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## Hong Kong

**Post:** Hong Kong

### **H.K. Plans for Enacting Genetically Modified Organisms Regulation**

**Report Categories:**

Agriculture in the News

Biotechnology

Policy and Program Announcements

Sanitary/Phytosanitary/Food Safety

WTO Notifications

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**Report Highlights:**

The Hong Kong Government (HKG) notified World Trade Organization (WTO) members of its intention to enact the Genetically Modified Organisms (Documentation for Import and Export) Regulation through notifications G/SPS/N/HKG/32 and G/TBT/N/HKG/34. It invited WTO members to comment on the consultation paper on the draft Regulation before March 31, 2010. This would be a subsidiary regulation to the Genetically Modified Organisms (Control of Release) Bill. While the

enactment of the Bill will give effect to the implementation of the Cartagena Protocol on Biosafety, the subsidiary Regulation is to provide detailed information on the requirements of documentation accompanying shipment containing Genetically Modified Organisms (GMOs). According to the HKG, the documentation requirements will be strictly adhering to the requirements stipulated by the Cartagena Protocol. This subsidiary regulation is expected to be enacted soon after the enactment of the Bill in 2010.

## **Background**

Following HKG's notification to WTO in January 2009 with regard to its proposed legislation for the implementation of the Biosafety Protocol, the HKG introduced a Genetically Modified Organisms (Control of Release) Bill in June 2009. According to the Bill, prior approval has to be sought from the Director of Agriculture, Fisheries and Conservation Department before a GMO can be released or imported into Hong Kong for release into the environment. The Bill is now in legislative process for discussion and will be enacted in 2010. Meanwhile, the HKG has released and invited comments on a consultation paper on the draft Genetically Modified Organisms (Documentation for Import and Export) Regulation.

US industries are encouraged to review the consultation document and send in their comments, if any, to ATO Hong Kong at [ATOHongKong@usda.gov](mailto:ATOHongKong@usda.gov) before the deadline March 31, 2010. We would then pass on your comments to the HKG.

Given below are the key points extracted from the consultation document. A full document could be retrieved from the link: [http://www.afcd.gov.hk/english/whatsnew/what\\_con/what\\_con.html](http://www.afcd.gov.hk/english/whatsnew/what_con/what_con.html)

## **Definitions of GMOs**

The Regulation will stipulate documentation requirements for GMOs. GMOs are referred to as LMOs or living modified organisms in the Protocol. A "living organism" is defined as any biological entity capable of transferring or replicating genetic material, and GMOs are living organisms that possess new combination of genetic material obtained through the use of modern biotechnology that overcomes natural reproductive barriers. Living organisms with genetical material altered through traditional breeding and selection techniques (e.g. Hybrid Rice and Golden Sweet Corn) are not GMOs. Non-living products (e.g. cotton fiber) or processed food (e.g. milled maize, canned bean, soy milk) also are not GMOs. Besides, GMO that is a pharmaceutical product for human use is outside the scope of the Protocol.

## **Categories of GMOs requiring Documentation**

According to the draft Regulation, a shipment containing a GMO must be accompanied by relevant documentation during the import or export of the shipment. Documentation is required for the following categories of GMOs:

a) GMOs intended for direct consumption as food, feed or for processing (GMOs-FFP);

- b) GMOs intended for contained use; and
- c) GMOs intended for release into the environment.

## **The Regulation**

The main objective of the Regulation is to provide detailed information on the requirements of documentation accompanying shipments containing GMOs during import or export. The required documentation provides information on the identity of the GMO, and contact details for individuals and institutions responsible for the transboundary movement of the GMO.

The following paragraphs summarize the main aspects of the draft Regulation.

### *Documentation Requirement*

According to the draft Regulation, a shipment containing GMO would need to be accompanied by documentation containing the following information:

#### a) For GMOs-FFP

- If the identity of the GMO is known, the shipment contains such a GMO; if the identity of the GMO is not known, the shipment may contain such a GMO;
- The GMO is not intended for release into the environment;
- The common name, scientific name and, where available, commercial name of the GMO;
- The transformation event code of the GMO 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 GMOs intended for contained use

- The shipment contains a GMO which is intended for contained use;
- The common name, scientific name and, where available, commercial name of the GMO;
- 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 GMO. 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 GMO 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 GMO intended for release into environment

- The shipment contains a GMO;
- The common name, scientific name and, where available, commercial name of the GMO;
- The traits and characteristics of the GMO, 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 GMO 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 GMO is in conformity with the requirements of the Protocol and which is applicable to the exporter.

#### *Adventitious Presence*

In commercial production and transportation of agriculture products, mixing from different sources is inevitable. GMO varieties may contaminate adventitiously the traditional varieties and shipped as non-GMO products. It is proposed that the above documentation requirements do not apply if:

- a) the GMOs are imported or exported in a lot together with other living organisms;
- b) the GMOs are unintentionally mixed with those other living organisms; and
- c) the percentage of the amount of the GMOs to the total amount of living organisms in the lot does not exceed the prescribed percentage.

The prescribed percentages were proposed as follows:

1. 5% for GMOs-FFP;
2. 0% for GMOs intended for contained use; and
3. 0% for GMOs intended for release into the environment.

#### *Form of Documentation*

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 GMO 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.