

本署檔案  
OUR REF : EP CR 9/150/26 Pt 3

來函檔案  
YOUR REF: LS/B/16/08-09

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**CB(1) 2224/08-09(03)**

9 July 2009

**By Email & Fax (2877 5029)**

Miss Kitty Cheng  
Assistant Legal Adviser  
Legislative Council Secretariat  
Legal Service Division  
Legislative Council Building  
8 Jackson Road  
Central, Hong Kong

Dear Miss Cheng,

**Genetically Modified Organisms (Control of Release) Bill**

Thank you for your letter of 2 July 2009. Our reply on the information requested in your letter is as follows –

- (a) identify (preferably in table form) the clauses of the Bill which seek to implement the particular provisions of the Cartagena Protocol on Biosafety to the Convention on Biological Diversity and/or the Convention on Biological Diversity done at Rio de Janeiro on 5 June 1992;

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Please see Annex A.

- (b) provide information (preferably in table form) on the applicability of the provisions of the various Hong Kong legislation relating to environmental protection to the Government (e.g. whether the compliance provisions apply to the Government, whether the Government and/or its officers are

subject to criminal sanction, etc)

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Please see Annex B.

2. If you need further assistance, please do not hesitate to let us know. Thank you.

Yours sincerely,



(Miss Vivien LI)

for Director of Environmental Protection

cc

AFCD (Attn : Mr KF Chan - 2314 2802)

DoJ (Attn : Ms Mabel CHEUNG - 2845 2215)

(Attn : Miss Elaine NG - 2869 1302)

**Corresponding Provisions of the  
Cartagena Protocol on Biosafety and the  
Genetically Modified Organisms (Control of Release) Bill**

《卡塔赫納生物安全議定書》和  
《基因改造生物(管制釋出)條例草案》的對應條款

<b>Provisions 條款</b>	<b>Cartagena Protocol on Biosafety 卡塔赫納生物安全 議定書</b>	<b>GMO (Control of Release) Bill 基因改造生物(管制 釋出)條例草案</b>
Objective 目標	Article 1 第 1 條	No direct provision in the Bill. 條例草案內並無直 接對應的條款
General Provisions 一般規定	Article 2 第 2 條	No direct provision in the Bill. 條例草案內並無直 接對應的條款
Use of Terms 用語	Article 3 第 3 條	Clause 2(1) 第 2(1) 條
Scope 範圍	Article 4 第 4 條	The Bill by and large seeks to implement the scope of the Protocol as specified in this Article. 條例草案旨在施行 此議定書條款所訂 的範圍
Pharmaceuticals 藥物	Article 5 第 5 條	Clauses 5(1), 6(1), 7(1) and 22 第 5(1), 6(1), 7(1)及 22 條
Transit and Contained Use	Article 6	Clauses 3(1), 7(1)

<b>Provisions</b> 條款	<b>Cartagena Protocol on Biosafety</b> 卡塔赫納生物安全議定書	<b>GMO (Control of Release) Bill</b> 基因改造生物(管制釋出)條例草案
過境和封閉使用	第 6 條	and 22 第 3(1), 7(1)及 22 條
Application of the Advance Informed Agreement Procedure 提前知情同意程式的適用	Article 7	Clauses 7 and 42 第 7 及 42 條
Notification 通知	Article 8 第 8 條	Clauses 7, 23, 24 and 41; Schedules 2 and 4 第 7, 23, 24 及 41 條; 附表 2 及 4
Acknowledgement of Receipt of Notification 對收到通知的確認	Article 9 第 9 條	Clause 9 第 9 條
Decision Procedure 決定程序	Article 10 第 10 條	Clause 10 第 10 條
Procedure for Genetically Modified Organisms Intended for Direct Use as Food or Feed, or for Processing 關於擬直接作食物或飼料或加工之用的基因改造生物的程序	Article 11 第 11 條	Not Applicable 不適用
Review of Decisions 對決定的覆審	Article 12 第 12 條	Clauses 11 and 12 第 11 及 12 條
Simplified Procedure 簡化程序	Article 13 第 13 條	Clauses 42 and 46
Bilateral, Regional and Multilateral Agreements and Arrangements 雙邊、區域及多邊協定和安排	Article 14 第 14 條	Not Applicable 不適用
Risk Assessment 風險評估	Article 15 第 15 條	Clause 8 and Schedule 3 第 8 條及附表 3
Risk Management 風險管理	Article 16 第 16 條	Clauses 5 and 7, Schedules 1, 2 and 3 第 5 條及 7 條, 附表

<b>Provisions</b> 條款	<b>Cartagena Protocol</b> <b>on Biosafety</b> 卡塔赫納生物安全 議定書	<b>GMO (Control of</b> <b>Release) Bill</b> 基因改造生物(管制 釋出)條例草案
		1、2 及 3
Unintentional Transboundary Movements and Emergency Measures 無意中造成的越境轉移和應急措施	Article 17 第 17 條	Not Applicable 不適用
Handling, Transport, Packaging and Identification 處理、運輸、包裝和標誌	Article 18 第 18 條	Clause 46 and Schedule 2 第 46 條及附表 2
Competent National Authorities and National Focal Points 國家主管部門和國家聯絡點	Article 19 第 19 條	Not Applicable 不適用
Information Sharing and the Biosafety Clearing-House 信息交流與生物安全資料交換所	Article 20 第 20 條	Not Applicable 不適用
Confidential Information 機密資料	Article 21 第 21 條	Clauses 14, 15, 16, 17, 26 and 39 第 14、15、16、17、 26 及 39 條
Capacity-Building 能力建設	Article 22 第 22 條	Not Applicable 不適用
Public Awareness and Participation 公眾意識和參與	Article 23(1) and (3) 第 23(1)及(3)條  Article 23(2) 第 23(2)條	Not Applicable 不適用  Clauses 25 and 26 第 25 及 26 條
Non-Parties 非締約方	Article 24 第 24 條	Not Applicable 不適用
Illegal Transboundary Movements 非法越境轉移	Article 25 第 25 條	Clauses 5, 6, 7, 23 and 38 第 5、6、7、23 及 38 條
Socio-Economic Considerations 社會-經濟因素	Article 26 第 26 條	No direct provision in the Bill

<b>Provisions</b> 條款	<b>Cartagena Protocol</b> <b>on Biosafety</b> 卡塔赫納生物安全 議定書	<b>GMO (Control of</b> <b>Release) Bill</b> 基因改造生物(管制 釋出)條例草案
		條例草案內並無直接對應的條款
Liability and Redress 賠償責任和補救	Article 27 第 27 條	Not Applicable 不適用
Financial Mechanism and Resources 財務機制和財政資源	Article 28 第 28 條	Not Applicable 不適用
Conference of the Parties Serving as the Meeting of the Parties to this Protocol 作為本議定書締約方會議的締約方 大會	Article 29 第 29 條	Not Applicable 不適用
Subsidiary Bodies 附屬機構	Article 30 第 30 條	Not Applicable 不適用
Secretariat 秘書處	Article 31 第 31 條	Not Applicable 不適用
Relationship with the Convention 與《公約》的關係	Article 32 第 32 條	Not Applicable 不適用
Monitoring and Reporting 監測與匯報	Article 33 第 33 條	Not Applicable 不適用
Compliance 遵守	Article 34 第 34 條	Not Applicable 不適用
Assessment and Review 評估和審查	Article 35 第 35 條	Not Applicable 不適用
Signature 簽署	Article 36 第 36 條	Not Applicable 不適用
Entry into Force 生效	Article 37 第 37 條	Not Applicable 不適用
Reservations 保留	Article 38 第 38 條	Not Applicable 不適用
Withdrawal 退出	Article 39 第 39 條	Not Applicable 不適用
Authentic Texts	Article 40	Not Applicable

<b>Provisions</b> <b>條款</b>	<b>Cartagena Protocol</b> <b>on Biosafety</b> <b>卡塔赫納生物安全</b> <b>議定書</b>	<b>GMO (Control of</b> <b>Release) Bill</b> <b>基因改造生物(管制</b> <b>釋出)條例草案</b>
作準文本	第 40 條	不適用
<b>Information Required in Notifications</b> <b>under Articles 8, 10 and 13</b> 根據第 8、第 10 和第 13 條發出通知 所需提供的資料	<b>Annex I</b> 附件一	<b>Schedules 2 and 4</b> 附表 2 及 4
<b>Information Required Concerning</b> <b>Living Modified Organisms Intended</b> <b>for Direct Use as Food or Feed, or for</b> <b>Processing under Article 11</b> 按照第 11 條需提供的關於擬直接作 食物或飼料或加工之用的改性活生 物體的資料	<b>Annex II</b> 附件二	<b>Not Applicable</b> 不適用
<b>Risk Assessment</b> <b>風險評估</b>	<b>Annex III</b> 附件三	<b>Schedule 3</b> 附表 3

*Applicability of the provision of the various Hong Kong legislation relating to environmental protection to the Government*  
就本港環保條例是否適用於特區政府的資料一覽表

	Ordinance 條例	Whether it applies to the Government 是否適用於特區政府	Whether the compliance provisions in the Ordinance apply to the Government 條例的規管範圍是否適用於特區政府	Whether the Government and/or its officers subject to criminal sanction stipulated in the Ordinance 特區政府或任何以公職身份行事的公職人員， 會否被控違反條例所訂明的罪行
1.	Air Pollution Control Ordinance (Cap.311) 《空氣污染管制條例》 (第 311 章)	Yes (section 44) 是(第 44 條)	Yes 是  <b>Exemption :</b> According to section 44(7), prescribed fee or charge set out for the purposes of the Ordinance is not payable by any responsible government department. <b>豁免：</b> 根據第 44(7) 條，政府機構無須繳付為施行條例而訂明的費用或收費。	No 不會
2.	Waste Disposal Ordinance (Cap.354) 《廢物處置條例》 (第 354 章)	Yes (section 36) 是(第 36 條)	Yes 是  <b>Exemption :</b> According to s.36(7), no fee or charge prescribed for the purposes of the Ordinance shall be payable by the Government. <b>豁免：</b> 根據第 36(7) 條，政府機構無須繳付為施行條例	No 不會



	Ordinance 條例	Whether it applies to the Government 是否適用於特區政府	Whether the compliance provisions in the Ordinance apply to the Government 條例的規管範圍是否適用於特區政府	Whether the Government and/or its officers subject to criminal sanction stipulated in the Ordinance 特區政府或任何以公職身份行事的公職人員， 會否被控違反條例所訂明的罪行
			例而訂明的費用或收費。	
3.	Water Pollution Control Ordinance (Cap.358) 《水污染管制條例》 (第 358 章)	Yes (section 47) 是 (第 47 條)	Yes 是  <b>Exemptions :</b> Under Section 47(7), no compensation shall be payable for cancellation or variation of certain licences under section 25 in respect of any discharge or deposit made by or on behalf of the Government.  Under Section 47(8), no fee or charge prescribed for the purposes of this Ordinance shall be payable by the Crown. <b>豁免：</b> 根據第 47(7)條，政府無須就由本身或代她作出的排放或沉積就第 25 條而取消或更改某些牌照而支付補償。  根據第 47(8)條，政府無須繳付為施行本條例而訂明的任何費用或收費。	No 不會
4.	Noise Control Ordinance (Cap.400) 《噪音管制條例》	Yes (section 38) 是 (第 38 條)	Yes 是	No 不會

	Ordinance 條例	Whether it applies to the Government 是否適用於特區政府	Whether the compliance provisions in the Ordinance apply to the Government 條例的規管範圍是否適用於特區政府	Whether the Government and/or its officers subject to criminal sanction stipulated in the Ordinance 特區政府或任何以公職身份行事的公職人員， 會否被控違反條例所訂明的罪行
	(第 400 章)		<p><b>Exemptions :</b></p> <p>(i) according to s38(1A), s13B of the Ordinance on intruder alarm system installed in any vehicle shall not apply to the Government; and</p> <p>(ii) according to s38(7), no fee prescribed under the Ordinance shall be payable by the Government</p> <p><b>豁免:</b> 一、根據第 38 (1A) 條，第 13B 條有關安裝在任何車輛內的侵擾者警報系統的條文不適用於政府；及</p> <p>二、根據第 38 (7) 條，政府無須繳付條例所訂明的任何收費。</p>	
5.	Ozone Layer Protection Ordinance (Cap.403) 《保護臭氧層條例》 (第 403 章)	Yes (sections 18) 是 (第 18 條)	<p>Yes 是</p> <p><b>Exemption :</b> No fee or charge prescribed for the purposes of the Ordinance shall be payable by the Government.</p> <p><b>豁免 :</b> 根據第 18 條，政府無須繳付為施行此條例而訂明的任何費用。</p>	No 不會
6.	Dumping at Sea Ordinance (Cap.466)	Yes (section 3) 是 (第 3 條)	Yes 是	No 不會

	Ordinance 條例	Whether it applies to the Government 是否適用於特區政府	Whether the compliance provisions in the Ordinance apply to the Government 條例的規管範圍是否適用於特區政府	Whether the Government and/or its officers subject to criminal sanction stipulated in the Ordinance 特區政府或任何以公職身份行事的公職人員， 會否被控違反條例所訂明的罪行
	《海上傾倒物料條例》 (第 466 章)			
7.	Environmental Impact Assessment Ordinance (Cap.499) 《環境影響評估條例》 (第 499 章)	Yes (section 3) 是 (第 3 條)	Yes 是	No 不會
8.	Hazardous Chemicals Control Ordinance (Cap.595) 《有毒化學品管制條例》 (595 章)	Yes (section 4) 是 (第 4 條)	Yes 是  <b>Exemption</b> : s.4(3) states that no prescribed fee is payable by the Government. <b>豁免</b> - 第 4(3)條列明政府無須繳付訂明費用。	No 不會
9.	Product Eco-responsibility Ordinance (Cap. 603) 《產品環保責任條例》 (第 603 章)	No 否	Not applicable 不適用	Not applicable 不適用