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Report Highlights:

Hong Kong currently has no regulatory legislation related to agricultural biotechnology and does not produce or grow biotech crops in field trials. Biotech foods are not distinguished from conventional foods and are subject to the same food regulations. The government, however, is going to release a voluntary labeling guideline for prepackaged biotech foods. According to the guideline, a 5 percent threshold for individual food ingredient will be adopted. The guideline does not encourage negative labeling. Hong Kong is in the process of drafting legal framework to implement the Cartagena Protocol on Biosafety. It has not set a timetable for its full implementation of the new legislation or application of the Protocol. The foreseeable impact is that U.S. exports to Hong Kong in the future, if containing LMOs, may be obligated to meet all documentation requirements. In 2005, U.S. exported \$1.02 billion of agricultural and food products to Hong Kong. Soybean and corn amounted to \$8.5 million, some of which may have contained LMOs.

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Table of Contents

SECTION I. Executive Summary 3
SECTION II. Biotechnology Trade and Production 4
SECTION III. Biotechnology Policy 5
 Voluntary Labeling 5
 Mandatory Pre-market Safety Assessment..... 6
 Cartagena Protocol on Biosafety..... 7
SECTION IV. MARKETING ISSUES..... 8
SECTION V. CAPACITY BUILDING AND OUTREACH 9

SECTION I. Executive Summary

Currently, the Hong Kong government does not have any specific biotechnology regulations with regard to the production or labeling of biotech food products. The Hong Kong government makes no distinction between conventional and biotech foods. All are subject to the same food safety regulation. However, the Hong Kong government is going to introduce voluntary labeling for biotech foods. A guideline is to be issued very likely in July this year. The threshold level applied in the guideline for labeling purpose is 5 percent and negative labeling is discouraged. Despite the call for mandatory labeling by various Legislative Council members and consumer groups, there are no signs that the Hong Kong government is planning to adopt any policy on mandatory labeling for biotech foods. The government, nonetheless, announced in 2003 that it was considering introducing mandatory pre-market safety assessment.

In 2005, the United States exported a total of \$1.02 billion of agricultural and food products to Hong Kong, ranking as the 13th largest U.S. export market. Of the \$1.02 billion of exports, \$529 million were of consumer-oriented products. These products will be most likely subject to impact of biotech food labeling policy as Hong Kong's labeling policy applies to pre-packaged food only. The voluntary guideline which is to be introduced soon will not affect U.S. exports to Hong Kong. However, products carrying "GM free" claim will be subject to random GM testings. Zero tolerance approach will be adopted for "GM free" claimed products.

On the other hand, the Hong Kong government is planning to introduce new legislation, which will provide a legal framework for the implementation of the Cartagena Protocol on Biosafety. The Hong Kong government has not set any deadline for the enactment of the new legislation. It also claimed that the future legislation will adhere strictly to the Protocol and would not set any requirements beyond those of the Protocol.

According to the Protocol, Living Modified Organisms (LMOs) even intended for direct use as food or feed, or for processing must fulfill all documentation requirements. For LMOs which are intended for introduction to the environment, the exporting party is required to give advance notification to the competent authority of the importing country and seek its approval in addition to fulfilling all documentation requirements.

Hong Kong does not have any significant agricultural production, nor any production of biotech crops. U.S. exports of agricultural products carrying LMOs for intentionally released to the environment are negligible if any. Hence, Hong Kong's new legislation should not have any impact on U.S. exports in the context of advance notification. However, the U.S. exports approximately \$8.5 million worth of corn and soybeans to Hong Kong annually. These products may be subject to documentation requirements covered by the new legislation, if they are biotech modified and are considered "living" depending on the definition of the future legislation.

U.S. Exports of Agricultural and Food Exports to Hong Kong in 2005

Products	US\$ million	% of U.S. total exports	Ranking
Agricultural, Fish & Forestry Total	1,016	1%	13
1005 Corn (Maize)	8.11	0%	36
Soybeans	0.43	0%	43
Sub-total	8.5	0%	--
Consumer-Oriented Ag. Total	529	2%	10

Source : U.S. Department of Commerce, Bureau of Census

SECTION II. Biotechnology Trade and Production

Hong Kong does not commercially produce any biotechnology crops not even for field trials, despite that there is no law prohibiting biotech crop plantation. Nonetheless, biotech papayas were planted by mistake by some organic farmers in Hong Kong last year. All the biotechnology production was subsequently eradicated.

Farming is insignificant in Hong Kong. The land use for vegetable, flower, field crop, and orchard are 330 hectare, 190 hectare, 30 hectare and 290 hectare respectively. The 2005 agricultural production amounted to \$152 million, comprising \$34 million of crop production, \$71 million of livestock production and \$46 million of poultry production. In essence, farming is insignificant with very limited future prospects. The livestock industry is diminishing. In recent years, the Hong Kong government has been promoting organic farming so as to find a niche market for Hong Kong's grown vegetables amidst the severe competition from imports from China.

It is at this initiative of promoting organic papaya production that biotech crops were introduced accidentally. In 2004 and 2005, the Agriculture, Fisheries and Conservation Department (AFCD) of the Hong Kong government helped local farmers source papaya seeds so as to encourage them to plant papaya. Consequently, a total of about 13 organic farms were involved with approximately 300 papaya trees planted.

Following news in October 2005 that papaya production in Thailand was found to be genetically modified, AFCD and Greenpeace Hong Kong tested locally grown papaya samples to see if they were genetically modified. Results were positive. As a result, all the papaya trees planted were eradicated. AFCD also wrote to farmers in Hong Kong advising them not to plant papayas due to the existence of unknown GM seeds. AFCD revealed that the seeds were sourced from a research institute in Guangdong, a province in China adjacent to Hong Kong. According to the Hong Kong government, the institute reaffirmed that it had not conducted any GM engineering work on papaya. However, AFCD staff indicated that they discovered the presence of papaya seedlings of unknown sources near the institute's papaya production site.

Learning from the papaya experience, the Hong Kong government is now taking the initiative to test local crops against GM ingredients. Local crops tested are those with known biotech varieties that exist overseas. They have tested samples of sweet corn. Results have not yet been released.

Hong Kong does carry out research on biotech rice at in the Chinese University of Hong Kong. Field trials are conducted in China. One of the research projects is by Professor Samuel Sun, who 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. The yield is 30 percent higher than that of conventional rice. Professor Sun's research project is to improve the lysine content of the super hybrid rice. The crop has already been subject to field trial in China.

On the trade front, Hong Kong import regulations regard biotech products as conventional products. Importers/exporters are not required to make any special declarations if products are of biotech origin. However, all the few major soybean users in Hong Kong specifically request non-GM soybeans because of market-driven factors, particularly if their products are exported to overseas markets. Canadian soybean of the grade SQWH (Special Quality White Hilum) is very popular among small soybean users in Hong Kong. According to importers, these SQWH soybeans are non-GM but there is no identity preservation. In 2005, Hong Kong imported merely 2 percent of its soybean demand from the United States while 95 percent was supplied by Canada.

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

SECTION III. Biotechnology Policy

Presently, Hong Kong does not have any regulatory measures on biotech products. In the area of production or field-testing, there are no special pieces of legislation regulating biotech crops. There is no law prohibiting biotech crop plantation. According to Hong Kong's organic certification scheme, all organic products should not be genetically modified. The certification scheme, however, is voluntary and is not backed legislatively. Neither is there any legislation for the labeling for packaged foods or feeds. Hong Kong does not maintain a list of approved biotechnology crops. Biotech crops can be imported to Hong Kong as conventional crops and are subject to the same legislations.

The government is prepared to introduce a set of guideline for voluntary labeling for biotech foods. The guideline could be released very soon this year. The government indicated that Hong Kong is not yet ready for the implementation of mandatory labeling for biotech foods as there is not any international consensus. The government also announced in March 2003 its intention to introduce a mandatory pre-market safety assessment. However, the government has not announced any time frame as to when this will be implemented.

Despite Hong Kong not having any biotechnology legislation at present, in recent years the Hong Kong government has announced proposals of biotechnology policy in the context of the Cartagena Protocol. The Hong Kong government is now at the stage of drafting legislation for implementing the Protocol requirements.

Voluntary Labeling

The Health, Welfare and Food Bureau (HWFB) is the policy bureau responsible for the policy direction over biotech foods. Its executive arm, the Food and Environmental Hygiene Department (FEHD), is the regulatory department for food safety through the Center for Food Safety. Both the pre-market safety assessment and labeling of biotech foods are under the portfolio of the Bureau while the Department is executing the policy decisions of the bureau.

The Hong Kong government proposed mandatory pre-market safety assessment and voluntary labeling for biotech foods in March 2003. While having not indicated when the mandatory pre-market safety assessment will be implemented, the government delivered a draft guideline on voluntary labeling for biotech foods to the Legislative Council's Panel on Food Safety and Environmental Hygiene for discussion in June this year. Despite the fact many Legislative Council members and consumer groups voiced their support of mandatory labeling, the administration argued that it is not yet time for Hong Kong to practice mandatory labeling because of the lack of international consensus and that a mandatory policy will reduce the variety of food supplies in Hong Kong. The draft guideline is now being fine-tuned and the final guideline will be announced very soon.

The guideline has been formulated by a working group, which has been established under the Center for Food Safety, with members coming from various sectors including manufacturing, wholesale, retail, consumer groups and government departments. The draft guideline is based on the following four principals and the final version is not expected to deviate from these principles.

- The labeling of biotech food will comply with the existing food legislation.
- The threshold level applied in the guideline 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.

The guideline is advisory in nature and has no legal effect. Adoption is entirely voluntary and is not binding. It applies to prepackaged food.

As the guideline is 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 Hong Kong government does not encourage negative labeling particularly for the use of the following terms:

- 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 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.

The final version, once released, will be provided in a separate GAIN report.

Mandatory Pre-market Safety Assessment

The Hong Kong government plans to introduce legislative measures mandating pre-market safety assessment, according to a proposal delivered to the Legislative Council in 2003. Importers or manufacturers of food containing biotech ingredients would be required to submit documents and certificates to the Food and Environmental Hygiene Department (FEHD) prior to importing the food to Hong Kong, detailing the safety assessments that have been conducted by the developer of the biotech ingredients. The results of evaluations conducted on the ingredients by overseas regulatory authorities would also be submitted for the pre-market safety assessment. FEHD would assess risks associated with toxins, allergies, nutrition, etc., based upon guidelines developed by Codex. Foods containing biotech ingredients that pass the safety assessment could then be sold in Hong Kong.

FEHD would develop a list of approved biotech ingredients based on the applications made by importers and manufacturers. The list would be publicized and updated regularly for public reference. Importers and manufacturers would bear the responsibility of determining whether their products contain only approved biotech ingredients and, if so, whether the foods may be imported without any further safety assessment. For foods containing biotech ingredients not on the approved list, an application to FEHD for pre-market safety assessment would be required.

Regarding products already in the market, FEHD would require importers or manufacturers to provide risk assessment reports if products contain biotech ingredients. Such biotech products could be sold in Hong Kong within a grace period pending document review and approval.

The proposal empowers FEHD to take food samples from the market to periodically test for biotech ingredients. Unapproved biotech products would be required to be removed from the market, and the importers would be prosecuted.

The government has not set a date for the implementation of the mandatory pre-market safety assessment.

Cartagena Protocol on Biosafety

The Environment, Transport and Works Bureau takes the lead on the implementation of the Cartagena Protocol on Biosafety. While it is a policy bureau, the technical responsibility lies with the Agriculture, Fisheries and Conservation Department (AFCD). AFCD is primarily responsible to provide infrastructure support services to promote agricultural production and sustainable development of agriculture and fisheries in Hong Kong. In 2002, AFCD created a division called Biodiversity Conservation Division. Among other duties, its role is to prepare Hong Kong to implement the Cartagena Protocol.

Hong Kong at present is not a party of the Convention on Biological Diversity and the Cartagena Protocol on Biosafety. Hong Kong is a Special Administrative Region of China. The application of international agreements to Hong Kong for agreements to which China is a party will be decided by China in accordance with the circumstances and needs of Hong Kong, after seeking the views of the Hong Kong government. China has been a party to the Convention and the Protocol since 1993 and 2005 respectively. The Hong Kong government 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. In essence, the Protocol was not extended to Hong Kong simultaneously upon China's ratification of the Protocol in 2005.

With this background, the Hong Kong government first announced its intention to apply for the extension of the Cartagena Protocol in late 2003. To prepare for the implementation of

the regulatory controls over the trans-boundary movement of LMOs stipulated under the Protocol, the Hong Kong government is working on a new legislation without providing any deadline for completion. The Hong Kong Government had sent delegates to attend the Protocol's COP-MOP (Conference of the parties serving as the meeting of the Parties) as part of China's delegation to keep track of the development. Government officials revealed that they are planning to take into account the developments of the Protocol when drawing up the detailed regulatory framework for implementing the Protocol in Hong Kong. Presently, the government is at the stage of drafting the bill, which will encompass the following key provisions.

- a) Establishment of a licensing system for the Agriculture, Fisheries and Conservation Department (AFCD) to process applications for first imports of LMOs (Living Modified Organisms) into Hong Kong for intentional introduction into the environment in accordance with the Advance Informed Agreement (AIA) procedure of the Protocol;
- b) A requirement that an exporter in Hong Kong shall send a notification enclosing the risk assessment report to the competent authority of the importing party and obtain its prior consent for the export of the LMO for first intentional introduction into the environment at the importing end;
- c) A requirement that approval shall be obtained from AFCD prior to the domestic use or export of a locally developed LMO for intentional introduction into the environment or for direct use as food, feed or for processing;
- d) Documentation requirements on trans-boundary movements of LMOs;
- e) Penalties for violation of the import, export or documentation requirements set out in (a) to (d) above;
- f) Other miscellaneous matters including designation of the Director of AFCD as the competent authority to discharge the Protocol's obligations in Hong Kong; and
- g) Implementation of measures to fulfill obligations under the Protocol following future decisions made by Parties to the Protocol, e.g. setting standards for the identification, handling, packaging and transport of LMO.

SECTION IV. MARKETING ISSUES

The green groups and consumer organizations are key parties in Hong Kong advocating mandatory labeling of biotech foods. Their rationale is based on consumers' right to know. The safety issue is not their major argument. The request of green groups and consumer organizations has gained support of certain Legislative Council (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. On 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 food industry is 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.

On the whole, general consumers do not have a concern whether food contains biotech ingredients. 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. CAPACITY BUILDING AND OUTREACH

There are no U.S. government funded outreach activities carried out in Hong Kong that relate to agricultural biotechnology.