

立法會
Legislative Council

LC Paper No. CB(1) 1304/09-10
(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 tenth meeting
held on Thursday, 14 January 2010, at 8:30 am
in Conference Room A 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 Cyd HO Sau-lan
Hon Tanya CHAN

Members absent : Dr Hon Margaret NG
Hon CHAN Hak-kan
Dr Hon LEUNG Ka-lau

**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

I. Confirmation of minutes

(LC Paper No. CB(1) 863/09-10 — Minutes of the meeting held on
21 December 2009)

The minutes of the meeting held on 21 December 2009 were confirmed.

II. Meeting with the Administration

(LC Paper No. CB(1) 875/09-10(01) — List of follow-up actions arising
from the discussion at the
meeting on 6 January 2010

LC Paper No. CB(1) 875/09-10(02) — Administration's response to
CB(1) 875/09-10(01)

LC Paper No. CB(1) 875/09-10(03) — Marked-up copy of the
consequential amendment to the
Bill (Restricted to Members))

Relevant papers

(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

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)

LC Paper No. CB(1) 2646/08-09(09)	— Assistant Legal Adviser's letter dated 31 July 2009 to the Administration
LC Paper No. CB(1) 2646/08-09(10)	— Administration's response to CB(1) 2646/08-09(09)
LC Paper No. CB(1) 816/09-10(03)	— Assistant Legal Adviser's letter dated 22 December 2009 to the Administration
LC Paper No. CB(1) 816/09-10(04)	— Administration's response to CB(1) 816/09-10(03))

2. The Bills Committee deliberated (Index of proceedings attached in **Annex**).
3. The Administration was requested to -
 - (a) set out the general factors which the Secretary for the Environment (SEN) would take into account in granting exemptions under clause 42;
 - (b) advise the ordinances with express provisions on claims for compensation in the event of unsuccessful prosecution. To also consider grouping proposed sub-clauses 37(4) to 37(6) to form a new clause to provide for claims for compensation under specified circumstances;
 - (c) consider whether there was a need to empower the Director to attach conditions on how a released genetically modified organism (GMO) should be maintained during the transitional period under proposed clause 50(3);
 - (d) review the Chinese rendition of the phrase “任何一名” under clause 51(c) if it was the policy intent to specify the rank of official who had made the decision;
 - (e) illustrate how the required information under Schedules 1 to 6 should be filled out in the specified form (using papaya as an example);
 - (f) include in the speech to be delivered by SEN at the Resumption of Second Reading debate on the Bill that the research done so far by the Administration had identified papaya as the only GMO grown in Hong Kong. To also include in the speech the types of GMOs, including papaya, being considered for exemption; and
 - (g) provide a full set of draft Committee Stage amendments (marked-up version).
4. Members agreed to continue discussion on the Bill at the next meeting scheduled for 21 January 2010 at 10:45 am.

III. Any other business

5. There being no other business, the meeting ended at 10:30 am.

Council Business Division 1
Legislative Council Secretariat
3 March 2010

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

**Proceedings of the tenth meeting
on Thursday, 14 January 2010 at 8:30 am
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
<i>Agenda Item I - Confirmation of minutes</i>			
000356 - 000431	Chairman	The minutes of the meeting held on 6 January 2010 were confirmed (LC Paper No. CB(1) 863/09-10).	
<i>Agenda Item II - Meeting with the Administration</i>			
000432 - 001350	Chairman Administration	<p>Administration's explanation on its response (LC Paper No. CB(1) 875/09-10(02)) to the list of follow-up actions arising from the discussion at the meeting on 6 January 2010.</p> <p>Discussion on the rationale for empowering Secretary for the Environment (SEN) to grant exemptions under clause 42</p> <p>Chairman's request for setting out the general factors which SEN would take into account in granting exemptions under clause 42.</p>	The Administration to set out the general factors which SEN would take into account in granting exemptions under clause 42.
001351 - 003459	Chairman Administration Mr WONG Ting-kwong	<p>Discussion on proposed amendments to clauses 34, 37, 46, and 50 as set out in annexure A to D to LC Paper No. CB(1) 875/09-10(02).</p> <p>Amendment to clause 37 - Return of things seized, compensation for seizure etc if no prosecution for offences.</p> <p>Chairman's concerns about the lack of provisions for claims for compensation in respect of forfeited things if prosecution was brought.</p> <p>Mr WONG Ting-kwong's enquiry on whether there were general provisions on claims for compensation in respect of forfeited things in the event of unsuccessful prosecution.</p>	The Administration to advise the ordinances with express provisions on claims for compensation in the event of unsuccessful prosecution. To also consider grouping proposed sub-clauses 37(4) to 37(6) to form a new clause to provide for claims for compensation under specified circumstances.

Time marker	Speaker	Subject(s)	Action required
		<p>Administration's explanation -</p> <p>(a) no claims for compensation should be provided where prosecution was brought;</p> <p>(b) if a person was convicted of an offence under sections 5, 7 or 23, the seized genetically modified organism (GMO) should be forfeited and disposed of properly to prevent contamination of the natural environment;</p> <p>(c) a person whose things were seized during an operation could claim compensation by instigating civil proceedings against the Government; and</p> <p>(d) while there were no general provisions for claiming compensation in respect of things forfeited in the event of unsuccessful prosecutions, certain ordinances had express provisions which allowed claims for compensation under specified circumstances.</p>	
003500 - 003646	Chairman Administration	Amendments to clause 46 - Secretary's power to make regulations	
003647 - 005629	Chairman Administration Mr WONG Ting-kwong Ms Cyd HO	<p>Amendments to clause 50 - Notification of or application for approval of released GMOs during the transitional period</p> <p>Chairman's concern about the need to empower the Director to attach conditions on how a released GMO should be maintained during the transitional period to prevent further contamination of the natural environment.</p>	The Administration to consider whether there was a need to empower the Director to attach conditions on how a released GMO should be maintained during the transitional period under proposed clause 50(3).
005630 - 010553	Chairman Administration Mr WONG Ting-kwong Ms Cyd HO	<p>Continuation of clause-by-clause examination of the Bill</p> <p>Part 9 Consequential amendment</p> <p>Administrative Appeals Board</p> <p>Clause 51- Schedule amended</p>	The Administration to review the Chinese rendition of the phrase “任何一名” under clause 51(c) if it was the policy intent to specify the rank of official who

Time marker	Speaker	Subject(s)	Action required
		<p>Mr WONG Ting-kwong's query about the need for the Chinese rendition of the phrase “任何一名” under clause 51(c) if it was the policy intent to specify the rank of official who had made the decision.</p> <p>Administration's explanation that the phrase “任何一名” was used to reflect the word “an ” in front of “ Assistant Directors of Agriculture, Fisheries and Conservation” , and that there were five Assistant Directors of Agriculture, Fisheries and Conservation.</p>	<p>had made the decision.</p>
010554 - 011243	<p>Chairman Administration Ms Cyd HO Mr WONG Ting-kwong</p>	<p>Schedule 1 - Information to be contained in written notices on release on GMOs</p> <p>Ms Cyd HO's concern that the farming communities might have difficulties in providing the requisite information.</p> <p>Mr WONG Ting-kwong's suggestion of requiring the submission of a photo of the GMO concerned in the application</p> <p>Administration's explanation -</p> <p>(a) assistance would be provided to applicants in the filing of applications as and when necessary; and</p> <p>(b) while there might not be any physical difference between GMO and non-GMO, a photo of which could be attached to the application form for reference.</p>	<p>The Administration to illustrate how the required information under Schedules 1 to 6 should be filled out in the specified form (using papaya as an example).</p>
011244 - 013412	<p>Chairman Administration Mr WONG Ting-kwong Ms Cyd HO</p>	<p>Schedule 2 - Information to be contained as GMO approval applications</p> <p>Schedule 3 - Requirements on risk assessment on possible adverse biosafety effects of GMOs</p> <p>Schedule 4 - Information to be contained in export notification</p>	<p>The Administration to illustrate how the required information under Schedules 1 to 6 should be filled out in the specified form (using papaya as an example).</p>

Time marker	Speaker	Subject(s)	Action required
013413 - 015652	Chairman Administration Ms Cyd HO Mr WONG Ting-kwong	<p>Schedule 5 - Prescribed fees</p> <p>Members' concerns about the high prescribed fee payable on a GMO approval application.</p> <p>Administration's explanation that the prescribed fee was only applicable in respect of approval applications for new GMOs. If a species of GMO had been approved, no further approval was required for growing another GMO of the same species. So far, papayas were identified as the only GMO grown in Hong Kong, consideration would be given to exempting GM papayas from the Bill on account of its insignificant effect on the biodiversity of Hong Kong.</p> <p>Ms Cyd HO's view that it might be necessary to set out in the Bill a list of exempted GMOs.</p> <p>Administration's response that the advice of the expert group would be sought in granting exemptions, which would be in the form of subsidiary legislation subject to the negative vetting procedure.</p>	<p>The Administration to include in the speech to be delivered by SEN at the Resumption of Second Reading debate on the Bill that the research done so far by the Administration had identified papaya as the only GMO grown in Hong Kong. To also include in the speech the types of GMOs, including papaya, being considered for exemption.</p>
015653 - 020019	Chairman Administration Mr WONG Ting-kwong ALA5	Schedule 6 - Information to be contained in written notices on release or maintenance of released GMOs	The Administration to provide a full set of draft Committee Stage amendments (marked-up version).
020020 - 020035	Chairman	Date of next meeting	