中華人民共和國香港特別行政區
Hong Kong Special Administrative Region of the People's Republic of China

立法會秘書處
LEGISLATIVE COUNCIL SECRETARIAT

來函檔號 YOUR REF :
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27 July 2010

Miss Vivien LI
Senior Administrative Officer(Nature Conservation)
Nature Conversation and Infrastructure Planning Division
Environmental Protection Department
46/F Revenue Tower
5 Gloucester Road Wanchai
Hong Kong

BY FAX
Fax No. : 2136 3304

Dear Miss LI,

Genetically Modified Organisms
(Documentation for Import and Export) Regulation (L.N. 96)

I am scrutinizing the legal and drafting aspects of the above Regulation and should be grateful if you would clarify the following matters:

(a) In the definition of "safety requirement" under section 2, reference is made to "any applicable existing international instrument". What does "international instrument" refer to? Please consider whether it is necessary to illustrate the term by giving examples of such instrument in the Regulation. It is noted that in the decision of the first meeting of the Conference of the Parties serving as the Meeting of the Parties to the Cartagena Protocol on Biosafety (the Protocol) (paragraph 3(a)(iii) of Part B of MOP BS-I/6 refers), reference is made to the United Nations Recommendations on the Transport of Dangerous Goods, the International Plant Protection Convention and the Organisation Internationale des Epizooties as examples of such international instruments. Should the same approach be adopted in the Regulation?

(b) It is noted that Article 18.2 of the Protocol requires the disclosure of a "contact point for further information" in relation to all three categories of genetically modified organisms (GMOs) (i.e. those intended for direct use as food or feed or for processing, those destined for contained use and those intended for introduction into the environment). However, the Regulation only requires disclosure of the name, address and contact details of a "designated authority" (which is defined as an authority designated by the relevant government as the contact point to provide information relating to the GMO) in respect of GMOs intended for direct

consumption as food or feed or for processing. No such requirement is provided in respect of the other two categories of GMOs. Is there any reason for not giving full effect to Article 18.2 of the Protocol in the Regulation?

(c) Why does section 3(3)(a) (but not sections 4 and 5) require disclosure of the Internet address of the Biosafety Clearing-House?

(d) As regards the requirement to disclose the name, address and contact details of the importer and exporter of the GMO, please explain the different formulations under:

(i) section 3(3)(b)(i);
(ii) section 4(2)(b) and (c); and
(iii) section 5(2)(a).

(e) Why does section 4(2)(a) (but not sections 3 and 5) require disclosure of the name, address and contact details of the consignee?

(f) As regards the disclosure of the traits and characteristics of GMOs, sections 4 and 5 both refer to "transformation event code", "unique identifier code" and "risk class". While the first two terms are defined by section 2, "risk class" is not defined in the Regulation or the Ordinance. Please consider whether it is necessary to define "risk class" in the Regulation and/or specify which risk classification system and/or classifying authority is acceptable for the purposes of the disclosure.

I look forward to receiving your reply in both languages **on or before 3 August 2010**. Please also send an electronic copy of your reply to yfchoi@legco.gov.hk.

Yours sincerely,

Bonny Loo

(Bonny LOO)
Assistant Legal Adviser

c.c.: Agriculture, Fisheries and Conservation Department (Attn: Mr Simon CHAN)
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