Risk Management Authority has an obligation to consider a reassessment under the HSNO Act, where it has been shown that there are grounds to do so. Further, the data requirements for a reassessment include data on both adverse and positive effects. It is particularly important that the data on adverse effects is made available. I note that the European Union is moving to require companies to share test data on the potential hazardous properties of chemicals under its new system for the Registration, Evaluation and Authorisation of Chemicals (REACH).

Nevertheless, experience with reassessments to date (for example, with 1080 and hydrogen cyanamide) has shown that while some controls have been tightened as appropriate, reassessed substances have remained available. On the other hand, it is inevitable that some substances will eventually become prohibited, as happens for substances classed as persistent organic pollutants under the Stockholm Convention.

The issues are undoubtedly complex. However, I can assure you that the government is aware of them and I thank you for the Society's paper and its perspective.

You may not be aware that Agcarm and the Animal Remedy and Plant Protectant Association both made submissions on this subject to the select committee on the Agricultural Compounds & Veterinary Medicines Amendment Bill earlier this year. The committee was unable to consider this further as it was outside the scope of the bill. As a result, a government interdepartmental committee is now investigating issues around data protection. At this stage it is too earlier to state when the report of the committee's work will be received.

Yours sincerely



Trevor Mallard
Minister for the Environment

Cc:Hon Jim Anderton, Minister for and Agriculture and Forestry
Hon Lianne Dalziel, Minister for Food Safety
Rob Forlong, Chief Executive, ERMA New Zealand
Murray Sherwin, Director-General, MAF