

立法會
Legislative Council

LC Paper No. CB(1) 2072/11-12
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by the Administration)

Ref : CB1/SS/12/11/1

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

**Minutes of first meeting
held on Tuesday, 15 May 2012, at 4:30 pm
in Conference Room 3 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 CHIM Pui-chung
Hon KAM Nai-wai, MH
Hon Cyd HO Sau-lan
Hon CHAN Hak-kan
Hon CHAN Kin-por, JP

**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)

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

Staff in attendance : Miss Winnie LO
Assistant Legal Adviser 7

Mrs Mary TANG
Senior Council Secretary (1)1

Miss Jacqueline CHUNG
Council Secretary (1)1

I. Election of Chairman

Mrs Sophie LEUNG LAU Yau-fun, the member who had the highest precedence among those who joined the Subcommittee, presided at the election of Chairman of the Subcommittee. Mrs LEUNG invited nominations for the chairmanship of the Subcommittee.

2. Mr CHAN Kin-por nominated Mr WONG Ting-kwong, and the nomination was seconded by Mr CHAN Hak-kan. Mr WONG Ting-kwong accepted the nomination.

3. There being no other nominations, Mr WONG Ting-kwong was declared Chairman of the Subcommittee.

4. The Chairman drew members' attention to the application for late membership from Mr WONG Yung-kan. The Subcommittee subsequently accepted the late membership.

II. Meeting with the Administration

(LC Paper No. CB(1) 1848/11-12(01) — Background brief on Genetically Modified Organisms (Control of Release) (Exemption) Notice)

Background information on the Bill

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

Ref: EP CR 9/150/26

— The Legislative Council Brief

LC Paper No. LS56/11-12

— Legal Service Division Report

5. The Subcommittee deliberated (Index of proceedings attached in **Annex**).
6. The Administration was requested to advise -
 - (a) the types of known genetically modified (GM) papayas grown in Hong Kong. To also advise the effect of planting GM papayas in close proximity of non-GM papayas;
 - (b) how to ensure the safety of GM papayas (particularly new varieties of GM papayas) to the environment and for human consumption;
 - (c) whether assistance would be provided to help replace GM papayas with non-GM ones. To also advise the lead time to phase out all GM papayas grown in Hong Kong;
 - (d) the total papayas imported into Hong Kong each year, the percentage share of the two commercialized varieties of GM papaya to be exempted under the Notice; and
 - (e) whether a person who brought a papaya into Hong Kong and planted the seeds after consumption would be caught under the Bill.
7. Members agreed to the following schedule of meetings -

<u>Date</u>	<u>Time</u>
Tuesday, 29 May 2012	4:30 pm
Wednesday, 6 June 2012	8:30 am
Monday, 11 June 2012	2:30 pm

8. Members agreed that deputations would be invited to express their views on the Notice at the next meeting on 29 May 2012.

III. Any other business

9. There being no other business, the meeting ended at 6:05 pm.

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

**Proceedings of the first meeting
On Tuesday, 15 May 2012, at 4:30 pm
in Conference Room 3 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
<i>Agenda Item I - Election of Chairman</i>			
000358 - 000525	Mrs Sophie LEUNG Mr CHAN Kin-por Mr CHAN Hak-kan Mr WONG Ting-kwong	Election of Chairman Mr WONG Ting-kwong was elected Chairman of the Subcommittee. The Subcommittee accepted Mr WONG Yung-kan's application for late membership.	
<i>Agenda Item II - Meeting with the Administration</i>			
000523 - 001114	Chairman	Members' agreement to the schedule of meetings. It was also agreed that deputations would be invited to express views on the proposed Exemption at the next meeting on 29 May 2012.	
001115 - 002603	Administration	The Administration's presentation on the background to the Exemption Notice. A copy of the power-point presentation materials was circulated vide LC Paper No. CB(1) 1893/11-12(01).	
002604 - 003444	Mr KAM Nai-wai Administration	Mr KAM Nai-wai's enquiries/views - (a) the rationale for the blanket exemption for all genetically modified (GM) papayas from the application of section 5 of the Genetically Modified Organisms (Control of Release) Ordinance (Cap. 607) (the Ordinance); (b) whether legislative amendment was required to exempt new varieties of GM papayas from section 7 of the Ordinance; (c) the varieties of papayas being grown in Hong Kong; and whether it was an offence to grow GM papayas in Hong Kong before Exemption came into operation; and	

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		<p>(d) consideration should be given to putting in place a mandatory labelling requirement for GM papayas to differentiate these from non-GM papayas.</p> <p>Administration's responses -</p> <p>(a) according to the risk assessment on the possible adverse effect of GM papayas on the conservation and sustainable use of biological diversity in the local environment conducted by the Agriculture, Fisheries and Conservation Department (AFCD), it was concluded that GM papaya was unlikely to pose any adverse biosafety effect on the biological diversity of the local environment, mainly because papaya was an exotic species with no close relatives in Hong Kong. Given the prevalence of papaya growing in Hong Kong (particularly in the backyards of village houses, farmlands and orchards), the Administration took the decision to exempt all varieties of GM papaya from the application of 5 of the Ordinance in order to avoid causing unnecessary and unjustified nuisance to those members of the public who were growing papaya as a hobby;</p> <p>(b) prior approval would need to be obtained from AFCD for import of GM papayas for release into the environment other than the two proposed commercialized varieties under the Notice. Such exemption from the application of section 7 would be subsidiary legislation and subject to scrutiny by the Legislative Council; and</p> <p>(c) the Administration would continue to monitor the latest progress and development of GM papaya and carry out a review of the exemption of GM papaya in three years' time, or earlier if necessary.</p>	

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003445 - 004530	Ms Audrey EU Administration	<p>Ms Audrey EU's enquiries -</p> <ul style="list-style-type: none"> (a) the types of known GM papayas grown in Hong Kong; (b) reasons for exempting the planting of all varieties of GM papayas from the application of section 5 of the Ordinance; and (c) whether assistance would be provided by the Administration to help replace GM papayas with non-GM ones so as to phase out all GM papayas grown in Hong Kong. <p>Administration's responses -</p> <ul style="list-style-type: none"> (a) there were around 350 000 papaya trees in Hong Kong, of which some 60-70% might be genetically modified. According to the DNA test results of a preliminary sampling exercise, 30-40% of GM papaya trees were of the Hawaii Rainbow and Huanong 1 varieties, 40-50% of the variety approved for field planting in Taiwan, and the remaining samples were hybrids of these GM varieties; (b) if no exemption was given under section 5 of the Ordinance, growing or maintenance of GM papaya in the field was considered as a release of genetically modified organisms (GMO) into the environment and approval from the Director of Agriculture, Fisheries and Conservation (the Director) was required. Anyone who intended to grow GM papaya would need to submit application with risk assessment and application fee (\$14,250 at present) to AFCD for approval. Given the highly technical nature of the process, this would cause considerable frustration to a person who simply grew papaya as a hobby. If the person chose not to go through the process, he would need to remove the concerned 	<p>The Administration to advise -</p> <ul style="list-style-type: none"> (a) the types of known GM papayas grown in Hong Kong; and (b) whether assistance would be provided to help replace GM papayas with non-GM ones.

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		<p>papaya plants which would not only cause unnecessary disturbance to the public but also mean a loss of income if the papaya plants were grown for a living; and</p> <p>(c) it was an established policy to encourage diversified cultivation (including GM, non-GM and organic crops) in Hong Kong so as to increase productivity and farmers' income. Also, AFCD had been providing support to organic farming with a view to developing a market for organic produce.</p>	
004531 - 005532	Mr WONG Yung-kan Administration	<p>Mr WONG Yung-kan's views/enquiries -</p> <p>(a) as GM papaya trees were no different from non-GM ones, people would not know if the papaya trees they grew or maintained were genetically modified. Unlike commercial cultivation of GM papaya in overseas countries, people in Hong Kong usually grew papayas for their own consumption and sold modest surpluses on the local market. The proposed exemption of all varieties of GM papayas from the application of section 5 of the Ordinance would enable members of the public to continue to grow papaya trees without worrying about being caught under the Ordinance;</p> <p>(b) how to ensure the quality of non-GM papayas under the one-for-one non-GM papaya exchange programme initiated by local green groups; and</p> <p>(c) assistance from the Administration was required if a labeling requirement for GM papaya was to be put in place, particularly for villagers and subsistence farmers who grew small quantities of GM papayas.</p> <p>Administration's responses -</p>	

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		<p>(a) while prior approval would be required for the import of unexempted GM papayas for release into the environment, planting all varieties of GM papayas in Hong Kong would be allowed under Exemption so that any member of the public who wanted to grow or maintain GM papayas would not be subject to threats of enforcement;</p> <p>(b) the purpose of developing GM papaya was to prevent infection by the papaya ringspot virus (PRSV) which was of vital importance for commercial cultivation. Even with proper means of protection, non-GM papayas remained vulnerable to the risk of PRSV infection; and</p> <p>(c) the Administration would provide support to farmers in diversified cultivation of GM, non-GM and organic crops.</p>	
005533 - 010306	Mr CHAN Kin-por Administration	<p>Mr CHAN Kin-por's enquiries -</p> <p>(a) reasons for developing GM papayas other than prevention of PRSV;</p> <p>(b) how to ensure the safety of GM papayas (particularly new varieties of GM papayas) to the environment and for human consumption;</p> <p>(c) any similar exemption as the current proposed exemption of GM papaya in Hong Kong in overseas jurisdictions; and</p> <p>(d) reasons for not exempting the GM papaya variety approved for field planting in Taiwan given its prevalence in Hong Kong.</p> <p>Administration's responses -</p> <p>(a) apart from resistance to PRSV, GM papayas were also developed for other desired traits such as delayed ripening of the fruit;</p>	The Administration to advise how to ensure the safety of GM papayas (particularly new varieties of GM papayas) to the environment and for human consumption.

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		<p>(b) the Ordinance aimed to protect the local biological diversity from possible adverse impacts arising from the trans-boundary movement of GMOs intended for release into the environment. Food safety fell outside the ambit of the Ordinance, and was regulated by the relevant food safety ordinances. The Food and Health Bureau and the Centre for Food Safety would ensure that food sold in Hong Kong was safe and fit for consumption. So far, there was no evidence that consumption of GM papayas had adverse effects on human health;</p> <p>(c) as one of the major crops cultivated in many subtropical and tropical countries, branding of specific cultivar of GM papaya was important for commercialization. Hence, approval of specific cultivars of GM papaya rather than exemption of broad varieties of GM papaya was adopted for commercial production or field planting. For Hong Kong, approval on a case-by-case basis would create intense and unnecessary nuisance to the public who were growing papaya as a hobby. Most importantly, due to the species barrier, the release of GM papaya to the environment would unlikely result in adverse biosafety effect on the local biological diversity. It was also worth noting that similar exemption as the current proposal of exemption of GM papaya in Hong Kong has been made in Canada; and</p> <p>(d) in response to the concerns of some local organic farmers on the proposed exemption for import of all varieties of GM papaya, only two commercialized varieties of GM papayas would be exempted from the application of section 7 of the Ordinance. Import of any other GM papayas (including the variety approved for field planting in</p>	

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		Taiwan) would need to obtain prior approval from the Director. The Administration would continue to monitor the latest progress and development of GM papayas in the Mainland and overseas countries.	
010307 - 011406	Mrs Sophie LEUNG Chairman Administration	<p>Mrs Sophie LEUNG's views/enquiries -</p> <p>(a) declared that she was the chairperson of Hong Kong Organic Resource Centre Certification Limited;</p> <p>(b) unlike many overseas countries where papayas were cultivated for commercial purpose, papaya growing in Hong Kong was a hobby. A blanket exemption for planting of GM papaya was considered appropriate so that members of the public would not be unnecessarily caught under the Ordinance. The exemption for the import of two commercialized varieties of GM varieties was also able to address the concerns of organic farmers;</p> <p>(c) any overseas countries had similar exemption for planting of all varieties of GM papaya;</p> <p>(d) whether Huanong 1 and Lingnan papayas were of the same papaya variety; and</p> <p>(e) the effect of planting GM papayas in close proximity of non-GM papayas;</p> <p>Administration's responses -</p> <p>(a) as explained to the Panel on Environmental Affairs at its meeting on 26 March 2012, similar exemption as the current proposal of exemption of GM papaya in Hong Kong had been made in Canada. As set out in Canada's Seeds Regulations, GM plants were exempted from authorization requirements if the plants had been openly grown and formed a stable population in Canada;</p>	The Administration to advise the effect of planting GM papayas in close proximity of non-GM papayas.

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		<p>(b) Huanong 1 was in fact a GM papaya developed from Hawaiian Solo papaya while Lingnan papaya was a separate non-GM variety; and</p> <p>(c) planting of GM papayas inside a certified organic farm was not allowed. A buffer zone of at least 2 metres should also be established around the farm.</p>	
011407 - 012156	Mr KAM Nai-wai Chairman Administration	<p>Mr KAM Nai-wai's enquiries -</p> <p>(a) the total papayas imported into Hong Kong each year, the percentage share of the two commercialized varieties of GM papaya to be exempted under the Notice;</p> <p>(b) the lead time to phase out all GM papayas grown in Hong Kong; and</p> <p>(c) the difficulties in only exempting varieties of GM papayas that had been approved for cultivation on a commercial scale, and those with safety certificates as specified in the Cartagena Protocol on Biosafety.</p> <p>Administration's responses -</p> <p>(a) import of papaya seeds for planting was rare because papaya growing in Hong Kong was more of a hobby. In fact, most of the papayas trees in Hong Kong were grown from seeds after consumption of the fruit. So far, no applications for approval of import of papaya seeds had been received;</p> <p>(b) the two commercialized varieties of GM papayas (viz. Hawaii Rainbow and Huanong 1) to be exempted from section 7 of the Ordinance under Exemption had already been approved for cultivation on a commercial scale; and</p> <p>(c) as the risk assessment had concluded that the continued planting of GM papaya by the general public would</p>	<p>The Administration to advise -</p> <p>(a) the total papayas imported into Hong Kong each year, the percentage share of the two commercialized varieties of GM papaya to be exempted under the Notice; and</p> <p>(b) the lead time to phase out all GM papayas grown in Hong Kong.</p>

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		have no adverse effect on the local biological diversity, it was considered logical and sensible to exempt the planting of all varieties of GM papaya from the need of application for approval under section 5 of the Ordinance.	
012157 - 013012	Chairman Administration	<p>The Chairman's enquiry on whether a person who brought a papaya into Hong Kong and planted the seeds after consumption would be caught under the Bill.</p> <p>Administration's response that section 5 of the Ordinance provided that a person must not knowingly cause a GMO to be released into the environment or maintain the life of a GMO that was in a state of being released into the environment. A person who did not knowingly grow or maintain a GM papaya tree would not commit an offence. The Administration would continue to monitor the latest progress and development of GM papayas and carry out a review of the exemption of GM papaya in three years' time for reporting to the Expert Group.</p>	The Administration to advise whether a person who brought a papaya into Hong Kong and planted the seeds after consumption would be caught under the Bill.