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Claire Bleakley
GE FREE NEW ZEALAND
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Dear Claire

Thank you for your letter of 27 August, seeking further information in follow up to our meeting on 13 August.

In your letter you requested responses on the following points:

1. The question from the Sustainability Council about CPTPP accession and LMOs;
2. GE Free New Zealand's OIA request on documents relating to the Convention on Biological Diversity SBSTTA24 meetings on synthetic biology and gene drives;
3. GE Free New Zealand's request for reassurance regarding advocating and retaining oversight of organisms and products from gene editing; and
4. The query on the use of the precautionary principle as opposed to 'approach'.

In response to the first question, I confirm that any economies seeking accession the CPTPP must be willing to meet the high standards of the Agreement. The CPTPP also includes a number of exceptions and reservations which ensure that New Zealand retains its right to regulate in the public interest, including in relation to the environment. The Government would not accept an outcome that prevents it from regulating for legitimate public policy purposes. There is nothing in the CPTPP that allows New Zealand to change its laws or regulations on genetically modified organisms (GMOs). Should an accession candidate seek an exemption on living modified organisms (LMOs) this would relate solely to their own domestic regulations.

Regarding the OIA request, I am pleased to confirm that a response was sent last month.

Regarding the third point, changes to the Hazardous Substances and New Organisms (Organisms not Genetically Modified) Regulations 1998, were made via an Order-in-Council in 2016 under the Hazardous Substances and New Organisms (Organisms Not Genetically Modified) Amendment Regulations 2016. Under these changes, Regulation 3(1)(ba) states: "For the purposes of the Act, the following organisms are not to be regarded as genetically modified: organisms that result from mutagenesis that uses chemical or radiation treatments that were in use on or before 29 July 1998".

As gene editing techniques were not in use before 29 July 1998, organisms resulting from the use of gene editing techniques are not considered to be exempt from regulation as genetically modified organisms under the HSNO Act. As such, any importation, development, field test, or release of an organism resulting from gene editing requires an approval from the Environmental Protection Authority, with risk assessment undertaken as required under the HSNO Act, and the associated HSNO (Methodology) Order 1998.

Finally, in response to your fourth query, it is always our expectation that any importation of LMOs will be precautionary and supported by robust scientific evidence, as this is what is required under the HSNO Act, particularly section 7. As you point out, Article 11.8 of the Cartagena Protocol allows Parties to take a precautionary approach when there is a lack of scientific certainty as to the potential adverse effects of importing an LMO, which is also entirely consistent with the HSNO Act. From MFAT's perspective this is our starting point in any advocacy in international forums.

Domestically, the HSNO Act is clear that new or modified organisms may only be imported with approval, with risk assessment undertaken in accordance with the provisions of the Act, and the HSNO Methodology Order, as discussed above. MFAT works constructively across government on these and other matters but defer where legislation grants decision-making powers to other Ministries and/or agencies.

Yours sincerely

Liese Galvin
Ministry of Foreign Affairs and Trade

CC. SUSTAINABILITY COUNCIL NEW ZEALAND