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22 September 2009

Miss Becky Yu
Chief Council Secretary (1)1
Legislative Council Secretariat
Council Business Division 1
3rd Floor, Citibank Tower
3 Garden Road, Hong Kong

By Email & Fax (2869 6794)

Dear Miss Yu,

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

Thank you for your letter of 14 July 2009. Our reply to the list of follow-up actions set out in Appendix I of your letter raised is at Annex please. Thank you.

Yours sincerely,



(Miss Vivien LI)

for Director of Environmental Protection

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

**List of follow-up actions arising from the discussion
at the meeting on 13 July 2009**

This paper provides the information as requested in Appendix I to the letter dated 14 July 2009 from the Bills Committee -

- (1) To consider replacing the word “may” in clause 43(1) with “shall” if it is the Administration’s intention to set up the expert group.
- (2) To advise the proposed composition of the expert group.

Introduction

2. GMO belongs to a comparatively new area of biotechnology, and in the light of this, we consider that the Director of Agriculture, Fisheries and Conservation (the Director) needs the benefit of expert advice in administering matters provided in the Genetically Modified Organisms (Control of Release) Bill (the Bill), in particular when the in-house experts may not be able to advise on all aspects of the GMO technology.

3. Clause 43 of the Bill provides that –

- (1) The Secretary for the Environment may establish an expert group consisting of members appointed by the Secretary.
- (2) The Director may refer any question in connection with the administration of this Ordinance, including the processing of individual GMO approval applications, variation requests and non-disclosure requests, to the expert group, or individual members of the group, for advice.

Proposed Function and Operation of the Expert Group

4. In gist, the expert group shall perform an advisory role, and the Director may refer any question in connection with the administration of the Genetically Modified Organisms (Control of Release) Ordinance (the Ordinance) (when enacted) to it. Such questions may relate to the validity and adequacy of the risk assessment, the acceptability or manageability of the potential risks of the GMO on local biodiversity and the appropriate conditions to be included in approval application of GMO intended for release into the environment etc.

5. Having regard to the foregoing, the meeting of the expert group should be held on a need basis. Individual members of the group, on the basis of their different areas of expertise, would be invited by AFCD to meet and provide advice upon the Director's receipt of a GMO approval application if needed. Also, the Director may at any time refer any question in connection with the administration of the Ordinance to the expert group or individual members of the group for advice.

Proposed Composition of the expert group

6. The expert group will comprise official and non-official members. Apart from representatives from the Agriculture, Fisheries and Conservation Department (AFCD), official representatives from the following departments will also be invited and they would attend the expert group meeting on a need basis –

- (a) Environmental Protection Department
- (b) Department of Health

7. To ensure that the Director will be able to benefit from relevant expert advice when different areas of GMOs issues emerge, the expert group should comprise a pool of experts from the following sectors –

- (a) Academics;
- (b) Green Groups;
- (c) Organic Farming;
- (d) Biotechnology; and
- (e) Relevant traders (e.g. seed traders)

Replacing the word “may” in clause 43(1) with “shall”

8. The Administration is agreeable to replacing the word “may” with “must”, as it is our intention to set up the expert group as explained above, and the wording would also clarify the Administration’s intention. The word “must” is used in place of “shall” (as originally suggested by the Bills Committee) to follow the new drafting practice of using “must” for imposing obligations in legislation. We propose that this be included as a Committee stage amendment.

9. Members are requested to note the contents of this paper.

**Environmental Protection Department
Agriculture, Fisheries and Conservation Department
September 2009**