

INPUTS BY MALAYSIA
PRINCIPLES ON RIGHTS OF WORKERS AND EXPOSURE TO TOXIC
AND OTHERWISE HAZARDOUS SUBSTANCE

1.0 General Comments on the Proposed Principles

- 1.1 In general, Malaysia has no objection towards the proposed principles. However, we would like to state that Principle 5 and Principle 15 regarding cross-border issues might pose challenge in terms of constraint in state jurisdiction.
- 1.2 Malaysia also agrees with Principle 9 in terms of confidentiality of toxic substances, which has become an issue due to companies not declaring substances in their formula on the pretext of formula and trade secrets.
- 1.3 Malaysia is also in agreement with Principle 10 in terms of the importance of acknowledging that the right to safe and healthy work is inseparable from other rights at work such as freedom of association and collective bargaining.

2.0 Issues and Challenges

- 2.1 One of the main challenge in terms of management of hazardous substances is the lack of information or data required to classify the hazardous chemical according to the intrinsic properties of the chemicals from suppliers (both overseas and local); causing noncompliance with the existing legislations among the local suppliers. Subsequently, control measures recommended for the worker's protection is inappropriate and will cause unnecessary risk to workers.
- 2.2 Another challenge is the misuse of the principle of Confidential Business Information (CBI) in the Classification, Labelling and Safety Data Sheet of Hazardous Chemicals Regulations(CLASS) 2013 and Industry Code of Practice (ICOP) on Chemical Classification and Hazard Communication 2014. CBI allows local companies the discretion to assign a generic name and concentration ranges to describe hazardous ingredients that are deemed as commercially confidential. Due to nondisclosure of the information from oversea suppliers, Malaysian suppliers are not able to give accurate information. Control measures might not be adequate due to the withheld information.

3.0 Solutions and Good Practices

- 3.1 At the outset, current laws and regulations on Occupational Safety and Health (OSH) are developed with the aim to increase self-regulatory approach amongst industry. This is done due to the realization that the fundamental element in OSH is hazard identification, which is best done at the rudimentary level of the workplace itself.
- 3.2 To support the laws and legislations, the Ministry of Human Resources of Malaysia through the Department of Occupational Safety and Health (DOSH) has developed the OSH Master Plan (OSHMP) 2020 and the National OSH Policy which will be launched in February 2019. Among others, the OSHMP 2020 outlines main strategy to inculcate a preventive culture at workplace, to support the previous OSHMP under the premise of nurturing a safe and healthy work culture. The National OSH Policy, (a written statement which the Government adopted in consultation with social partners), on the other hand, will focus on the prevention of occupational accidents and diseases with the main principles guiding national action on OSH, the spheres of action on OSH and the functions and responsibilities of the main stakeholders.
- 3.3 In addition, the Ministry through DOSH and National Institute of Occupational Safety and Health (NIOSH) has developed programmes and activities to increase awareness as well as to advocate the existing laws and regulations which can be categorized as follows:
 - 3.3.1 Inter-government programmes – formation of technical committee/ task force with relevant government agencies such as the Department of Agriculture and Pesticide Board on the approval of pesticides registration and labelling of pesticide. The Ministry is also working closely with the Royal Malaysian Customs Department in terms of import bans on certain substances;
 - 3.3.2 Industries – Systematic Occupational Health Enhancement Level (SoHELP) programme to enhance level of occupational health standards in the area of chemical, ergonomic and noise hazards. Through this programme, Safety and Health Officers are incentivized by way of collecting Continuous Education Points (CEP) which can be used for renewal of their competency.
 - 3.3.3 Small and Medium Enterprises (SME) – compliance support in identifying workplace hazards through the risk assessment whereby a Competent Person is assigned from NIOSH to

provide assistance in the risk assessment or workplace monitoring of hazards.

3.3.4 Specific Sectors – as a form of enhancement of OSH management between main contractor and subcontractors, DOSH has introduced Managing OSH among Vendors and Entrepreneurs (MOVE) Programme in the construction sector.

3.3.5 Educational Institute – introducing OSH Management System (OSHMS) at the vocational colleges and universities under the OSH4U and OSH@TVET programmes

3.4 Specifically, in the handling of chemical substance, the Government of Malaysia through DOSH in conjunction with Ministry of International Trade and Industry (MITI) and National University of Malaysia has developed a tool called Classification Tool for Chemical Mixture (CATCH) to enhance compliance to the Classification, Labelling and Safety Data Sheet of Hazardous Chemicals (CLASS) Regulations 2013. This tool assists suppliers in classification of hazardous chemicals and is very useful to the SMEs.

Malaysia
29 January 2019