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Genetically Modified Organisms (Control of Release) Ordinance Cap. 607

Expert Group

Report on the Sixth Meeting of the Conference of the Parties Serving as the Meeting of the Parties to the Cartagena Protocol on Biosafety

Purpose

This paper reports on the major decisions made at the Sixth Meeting of the Parties (MOP/6) to the Cartagena Protocol on Biosafety (the Protocol) and the implications on the implementation of the Protocol in Hong Kong.

Introduction

2. The MOP currently meets every two years in conjunction with the regular meetings of the Conference of the Parties to the Convention on Biological Diversity. The meeting aims to keep the implementation of the Protocol under regular review and to make decisions necessary to promote the effective implementation of the Protocol by its Parties. The MOP/6 was held in Hyderabad of India from 1 to 5 October 2012. Representatives from the Agriculture, Fisheries and Conservation Department (AFCD) attended the meeting as members of the delegation of the People's Republic of China.

3. During the meeting, a wide range of issues concerning the implementation of the Protocol was covered. Draft decisions were considered by Parties during the meeting. A full list of the decisions adopted can be downloaded from http://bch.cbd.int/protocol. Relevant items which may have implications on the implementation of the Protocol in Hong Kong are highlighted below:

BS-VI/8. Handling, transport, packaging and identification of genetically modified organisms (GMOs)

4. The MOP/6 urged Parties to expedite the implementation of their biosafety regulatory frameworks which should be made available to the Biosafety Clearing-House (BCH), in particular those related to the identification and documentation of GMOs destined for contained use or environmental release. It further requested Parties to use a commercial invoice or other documents required or utilized by existing documentation systems for the documentation for these two types of use of GMOs. The MOP/6 also encouraged the Organisation for Economic Co-operation and Development (OECD) to renew efforts to develop unique identification

systems for living modified micro-organisms and animals.

5. In Hong Kong, as stipulated under the Genetically Modified Organisms (Control of Release) Ordinance (the Ordinance), the documentation requirements for GMOs follows the relevant articles of the Protocol and the decisions of MOPs. Accordingly, the Ordinance does not mandate any specified forms for the documentation requirements of importing and exporting GMOs. On the other hand, the Genetically Modified Organisms (Documentation for Import and Export) Regulation (the Regulation) requires the importer/exporter to provide the unique identifier code of the GMO in the prescribed document (if available), which is defined in the Regulation as the unique code that is — (a) assigned to the GMO in accordance with the OECD Guidance for the Designation of a Unique Identifier for Transgenic Plants; and (b) entered into the BCH or other unique identification systems adopted by MOP. Any new unique identification system adopted by MOP can thus be catered for under the Ordinance.

BS-VI/10. Notification requirements

6. The notification requirements under the Protocol apply to the transboundary movement of GMOs intended for release into the environment. It requires the exporter to notify and obtain approval from the competent authority of the importing place about the export of a GMO which is intended for release into the environment. The MOP/6 requested Parties to address any gaps that may exist in their domestic implementation of the notification requirements, including in the context of their general obligation to take the necessary and appropriate legal, administrative and other measures to implement their obligations under the Protocol.

7. The MOP/6 also invited Parties, other Governments and relevant organizations to consider using the GMO quick-link tool by their relevant national authorities where reference is made to a GMO. GMO quick-links are small image files (see a sample attached below on GM carnation), which can be easily copied and pasted, that identify a GMO through its unique identifier, trade name and a link to the BCH where information on the GMO is available. Through the GMO quick-links, the BCH page can be easily accessed by either scanning the barcode or by typing the URL in a web browser facilitating the work of customs officers in inspecting the documentation accompanying GMOs by providing clear identification of GMOs and quick access to the BCH to check for the decision on the import/export of the particular GMOs.

8. In Hong Kong, the notification requirements are given effect in the Ordinance through requiring prior approval from the importer for importing GMOs into Hong Kong for environmental release (section 7) and prior notification to the competent authority for exporting the GMOs (section 23). On the other hand, under the Ordinance, while the identity and relevant information of the GMO should be provided in the approval application and the documentation requirement for the export of GMOs intended for environmental release, the quick-link tool could facilitate identification of the concerned GMO by custom officers. AFCD is prepared to

provide necessary technical support to encourage the importers or exporters of GMOs to use the quick-link tool when making reference to a GMO during its import or export.

BS-VI/11. Nagoya – Kuala Lumpur Supplementary Protocol on Liability and Redress

9. In its decision BS-V/11, the MOP adopted the Nagoya-Kuala Lumpur Supplementary Protocol on Liability and Redress (the Supplementary Protocol) which provides international rules and procedure on liability and redress for damage to biodiversity resulting from GMOs. The MOP/6 called upon Parties to the Protocol that have not yet signed and ratified the Supplementary Protocol to initiate and expedite their internal processes leading to ratification, approval or acceptance of or accession to the Supplementary Protocol.

10. According to the Second National Report, China has not yet signed the Supplementary Protocol but has initiated steps towards the ratification. The Ministry of the Environment of China will lead the coordination in the communication among departments to promote steps towards ratification of the Supplementary Protocol. AFCD will keep in view on the development and assess the need to extend the coverage of the Supplementary Protocol to Hong Kong.

BS-VI/12. Risk assessment and risk management

11. A Guidance on Risk Assessment of Living Modified Organisms (the Guidance) was developed under the Protocol to provide a reference that may assist Parties and other Governments in implementing the provisions of the Protocol with regards to risk assessment. The Guidance is not prescriptive and does not impose any obligations on Parties. The MOP/6 encouraged Parties, other Governments and relevant organizations, through their risk assessors and other experts who are actively involved in risk assessment, to test the Guidance in actual cases of risk assessment and share their experiences through the BCH.

12. The MOP/6 also invited Parties and encouraged other Governments and relevant organizations to provide the Executive Secretary with scientific information that may assist in the identification of GMOs or specific traits that may have or that are not likely to have adverse effects on the conservation and sustainable use of biological diversity.

13. The requirements on the biosafety risk assessment under the Ordinance follow those set out in the Protocol. The Guidance can thus facilitate us to examine the risk assessment report submitted together with an approval application. AFCD will make reference to the Guidance for vetting risk assessment reports of GMOs.

BS-VI/14. Monitoring and reporting

14. According to Article 33 of the Protocol and a decision adopted by the MOP, each Party shall monitor the implementation of its obligations under the Protocol, and shall report on measures that it has taken to implement the Protocol. It was agreed that the Parties submit an interim report two years after the entry into force of the Protocol and report on a general frequency of every four years. Reports shall be submitted twelve months prior to the MOP meeting that will consider the report. The MOP/6 reminded Parties of their obligation to submit national reports. It also urged those Parties that have not yet responded fully to all mandatory questions in the second national report to cooperate with the Secretariat in order to complete

their second national reports as soon as possible.

15. China has already submitted the second national report on September 2011. The next (i.e. the third) national report should be submitted on or before September 2015. AFCD is in close contact with the Mainland authority on reporting of the implementation of the Protocol in Hong Kong. We are prepared to submit a report on the implementation of the Protocol to the Mainland authority in due course.

BS-VI/16. Unintentional transboundary movements of GMOs

16. The MOP/6 urged Parties to establish and maintain appropriate measures to prevent unintentional transboundary movements of GMOs and establish a mechanism for emergency measures in case of unintentional transboundary movements of GMOs that are likely to have significant adverse effects on the conservation and sustainable use of biological diversity.

17. As far as Hong Kong is concerned, besides the documentation requirements on importing and exporting GMOs, the survey on the presence of GMOs in local markets and farms will facilitate us in detecting, identifying, tracing and locating any unapproved GMOs which may have been released into the environment. Guidelines are being drawn up for disposal of unapproved GMOs accidentally released into the environment.

Advice Sought

18. Members are invited to note the Decisions made in the MOP/6 and provide views and comments in relation to the implementation of the Ordinance.

Agriculture, Fisheries and Conservation Department
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