

**Administration's Response to Public Views Received
by the Legislative Council
on
Genetically Modified Organisms
(Documentation for Import and Export) Regulation**

Views were received from organisations, including Produce Green Foundation, CropLife Asia, CropLife International, Biotechnology Industry Organization and Safety Office of the University of Hong Kong, on the Genetically Modified Organisms (Documentation for Import and Export) Regulation (the Regulation). In general, they welcomed and supported the legislation. They also expressed concerns on several issues which are addressed in the following paragraphs.

Scope of the Legislation

2. There was concern over the application of the legislation on genetically modified organisms (GMOs) intended for contained use and recombinant DNA.

3. The Genetically Modified Organisms (Control of Release) Ordinance (the Ordinance) and the Regulation seek to give effect to the Cartagena Protocol on Biosafety (the Protocol) and thus closely follow the requirements laid down by the Protocol. The restrictions on import of GMOs are applicable for those intended for release, which require prior approval from the Director of Agriculture, Fisheries and Conservation (the Director). Prior approval for importation of GMOs intended for contained use is not required under the Ordinance. On the other hand, according to Article 18.2(c) of the Protocol, GMOs intended for contained use, when being imported or exported, have to be accompanied by prescribed documents to provide information on the GMOs and contact details of related parties. Same requirements are adopted by other Parties to the Protocol, including the European Union, Japan and the Mainland.

4. Naked DNA, including recombinant DNA, is incapable of transferring or replicating genetic materials and thus is not regarded as GMOs to be regulated by the Ordinance.

Risk Class

5. There was concern that the risk class of a GMO varies depending on where the GMO is imported from.

6. The requirement for information on the risk class of a GMO is laid down in the decisions made by Conference of the Parties to the Convention on Biological Diversity Serving as the Meeting of the Parties to the Cartagena Protocol on Biosafety (MOP). The risk class to which a GMO is assigned in the exporting country should be provided, if available, in the required documentation for the Administration to assess its potential adverse effects on biodiversity.

Regulation on GMOs after their Import

7. There was concern that there is no regulation on GMOs after their import.

8. Section 5 of the Ordinance imposes restrictions on the release of GMOs into the environment. For GMOs intended for contained use, the person who has control of the GMOs should handle them with effective measures to prevent them from escaping into the environment. Otherwise, the person would contravene the restriction on release and would be liable to a maximum penalty of a fine of HK\$100,000 and imprisonment for one year. Section 6 of the Ordinance provides that certain releases of GMOs must be notified to the Director. If a person who has control of GMOs intended for contained use knows that the GMOs have been released, the person must, as soon as

practicable, inform the Director of the release. A person who contravenes the requirement would be liable to a maximum penalty of a fine of HK\$50,000 and imprisonment for 6 months.

Unintentional Release

9. There was concern over the possible prosecution on people who unknowingly release GMOs into the environment by propagating fruits or vegetables obtained from the food markets.

10. The Administration will step up the publicity to educate the public about the new legislation and GMOs. Pamphlets to introduce the new legislation will be distributed to stakeholders. A list of commercialised GMOs and other information about GMOs have been uploaded to AFCD's website for public access and are subject to continuous update.

11. Section 5 of the Ordinance provides that a person commits an offence if the person knowingly causes GMOs to be released into the environment. A person who unknowingly causes the release will not be liable.

Adventitious Threshold for GMOs to be Accompanied by the Prescribed Documents

12. While the proposed 5% level for adventitious presence of GMOs intended for direct consumption as food or feed or for processing was supported, it was suggested that a low tolerance level should also be set for GMOs intended for release into the environment.

13. Currently, no adventitious presence of GMOs in non-GMOs intended for release into the environment is allowed in the Ordinance. This is because unapproved GMOs may have potential adverse impacts on the local biodiversity

if they are released into the environment. As such, the Administration considers it not appropriate to prescribe any tolerance level for the documentation requirement of GMOs intended for release into the environment. The zero tolerance level is also adopted by some Parties to the Protocol, such as the Mainland, the European Union and South Korea.

Environmental Protection Department

Agriculture, Fisheries and Conservation Department

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