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Report Highlights:

In March of 2010 the Hong Kong legislature passed the Genetically Modified Organisms (Control of Release) Ordinance which will require prior approval and special documentation for living modified organisms (LMOs) imports destined for release into the environment. Scheduled for implementation in late 2010 or early 2011, the regulation is expected to have almost no impact on U.S. exports. While the Hong Kong Government (HKG) does not impose mandatory labeling for biotech food products, there is a guideline encouraging voluntary labeling of products which few if any companies follow. The HKG makes no distinction between conventional and biotech foods in terms of labeling and food safety regulations. Nonetheless, the HKG faces persistent pressure to impose a mandatory biotech labeling policy by some “green” and consumer advocacy groups. Retailers are strongly opposed to mandatory labeling of biotech products. In 2009, U.S. exports of agricultural and food products to Hong Kong totaled \$2.2 billion. Of this total, only \$7 million was comprised of soybeans and corn to Hong Kong for food and feed use.

Section I. Executive Summary:

U.S. agribusiness has a strong economic interest in Hong Kong. In 2009, Hong Kong was the 4th largest market for U.S. high value food (HVF) exports totaling a record \$1.8 billion, a 32% increase. In the first 4 months of 2010, U.S. HVF exports to Hong Kong reached \$658 million, representing a growth of 52% over the same period in 2009. It is one of our fastest growing major markets.

Hong Kong's voluntary labeling policy on biotech food products and ingredients have allowed U.S. food and beverage exports to Hong Kong to remain competitive. U.S. food exports to Hong Kong have not been impacted by its biotechnology policy since Hong Kong does not impose any mandatory labeling on biotech food products. Hong Kong continues to maintain a voluntary labeling policy. Its food safety authority – Food and Environmental Hygiene Department (FEHD) – advised the Legislative Council in July 2008 that there was no pressing need for mandatory labeling on biotech foods because of the lack of international consensus. It pledges to further promote the Guidelines on voluntary labeling of genetically modified (GM) food, which was first launched in July 2006.

While HKG is always under some pressure from consumer advocacy groups and a few Legislative Council (Legco) members to impose a mandatory labeling law for biotech food products, Hong Kong does not show any signs of introducing mandatory labeling on biotech foods in the immediate future. Legco passed a motion urging the Government to expeditiously establish a genetically modified food labeling system for prepackaged food products by adopting a "voluntary first, and then mandatory" approach in order to safeguard consumers' right to know and to choose in 2003. The motion, nonetheless, was not binding.

The latest development of Hong Kong's biotechnology policy was the enactment of the Genetically Modified Organisms (Control of Release) Ordinance in March 2010. The law and its proposed subsidiary regulation (Genetically Modified Organisms (Documentation for Import and Export) Regulation enable the HKG to implement measures set forth under the Cartagena Protocol on Biosafety. Both the law and its subsidiary regulation are expected to take effect in late 2010 or early 2011.

The upcoming new law is unlikely to have any significant impact on U.S. trade because there are virtually no U.S. exports of LMOs to Hong Kong for release into the environment. The law stipulates that prior import approval from the HKG is required for the importation of LMOs which are to be released into the environment. Prior approval will not be required for the importation of LMOs which are used for food and feed. Shipments need to be accompanied by documentation containing event

information and contact information of traders.

The following table summarizes U.S. agricultural exports to Hong Kong

Products	US\$ million	% of U.S. total exports	Ranking
All Agricultural, Fish & Forestry	2,165	1.95	7
HS1005 Corn (Maize)	5.719	0.06	44
Soybeans	1.392	0.01	41
Sub-total	7.111		
All Consumer-Oriented food products	1,794	4.2	4

Source: Global Trade Atlas – U.S. Department of Commerce, Bureau of Census

Section II. Plant Biotechnology Trade and Production:

Hong Kong does not commercially produce any biotechnology crops, nor does it conduct field trials. Farming is insignificant in Hong Kong. Total land use for vegetables, flowers, field crops, and orchards are 314 hectares, 156 hectares, 22 hectares and 266 hectares respectively in Hong Kong. In 2009 agricultural production amounted to \$72 million, comprising \$30 million in crop production, \$19 million in livestock production and \$23 million in poultry production. Hong Kong's livestock and poultry industries continue to diminish, limiting future prospects for farming in Hong Kong.

In recent years, the HKG has promoted organic farming as a niche market for Hong Kong's farmers so that they could compete to grow vegetables amidst the severe competition from lower priced conventional and organic imports from Mainland China. In an effort to promote this niche industry and support the development of organic farming, an organic certification, the Hong Kong Organic Resource Center (HKORC), was established in 2002. Since 2004, the HKORC has provided independent organic certification services to farmers and food processors. By the standard of HKORC, all certified organic products are GM free.

Hong Kong carries out research on biotech rice at the Chinese University of Hong Kong, although field trials are conducted in China. Professor Samuel Sun, in co-operation with the National China Hybrid Rice Research & Development Center, conducts research to improve the quality and nutritional value of super hybrid rice by utilizing transgenic plant production methods. According to Professor Sun, 50 percent of rice produced in China is of hybrid type, which has a yield that is 30 percent higher than conventional rice. Professor Sun's research project is to improve the lysine content of the super hybrid rice.

On the trade front, Hong Kong import regulations do not distinguish between biotech products and conventional products. Importers/exporters are not required to make any special declarations if products are of biotech origin. (This will no longer be the case after the commencement of the Genetically Modified Organisms (Control of Release) Ordinance. New requirements will be provided

in Section III.) However, the few soybean users in Hong Kong require non-GM soybeans because of market-driven factors; for example, their processed products are exported to overseas markets demanding GM free ingredients. Buyers generally have a perception that all U.S. soybeans are of biotech origin. Some users of soybeans for processing report that Canadian Special Quality White Hulum (SQWH) grade soybean is popular among Hong Kong buyers. However importers claim that while SQWH soybeans are non-GM there is no identity preservation. In 2009, Canada accounted for 90 percent (\$21 million) of Hong Kong's soybean market while the U.S. merely for a share of 0.24 percent (\$56,652).

Hong Kong is not a food aid recipient and is unlikely to be a food aid recipient in the future.

Section III. Plant Biotechnology Policy

The Food and Health Bureau is the government organization responsible for the policy direction over biotech foods. Its operations arms are the Food and Environmental Hygiene Department (FEHD) and the Center for Food Safety which are responsible for policy implementation and enforcement.

Hong Kong has requested the People's Republic of China (PRC) for the extension of both the Convention on Biological Diversity and the Cartagena Protocol on Biosafety. Both the Convention and the Protocol will be applied to Hong Kong following the commencement of the Genetically Modified Organisms (Control of Release) Ordinance and its subsidiary regulation (Genetically Modified Organisms (Documentation for Import and Export) Regulation), which is expected to take effect in late 2010 or early 2011.

Hong Kong at present is not a party of the Convention on Biological Diversity and the Cartagena Protocol on Biosafety in its own right. As Hong Kong is a Special Administrative Region of the PRC, the application of international agreements to Hong Kong for agreements to which the PRC is a party will be decided by the PRC in accordance with the circumstances and needs of Hong Kong, after seeking the views of the HKG. The PRC has been a party to the Convention and the Protocol since 1993 and 2005 respectively. The HKG has obtained the agreement-in-principle of China to extend the application of both the Convention and the Protocol to Hong Kong when it is adequately prepared.

With the expected implementation of the Genetically Modified Organisms (Control of Release) Ordinance and its subsidiary regulation (Genetically Modified Organisms (Documentation for Import and Export) Regulation), there will be documentation requirements for shipments containing LMOs. If these products are to be released to the environment, prior approval is required additionally. The HKG emphasized that the documentation requirements will be strictly adhering to the requirements stipulated by the Cartagena Protocol.

According to the draft subsidiary regulation, documentation is required for the following categories of LMOs:

- a) LMOs intended for direct consumption as food, feed or for processing; (LMOs-FFP)
- b) LMOs intended for contained use; and
- c) LMOs intended for release into the environment.

The following paragraphs summarize the information required for LMO shipments for various purposes.

a) For LMOs-FFP

- If the identity of the LMO is known, the shipment contains such a LMO; if the identity of the LMO is not known, the shipment may contain such a LMO;
- The LMO is not intended for release into the environment;
- The common name, scientific name and, where available, commercial name of the LMO;
- The transformation event code of the LMO or, where available, its unique identifier code; and,
- The details of the importer or exporter (such as name, address and contact information) for further information.

b) For LMOs intended for contained use

- The shipment contains a LMO which is intended for contained use;
- The common name, scientific name and, where available, commercial name of the LMO;
- The name, address and contact details of the consignee and the exporter or importer;
- The requirement, if any, for the safe handling, storage, transport and use of the LMO. If there is no requirement as stated above, a statement that there is no such requirement; and
- New or modified traits or characteristics of the LMO such as event of transformation, risk class, specification of use, and any unique identification, where available, as a key to accessing information in the Biosafety Clearing-House.

c) For LMO intended for release into environment

- The shipment contains a LMO;
- The common name, scientific name and, where available, commercial name of the LMO;
- The traits and characteristics of the LMO, including transgenic traits and characteristics such as event of transformation or, where available, a reference to a system of unique identification;
- The requirement for the safe handling, storage, transport and use of the LMO under applicable existing international instruments, local legislation or any agreement entered into by the exporter or importer;

- If there is no requirement as stated above, a statement that there is no such requirement;
- The name, address and contact details of the exporter or importer;
- The details of contact point for further information, including an individual or organization in possession of information, in case of emergency;
- The risk class and import approval for the first transboundary movements of the GMO; and,
- A declaration that the movement of the LMO is in conformity with the requirements of the Protocol and which is applicable to the exporter.

There is no specific requirement regarding the form of documentation accompanying GMO shipments. The use of a commercial invoice or other documents required or utilized by existing documentation systems, or documentation as required by other local legislation and / or administrative frameworks is acceptable as documentation that should accompany the LMO shipments. Such documentation should include the information specified in the paragraphs above (as the case may be) and allow for easy recognition, transmission and effective integration of the information requirements. In addition to commercial invoices, other forms of documentation that are acceptable include import / export manifests; licenses or certificates issued or required under other legislation e.g. phytosanitary certificates.

Further details of the new law are contained in Gain Report#HK0002: H.K. Plans for enacting Genetically Modified Organisms Regulation

Labeling of Biotech Products - Voluntary Labeling Approach

There is no legislation for mandatory labeling for biotech foods or feeds. The FEHD released the guidelines for voluntary labeling of biotech foods in 2006 in order to answer the public's call for consumers' right to make informed choices. In 2008, the HKG announced that there is no need for a mandatory labeling law in Hong Kong based on an evaluation exercise of the voluntary labeling scheme. The HKG said they are not adopting a mandatory scheme because currently there is no international consensus on mandatory labeling. Their declared position is to closely monitor international development on this issue and to promote the voluntary guidelines to the trade for more widespread adoption.

The guidelines were formulated by a working group established under the Center for Food Safety, with members coming from various sectors including manufacturing, wholesale, retail, consumer groups and government departments. The guidelines are advisory in nature and do not have any legal effect. Adoption is entirely voluntary and is not binding. The guidelines apply to prepackaged food.

The guidelines are based on the following four principals:

- The labeling of biotech food will comply with the existing food legislation.
- The threshold level applied in the guidelines for labeling purpose is 5 percent, in respect of

individual food ingredient.

- Additional declaration on the food label is recommended when significant modifications of the food, e.g. composition, nutrition value, level of anti-nutritional factors, natural toxicant, presence of allergen, intended use, introduction of an animal gene, etc, have taken place.
- Negative labeling is not recommended.

As the guidelines are voluntary, U.S. food exports should not be affected if they choose not to have any biotech labeling. However, it should be noted that the HKG does not encourage negative labeling when no biotech counterparts of the respective products ever exist. Also, the HKG does not encourage negative labeling using very definite terms such as:

- GMO free,
- Free from GM ingredients, etc

For products with such definite negative labeling, the government may take the initiative to test the products against GM ingredients and a zero tolerance will be adopted for testing purposes. If products are found to have misleading labeling, a retailer may be subject to prosecution under Section 61 – False Labeling and Advertisement of Food or Drugs of Chapter 132 Public Health and Municipal Services Ordinance. (Available at <http://www.legislation.gov.hk/eng/home.htm>)

If the trade chooses to apply negative labeling, the government advises to use less definite terms such as “sourced from non-GM sources” (which contains less than 5 percent of GM content) and to have documentation to substantiate such declaration.

For more details, please refer to Gain Report HK#6026.

After a year of implementing the voluntary system, the HKG conducted a survey to assess the effectiveness of the voluntary scheme in 2007. The evaluation result showed that all the samples indicating biotech status carried negative labels and the majority of the negative labels are backed up by documentary proof. Also, for the samples subject to laboratory testing, all tested samples bearing negative labels did not contain any detectable biotech material or specific biotech events.

Section IV. Plant Biotechnology Marketing Issues:

HKG’s green groups, some consumer organizations and a few Legislative Council (Legco) members have been advocating for mandatory labeling of biotech foods for many years. Their rationale is based on consumers’ “right to know”. Food safety or science is not their key argument. They also expressed doubts whether the existing voluntary labeling is effectively implemented by the trade. Lobbying by green groups and consumer organizations has gained support of certain Legco members. In January 2000, Legco adopted a motion to “draw on the experience of most member states of the European Union and expeditiously legislate for a labeling system” and to “conduct strict examinations and tests” on biotech foods. In June 2003, Legco passed a motion calling on the government to expeditiously establish a “voluntary first, and then mandatory” approach to a labeling system for biotech foods. However, the results of motion are not binding for the HKG.

The food industry has generally opposed to mandatory labeling of biotech foods on the grounds that it would limit the choices of consumers, reduce variety of food supplies to Hong Kong and add burden to consumers and the industry alike. Hong Kong's retailers have said they would not import any products that carried a GM label. They believe that consumers will not choose GM products when there are other choices available.

On the whole, Hong Kong consumers are not concerned about foods containing biotech ingredients. There have not been any strong actions in the public urging the HKG to adopt mandatory labeling for biotech foods in recent years. Prices and nutritional values are of bigger concern in general. However, local food processors would specify the use of non-biotech soybeans particularly if their products are exported overseas.

Section V. Plant Biotechnology Capacity Building and Outreach:

ATO believes that educating HKG officials, legislators, educators and media on the science-based principles and consumer benefits of biotechnology is the most effective way to keep biotech labeling voluntary. Realizing the need of dispelling the myth of biotechnology in Hong Kong, ATO launched a biotech outreach program in 2008 educating relevant stakeholders with a science-based approach on biotechnology.

ATO invited Dr. Wayne Parrott, Professor of Plant Genetics at the University of Georgia, to give a series of five biotech lectures to different audiences which reached nearly 1,200 people. Dr. Parrott's presentation was geared to a lay audience. To achieve our objective of providing a science-based introduction of GM foods to relevant stakeholders, we successfully included in our audience government officials who are in charge of food safety and labeling, including those following the Cartagena Protocol, and developing curriculum for secondary schools and responsible to attract foreign investments in Hong Kong. Through this outreach activity, Hong Kong's key retailers, traders, importers and food manufactures were also educated on the merits and scientific development of GM foods. Included on our participant lists were teachers and students from secondary schools in Hong Kong and Macao. Educators were provided with a copy of the presentation, to us as a resource for teaching.

A senior government official who directs HK's food risk assessments attended the state-funded outreach program and commented that this lecture on biotechnology was the best he has ever heard.

Section VI. Animal Biotechnology:

Animal farming is insignificant in Hong Kong. There is no genetic engineering and cloning being done on Hong Kong's limited animal farms. Importation of transgenic animals is limited to two types of aquarium fish: zebra fish and rice fish. They are imported at a very insignificant amount as pet fish.

Presently, the HKG does not have any legislation in place related to the development and the import of these transgenic or cloned animals/products. (This will no longer be the case after the commencement of the Genetically Modified Organisms (Control of Release) Ordinance. New requirements are provided

in Section III.) In principle, they can be imported under the same conditions as conventional animal/products. Also, there are no labeling requirements for products from cloned/transgenic animals or from the progeny of these animals.

The HKG did not comment on FDA's Risk Assessment on products from cloned animals and their progeny in January 2008. However, in December 2006 when FDA issued three documents on the safety of animal cloning (a draft risk assessment; a proposed risk management plan and a draft guidance for industry), the HKG immediately wrote to ATO enquiring about the U.S. control measures on production/exportation of meat and milk products from cloned animal, and whether any such product has been exported to Hong Kong. It specifically cited FDA's request in the proposed risk management plan for industry's voluntary moratorium on introducing products of cloned animals into commerce. While the HKG does not have any immediate plan to change their import policies on products for cloned animals, we expect that certain Legislative Council members, media and consumers group will press the HKG to look into the issue if products of cloned animals are exported to Hong Kong. The HKG may be sensitive to political pressure on this issue. Post believes any likely new requirement would be to label the products as cloned as opposed to banning them.

With regard to the cloning animal technology, the HKG has no plans underway to conduct a risk assessment.