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**Subcommittee on Genetically Modified Organisms
(Documentation for Import and Export) Regulation**

Background brief prepared for the meeting on 26 October 2010

Purpose

This paper gives a summary of discussions by the Panel on Environmental Affairs (the Panel) and the Bills Committee on Genetically Modified Organisms (Control of Release) Bill (the Bills Committee) on the proposed extension of the Cartagena Protocol on Biosafety (the Protocol) under the Convention on Biological Diversity (the Convention) to Hong Kong.

Introduction

2. Genetically modified organism (GMO) refers to any living organism that possesses a novel combination of genetic material obtained through the use of modern biotechnology. The Protocol under the Convention was adopted in 2000 to provide for the safe transfer, handling and use of GMOs that may have adverse effects on the conservation and sustainable use of biological diversity, taking into account risks to human health. There are currently over 190 Parties to the Convention, including China, but the Convention has yet to be extended to Hong Kong. According to the Convention, a party may not participate in a protocol unless it is, or becomes at the same time, a party to the Convention. Hence, the Protocol cannot be extended to Hong Kong unless the Convention is applicable to Hong Kong.

3. According to Article 153 of the Basic Law, the application of international agreements, to which the People's Republic of China is or becomes a party, to the Hong Kong Special Administrative Region (HKSAR) shall be decided by the Central People's Government (CPG) in accordance with the circumstances and needs of HKSAR, and after seeking the views of the HKSAR Government. The Convention and the Protocol are important international agreements on protection of biological diversity and global sustainable development. Their extension to Hong Kong can reinforce Hong Kong's commitment in cooperating with the international community to protect the natural environment. Moreover, as an international city, Hong Kong is expected to share similar international obligations relating to the protection and sustainable use of biological diversity. It also needs to follow the Protocol's requirements where its trading partners have joined the Protocol. Hence, the

Administration has obtained the agreement-in-principle of CPG to extend the application of both the Convention and the Protocol to Hong Kong, subject to the passage of the proposed legislation.

4. The Genetically Modified Organisms (Control of Release) Ordinance (the Ordinance) was enacted in March 2010 to give effect to the Protocol to the Convention to ensure the safe transfer, handling, storage and use of GMOs. The Ordinance has yet to come into operation pending the agreement of CPG to initiate the required procedures to extend the Convention and the Protocol to Hong Kong.

The Regulation

5. Section 26(1) of the Ordinance provides that GMOs that are intended for direct consumption as food or feed or for processing (FFP), contained use, and release into the environment must be accompanied by prescribed documents when being imported into or exported from Hong Kong. The Regulation seeks to provide for the detailed documentation requirements in relation to GMOs intended to be used for the described purposes. The Regulation also provides the prescribed percentage of unintentional mixing of GMO-FFP to be 5%.

Major issues raised by the Panel and the Bills Committee

6. The proposed extension of the Convention and the Protocol was discussed at the meeting of the Panel on Environmental Affairs on 30 March 2009. The Panel generally supported more control on the release of GMOs into the environment. Panel members had raised questions on whether parties to be affected by the proposed extension had been consulted, and whether the Administration had conducted studies on the growing and breeding of GMOs in local vegetable and fish farms.

7. In the course of deliberation of the Bills Committee, members had examined the need for a threshold on adventitious presence of GMOs in the light of the seed trade's concern about possible contamination of traditional seeds for growing with GM seeds through unintentional mixing (such as cross-pollination of GM crops with non-GM crops, seed spillages during harvesting and grain residues left in a harvester etc.). According to the Administration, a zero tolerance of adventitious presence of GMOs was recommended for seeds intended to be released to the environment. This was because if seeds had GMOs mixed with them and were released into the environment, they might have potential adverse impacts on the local biodiversity. However, the adventitious threshold for non-GMO-FFP would be set at 5% taking into account overseas experience, and the fact most non-GMO-FFP are not grown in Hong Kong. Notwithstanding, the Administration would keep in view the latest development in the international arena to ensure that the relevant requirements were in line with those of the Protocol and standards recommended by the International Seed Federation.

Relevant papers

Information paper provided by the Administration for the EA Panel meeting on 30 March 2009

<http://www.legco.gov.hk/yr08-09/english/panels/ea/papers/ea0330cb1-1123-4-e.pdf>

Minutes of the EA Panel meeting on 30 March 2009

<http://www.legco.gov.hk/yr08-09/english/panels/ea/minutes/ea20090330.pdf>

Report of the Bills Committee on Genetically Modified Organisms (Control of Release) Bill to the Council meeting on 10 March 2010

<http://www.legco.gov.hk/yr08-09/english/bc/bc06/reports/bc060310cb1-1242-e.pdf>

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