

立法會
Legislative Council

LC Paper No. CB(1) 2543/08-09
(These minutes have been seen
by the Administration)

Ref : CB1/BC/6/08/2

**Bills Committee on
Genetically Modified Organisms (Control of Release) Bill**

**Minutes of second meeting
held on Monday, 13 July 2009, at 10:45 am
in Conference Room B of the Legislative Council Building**

Members present : Hon Audrey EU Yuet-mee, SC, JP (Chairman)
Hon WONG Ting-kwong, BBS, JP
Hon KAM Nai-wai, MH
Hon CHAN Hak-kan
Dr Hon Priscilla LEUNG Mei-fun
Dr Hon LEUNG Ka-lau

Members absent : Dr Hon Margaret NG
Hon Cyd HO Sau-lan
Hon Tanya CHAN

**Public officers
attending** : **For item II**

Environmental Protection Department

Mr Albert LAM
Deputy Director of Environmental Protection (2)

Mr Vincent TANG
Assistant Director (Nature Conservation & Infrastructure
Planning)

Miss Vivien LI
Senior Administrative Officer (Nature Conservation)

Agriculture, Fisheries and Conservation Department

Mr C C LAY
Assistant Director (Conservation)

Mr Simon CHAN
Senior Conservation Officer (Biodiversity) (Atg)

Department of Justice

Ms Mabel CHEUNG
Senior Government Counsel

Miss Elaine NG
Government Counsel

Clerk in attendance : Miss Becky YU
Chief Council Secretary (1)1

Staff in attendance : Miss Kitty CHENG
Assistant Legal Adviser 5

Mrs Mary TANG
Senior Council Secretary (1)2

The Chairman informed members that Dr Priscilla LEUNG had withdrawn from the membership of the Bills Committee.

I. Confirmation of minutes

(LC Paper No. CB(1) 2069/08-09 — Minutes of the meeting held on 19 June 2009)

2. The minutes of the meeting held on 19 June 2009 were confirmed.

II. Meeting with the Administration

(LC Paper No. CB(1) 2224/08-09(01) — Background brief on Genetically Modified Organisms (Control of Release) Bill

LC Paper No. CB(1) 2224/08-09(02) — Assistant Legal Adviser's letter dated 2 July 2009 to the Administration

LC Paper No. CB(1) 2224/08-09(03) — Administration's response to CB(1) 2224/08-09(02))

Background information on the Bill

(LC Paper No. CB(3) 624/08-09

— The Bill

Ref: EP 86/21/25 (09) Pt.8

— The Legislative Council Brief

LC Paper No. LS 77/08-09

— Legal Service Division Report)

3. The Committee deliberated (Index of proceedings attached at **Annex A**).

4. The Administration was requested to -
 - (a) consider replacing the word “may” in clause 43(1) with “shall” if it was the Administration’s intention to set up the expert group; and
 - (b) advise the proposed composition of the expert group.

5. Members agreed to hold further meetings on 8 and 27 October 2009. Members also agreed that deputations would be invited to express their views on the Bill at the meeting on 8 October 2009.

III. Any other business

6. There being no other business, the meeting ended at 12:05 pm.

Council Business Division 1
Legislative Council Secretariat
3 September 2009

**Bills Committee on
Genetically Modified Organisms (Control of Release) Bill**

**Proceedings of the meeting
on Monday, 13 July 2009, at 10:45 am
in Conference Room B of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
<i>Agenda Item I - Confirmation of minutes</i>			
000001 - 000025	Chairman	Members noted the withdrawal of Dr Priscilla LEUNG from the membership of the Bills Committee The minutes of the meeting held on 19 June 2009 were confirmed (LC Paper No. CB(1) 2069/08-09)	
<i>Agenda Item II - Meeting with the Administration</i>			
000026 - 001523	Chairman Administration	Power-point presentation on the Genetically Modified Organisms (Control of Release) Bill (the Bill) (LC Paper No. CB(1) 2266/08-09(01))	
001524 - 002320	Dr LEUNG Ka-lau Administration	Dr LEUNG Ka-lau's enquiries - (a) the impact of the proposed control of genetically modified organisms (GMOs) on Hong Kong; and (b) the need for legislative control and the associated penalties given the limited scale of farming in Hong Kong Administration's response - (a) the extension of control of GMOs under the Cartagena Protocol on Biosafety (the Protocol) to Hong Kong would not have much impact as there were not many genetically modified (GM) crops grown in Hong Kong, except for some GM papayas originating from Hawaii which were grown in Hong Kong; (b) the proposed extension would demonstrate Hong Kong's commitment in cooperation with the international community to protect the natural environment. Moreover,	

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		<p>as an international city, Hong Kong was expected to share international obligations relating to the protection and sustainable use of biological diversity; and</p> <p>(c) the control on GMOs aimed at protecting the biodiversity in Hong Kong. Hence, there was a need to introduce measures to regulate, manage and control the risks associated with the use and release of GMOs into the environment by way of legislation</p>	
002321 - 002755	Mr CHAN Hak-kan Administration	<p>Mr CHAN Hak-kan's enquiries -</p> <p>(a) whether the United States and European countries were Parties to the Convention and Protocol; and</p> <p>(b) the control and enforcement mechanisms given that seeds of GMOs could be easily brought back and grown in Hong Kong</p> <p>Administration's response -</p> <p>(a) while most of the European countries were Parties to the Convention and Protocol, the United States had yet to ratify as a Party;</p> <p>(b) the purpose of the Bill was to control trans-boundary movement of GMOs for intentional introduction into the environment. Unintentional release of GMOs into the environment would not be caught under the Bill; and</p> <p>(c) the Director of Agriculture, Fisheries and Conservation (DAFC) was empowered under the Bill to remove GMOs which would pose risk to biological diversity</p>	
002756 - 003940	Mr KAM Nai-wai Administration Chairman	<p>Mr KAM Nai-wai's enquiry on the coverage of the Bill</p> <p>Administration's explanation -</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>(a) through genetic modification, GMOs could attain certain properties, such as resistance to insecticides or a longer flowering period. Cross-fertilization of these GMOs with their counterparts in the natural environment (e.g., by way of insect pollination) might change the genetic composition of the natural breed and adversely affect biodiversity;</p> <p>(b) the extension of the Convention and the Protocol to Hong Kong aimed at protecting the biological diversity. GM food and its safety were outside the scope of the Protocol and hence the Bill; and</p> <p>(c) the main objective of the Bill was to regulate the release of GMOs into the environment and not "contained use". The latter mainly referred to the use of GMOs by researchers in laboratories, under which approval from DAFC was not required. The same would apply to import of GMOs for "contained use"</p>	
003941 - 005518	Mr WONG Ting-kwong Chairman Administration	<p>Mr WONG Ting-kwong's concerns -</p> <p>(a) risks associated with the inadvertent release of GMOs into the environment during transit or transshipment;</p> <p>(b) penalties for contravention of the provisions in the Bill;</p> <p>(c) need for clarity in respect of the enforcement provisions; and</p> <p>(d) impact of the legislative control on the affected trades</p> <p>Administration's explanation -</p> <p>(a) the legislative control did not apply to GMOs in transit or transshipment;</p> <p>(b) section 7(2) of the Bill provided that "a person must not knowingly import a GMO that is intended for release</p>	

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		<p>into the environment unless...". Hence, a GMO which was in transit or transshipment but unintentionally released into the environment would not be caught under the Bill;</p> <p>(c) the provisions in the Bill were in line with the requirements of the Protocol, which applied across the board to the 156 Parties;</p> <p>(d) many Hong Kong's trading partners were also Parties to the Protocol and hence these traders already had to comply with the relevant laws in exporting GMOs to these places now. Although the United States was a not a Party, it still had to comply with the obligations when trading with other Parties to the Protocol; and</p> <p>(e) assistance and guidance would be provided to the affected trades to facilitate compliance with the Bill</p>	
005519 - 010310	Dr LEUNG Ka-lau Chairman Administration	<p>Dr LEUNG Ka-lau's queries -</p> <p>(a) clause 4 provided that the Bill applied to the Government but neither the Government nor any public officer would be liable for prosecution for an offence under the Bill; and</p> <p>(b) measures to guard against non-compliance by the Government</p> <p>Administration's explanation -</p> <p>(a) the drafting of clause 4 was in line with similar provisions in existing Ordinances;</p> <p>(b) there were other Ordinances governing the way in which public officers should discharge their duties; and</p> <p>(c) The Government would comply with the provisions in the Bill</p>	

Time marker	Speaker	Subject(s)	Action required
010311 - 010830	Chairman Administration	<p>Chairman's enquiry on the risk to human health brought about by the release of GMOs to the environment, given that the proposed control would not apply to GMOs intended for direct use as food or feed</p> <p>Administration's explanation that under the scope of the Protocol, the risk to human health referred to the indirect risk posed by GMOs to human health. For example, some GMOs might contain terminator genes which would indirectly affect human health</p>	
010831 - 012030	Dr LEUNG Ka-lau Chairman Administration	<p>Dr LEUNG Ka-lau's enquiries -</p> <p>(a) whether it would be more appropriate to replace the word "may" in clause 43(1) with "shall" if it was the Administration's intention to set up the expert group; and</p> <p>(b) whether public officers would be appointed as members of the expert group</p> <p>Administration's explanation -</p> <p>(a) given the varied nature of GMOs, the expert group would comprise academics, biotechnology researchers, green groups and members of affected trades etc; and</p> <p>(b) advice from the expert group would be sought in assessing applications for approval of GMOs for release into the environment</p>	<p>The Administration to -</p> <p>(a) consider replacing the word "may" in clause 43(1) with "shall" if it was its intention to set up the expert group; and</p> <p>(b) advise the proposed composition of the expert group</p>
012031 - 012654	Chairman Dr LEUNG Ka-lau Mr WONG Ting-kwong Administration	<p>Discussion on the dates of future meetings, and need to invite deputations</p> <p>The next two meetings would be held as follows -</p> <p>Thursday, 8 October 2009, at 8:30 am Tuesday, 27 October 2009, at 2:30 pm</p> <p>Deputations would be invited to attend the meeting on 8 October 2009</p>	