

立法會
Legislative Council

LC Paper No. CB(1) 2335/11-12
(These minutes have been seen
by the Administration)

Ref : CB1/SS/12/11/1

**Subcommittee on Genetically Modified Organisms
(Control of Release) (Exemption) Notice**

**Minutes of third meeting
held on Wednesday, 6 June 2012, at 8:30 am
in Conference Room 2B of the Legislative Council Complex**

Members present : Hon WONG Ting-kwong, BBS, JP (Chairman)
Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP
Hon WONG Yung-kan, SBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon CHAN Kin-por, JP

Members Absent : Hon CHIM Pui-chung
Hon KAM Nai-wai, MH
Hon Cyd HO Sau-lan

Public officers attending : **For item II**
Environmental Protection Department

Mr Albert LAM
Deputy Director of Environmental Protection (2)

Mr Elvis AU
Assistant Director (Nature Conservation &
Infrastructure Planning)

Agriculture, Fisheries and Conservation Department

Dr LEUNG Siu-fai
Deputy Director of Agriculture, Fisheries and
Conservation

Mr CHAN Yiu-keung
Acting Assistant Director (Conservation)

Mr Simon CHAN
Senior Conservation Officer (Biodiversity)

Department of Justice

Ms Monica LAW
Senior Assistant Law Draftsman

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

Staff in attendance : Miss Winnie LO
Assistant Legal Adviser 7

Miss Jacqueline CHUNG
Council Secretary (1)1

I. Confirmation of minutes

(LC Paper No. CB(1) 2072/11-12 — Minutes of the meeting held on 15 May 2012)

The minutes of the meeting held on 15 May 2012 were confirmed.

II. Meeting with the Administration

(LC Paper No. CB(1) 1999/11-12(13) — List of follow-up actions (*issued for the meeting on 29 May 2012*) arising from the discussion at the meeting on 15 May 2012

LC Paper No. CB(1) 2017/11-12(04) — Administration's response to (*issued for the meeting on 29 May 2012*) CB(1) 1999/11-12(13)

LC Paper No. CB(1) 2096/11-12(01) — List of follow-up actions arising from the discussion at the meeting on 29 May 2012

LC Paper No. CB(1) 2096/11-12(02) — Administration's response to CB(1) 2096/11-12(01)

LC Paper No. CB(1) 2096/11-12(03) — Submission from The Organic Farm (Chinese version only))

Background information on the Exemption Notice

Genetically Modified Organisms (Control of Release) (Exemption) Notice (L.N. 69)

Ref: EP CR 9/150/26 — The Legislative Council Brief
(issued by the Environmental Protection Department and Agriculture, Fisheries and Conservation Department on 25 April 2012)

LC Paper No. LS56/11-12 — Legal Service Division Report
(issued on 3 May 2012)

2. The Subcommittee deliberated (Index of Proceedings attached in **Annex**).

3. The Chairman said that as he was not able to move a motion to extend the period for amendment of the Exemption Notice in accordance with section 34(4) of the Interpretation and General Clauses Ordinance (Cap. 1) at the Council meetings that commenced on 23 and 30 May 2012, the Exemption Notice would come into operation on 23 June 2012 as stated in the Notice. Given the situation, this was the last meeting of the Subcommittee. A report on the deliberation of the Subcommittee would be submitted to the House Committee in due course.

4. While acknowledging that neither the Subcommittee nor members could amend the Exemption Notice, Ms Audrey EU urged the Administration to keep the exemption for genetically modified papaya under review having regard to the many concerns on the exemption raised by deputations at the Subcommittee meeting on 29 May 2012. In this connection, Ms EU proposed and members agreed to refer the subject on "Exemption under the Genetically Modified Organisms (Control of Release) Ordinance (Cap. 607)" to the Panel on Environmental Affairs for necessary follow up.

III. Any other business

5. There being no other business, the meeting ended at 9:05 am.

**Subcommittee on Genetically Modified Organisms
(Control of Release) (Exemption) Notice**

**Proceedings of the third meeting
on Wednesday, 6 June 2012, at 8:30 am
in Conference Room 2B of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
<i>Agenda Item I - Confirmation of minutes</i>			
000635 - 000705	Chairman	Members' attention was drawn to the request from Mr CHAN Hak-kan to withdraw his membership from the Subcommittee.	
000706 - 000719	Chairman	The minutes of the meeting held on 15 May 2012 (LC Paper No. CB(1) 2072/11-12) were confirmed.	
<i>Agenda Item II - Meeting with the Administration</i>			
000720 - 001104	Chairman Administration	<p>Chairman's remark and enquiry -</p> <p>(a) as he was not able to move a motion to extend the period for amendment of the Exemption Notice at the Council meetings that commenced on 23 and 30 May 2012, the Exemption Notice would come into operation on 23 June 2012 as stated in the Notice; and</p> <p>(b) whether the Administration would consider introducing a separate piece of subsidiary legislation to repeal the Exemption Notice having regard to the many concerns about exemption for genetically modified (GM) papaya raised by deputations at the Subcommittee meeting on 29 May 2012.</p> <p>Administration's response -</p> <p>(a) it had no intention to repeal the Exemption Notice which was introduced taking into account views of the Bills Committee set up to study the Genetically Modified Organisms (Control of Release) Bill and the Panel on Environmental Affairs (the Panel);</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>(b) the exemption of GM papaya from the application of section 5 of the Genetically Modified Organisms (Control of Release) Ordinance (Cap. 607) (the Ordinance) aimed to ensure that any member of the public who wanted to grow or maintain GM would not be subject to threats of enforcement;</p> <p>(c) the exemption of only two commercialized varieties of GM papaya from the application of section 7 of the Ordinance was to address the concerns of some local organic farmers such that approval from the Agriculture, Fisheries and Conservation Department (AFCD) had to be obtained for importing any unexempted varieties of GM papayas; and</p> <p>(d) details of the Administration's response to written submissions from deputations and the consequences if the Exemption Notice was repealed were set out in LC Paper No. CB(1) 2096/11-12(02).</p>	
001105 - 002120	Mr WONG Yung-kan Chairman Administration	<p>Mr WONG Yung-kan's views -</p> <p>(a) local farmers growing GM papayas would be subject to threats of enforcement if the Exemption Notice was repealed;</p> <p>(b) more efforts, including financial assistance, should be made to promote non-GM and organic papayas. Consideration should be given to progressively replacing existing GM papayas with non-GM ones with a view to phasing out all GM papayas in the long term;</p> <p>(c) a review of the exemption for GM papaya should be carried out in three years' time to ascertain the continued need for the exemption if all local GM papayas had been phased out by that time; and</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>(d) consideration should be given to imposing a labelling requirement on GM papayas to enhance consumer protection.</p> <p>Administration's response -</p> <p>(a) the exemption of GM papaya from application of section 5 of the Ordinance aimed to address the concerns of local farmers who wished to continue to grow GM papayas for a living. If no exemption was given, anyone who intended to grow GM papaya would need to obtain prior approval from AFCD. Following the passage of the Exemption Notice, the public could continue to grow GM papayas without worrying about being caught under the Ordinance;</p> <p>(b) it was an established policy to encourage diversified cultivation (including GM, non-GM and organic crops) in Hong Kong. AFCD had been providing knowledge, technical support and low-interest loans to assist local farmers to shift towards organic farming practices under Organic Farming Support Service (OFSS);</p> <p>(c) apart from OFSS, funding from the Sustainable Development Fund or Environment and Conservation Fund was also available for application from participants of the voluntary one-for-one papaya exchange programme undertaken by some environmental groups and organic farmers; and</p> <p>(d) would continue to monitor the latest progress and development of GM papayas. A review of the exemption for GM papayas would be conducted in three year's time, the outcome of which would be reported to the Expert Group.</p>	

Time marker	Speaker	Subject(s)	Action required
002121 - 002702	Mr CHAN Kin-por Chairman Administration	<p>Mr CHAN Kin-por's views -</p> <p>(a) the Administration should address deputations' concerns about blanket exemption for GM papaya, high cost of DNA test for GM papayas, potential biosafety risk of GM papaya to the local biological diversity, and contamination of organic and non-GM papaya by GM papaya in Hawaii; and</p> <p>(b) the way forward on other GM crops.</p> <p>Administration's explanation -</p> <p>(a) its response to all written submissions from deputations was set out in LC Paper No. CB(1) 2096/11-12(02);</p> <p>(b) given the prevalence of GM papaya growing in the local environment, AFCD had conducted a risk assessment on GM papaya which concluded that the potential biosafety risk of GM papaya to the local biological diversity was very low. As the continued planting of GM papaya would have no adverse effect on the local biological diversity, it was considered logical and sensible to exempt GM papaya from the application of section 5 of the Ordinance; and</p> <p>(c) there was no question of blanket exemption since prior approval from AFCD would need to be obtained for importing any unexempted varieties of GM papayas (including the variety approved for field planting in Taiwan) and other GM crops for planting in Hong Kong.</p>	
002703 - 002856	Mr WONG Yung-kan Chairman Administration	Mr WONG Yung-kan's reiteration on the need for a review in three years' time, and provision of assistance by the Administration to expedite the one-for-one papaya exchange programme and promote non-GM and organic papayas for brand building.	

Time marker	Speaker	Subject(s)	Action required
		Administration's pledge that a review of the exemption for GM papaya would be conducted in three year's time. However, promotion of organic farming fell outside the ambit of the Ordinance.	
002857 - 003107	Chairman	<p>The Chairman's remarks -</p> <ul style="list-style-type: none"> (a) under the Exemption Notice, planting of all varieties of GM papayas was exempted from the application of section 5 of the Ordinance, whereas the import of two commercialized varieties of GM papayas was exempted from the application of section 7 of the Ordinance. Selling of GM papayas fell outside the ambit of the Ordinance; (b) consideration should be given to progressively phasing out GM papayas through say the one-for-one papaya exchange programme; (c) a review of the exemption for GM papaya should be conducted in three years' time; and (d) the Subcommittee had to wrap up its work given that the Exemption Notice would come into operation on 23 June 2012 without amendment, and that the Administration was not prepared to introduce a separate piece of subsidiary legislation to repeal the Exemption Notice. 	
003108 - 003432	Ms Audrey EU Chairman	<p>Ms Audrey EU's views -</p> <ul style="list-style-type: none"> (a) the Administration should review the exemption for GM papaya; (b) efforts should be stepped up to support the one-for-one papaya exchange programme with a view to progressively phasing out all GM papayas grown in Hong Kong; and 	

Time marker	Speaker	Subject(s)	Action required
		<p>(c) should explore whether other legislative means were available to repeal the Exemption Notice having regard to the strong opposition from green groups and organic farmers on the exemption for GM papayas.</p> <p>Chairman's reiteration on the need for the Administration to assist local farmers to shift towards organic farming practices.</p>	
003433 - 003526	Mr WONG Yung-kan Chairman Ms Audrey EU	Members' agreement to refer the subject on "Exemption under the Genetically Modified Organisms (Control of Release) Ordinance (Cap. 607)" to the Panel on Environmental Affairs for necessary follow up.	

Council Business Division 1
Legislative Council Secretariat
9 July 2012