

立法會
Legislative Council

LC Paper No. CB(1) 844/05-06
(These minutes have been seen
by the Administration)

Ref: CB1/BC/12/04/2

**Bills Committee on
Protection of Endangered Species of Animals and Plants Bill**

**Minutes of eighth meeting
held on Thursday, 19 January 2006, at 10:45 am
in the Chamber of the Legislative Council Building**

- Members present** : Hon CHOY So-yuk, JP (Chairman)
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon SIN Chung-kai, JP
Hon Tommy CHEUNG Yu-yan, JP
Hon Albert CHAN Wai-yip
Hon Audrey EU Yuet-mee, SC, JP
Hon Vincent FANG Kang, JP
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon WONG Ting-kwong, BBS
- Members absent** : Hon Martin LEE Chu-ming, SC, JP
Hon WONG Yung-kan, JP
- Public officers attending** : Environmental Protection Department
Mr Eric CHAN
Assistant Director (Conservation)
Miss Christina CHONG
Senior Administration Officer (Conservation Division)²
Agriculture, Fisheries and Conservation Department
Mr C S CHEUNG
Senior Endangered Species Protection Officer

Department of Justice

Mr Sunny CHAN
Senior Government Counsel

Clerk in attendance : Miss Becky YU
Chief Council Secretary (1)1

Staff in attendance : Miss Monna LAI
Assistant Legal Adviser 7

Mrs Mary TANG
Senior Council Secretary (1)2

I Confirmation of minutes

(LC Paper No. CB(1) 709/05-06 -- Minutes of the meeting held on
9 January 2006)

The minutes of the meeting held on 9 January 2006 were confirmed.

II Meeting with the Administration

(LC Paper No. CB(1) 711/05-06(01) -- List of follow-up actions arising from
the discussion on 9 January 2006
LC Paper No. CB(1) 711/05-06(02) -- Administration's response to LC Paper
No. CB(1) 711/05-06(01)
LC Paper No. CB(1) 730/05-06(01) -- Marked-up Chinese version of the Bill
prepared by the Administration
LC Paper No. CB(1) 730/05-06(02) -- Marked-up English version of the Bill
prepared by the Legal Service
Division)

2. The Committee deliberated (Index of proceedings attached in **Annex A**).

3. The Administration was requested to -

(a) consider increasing the proposed penalty for an offence under
clause 44(1) and (2) from imprisonment of three months to six months
on conviction; and

(b) review the drafting of Schedule 3, in consultation with the Assistant
Legal Adviser, with a view to avoiding any potential ambiguity.

4. The next meeting would be held on Tuesday, 7 February 2006, at 8:30 am.

III Any other business

5. There being no other business, the meeting ended at 12:40 pm.

Council Business Division 1
Legislative Council Secretariat
6 February 2006

**Proceedings of the meeting of the
Bills Committee on Protection of Endangered Species of Animals and Plants Bill**

**Meeting on Thursday, 19 January 2006, at 10:45 am
in the Chamber of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000000 - 000039	Chairman	Welcoming remarks	
000040 - 000200	Chairman	Confirmation of minutes of the meeting held on 9 January 2006 (LC Paper No. CB(1) 709/05-06)	
000201 - 000853	Chairman Administration Ms Audrey EU	Discussion on the Administration's response to follow-up actions arising from the discussion at the meeting on 9 January 2006 (LC Paper No. CB(1) 711/05-06(02))	
000854 - 002550	Ms Audrey EU Administration Chairman ALA7	On "commercial purpose", Ms Audrey EU's enquiries - (a) meaning of "trade" and "business"; and (b) whether charitable organizations auctioning endangered species to raise funds would be construed as a purpose relating to trade or business Administration's explanation - (a) "trade" and "business" would be defined by their ordinary dictionary meanings; and (b) charitable organizations auctioning endangered species would be construed as a purpose relating to business if they conducted such activities regularly	
002551 - 003721	Ms Audrey EU Administration Chairman ALA7 Mr WONG Ting-kwong	Discussion on penalty for furnishing false information Members' emphasis on the need to ensure the proposed period of imprisonment was consistent with the severity of the offence and other penalty provisions in the Bill	The Administration to consider increasing the proposed penalty for an offence under clause 44(1) and (2) from imprisonment of three months to six months on conviction

Time marker	Speaker	Subject(s)	Action required
003722 - 004658	Chairman ALA7 Administration	<p>Examination of revised Schedule 3</p> <p>ALA7's concern -</p> <p>(a) whether the present drafting in relation to "Parties" in Schedule 3 revealed the policy that Hong Kong was imposing obligations on other Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (the Convention);</p> <p>(b) meaning of "-":</p> <p>Administration's explanation -</p> <p>(a) Schedule 3 was meant to set out the relevant parts of Convention instruments that had the force of law in Hong Kong but clearly it would not bind any party outside the jurisdiction of Hong Kong; and</p> <p>(b) wordings of the Convention instruments would be adhered to as far as possible as the Schedule was meant to give effect to those instruments</p>	
004659 - 005740	Ms Audrey EU Chairman Administration ALA7	<p>Ms Audrey EU's concerns -</p> <p>(a) need for accuracy in the drafting of Schedule 3 and appropriate wordings should be used; and</p> <p>(b) drafting of Schedule 3 should be consistent with that of local legislation as it would have the force of law in Hong Kong</p>	The Administration to review the drafting of Schedule 3, in consultation with the Assistant Legal Adviser, with a view to avoiding any potential ambiguity
005741 - 010809	Ms Audrey EU Administration Chairman	Discussion on paragraph 6 of Part 2, Schedule 3 regarding the import of specimen which was not legally acquired in the country of origin	

Time marker	Speaker	Subject(s)	Action required
		<p>Ms Audrey EU's concern -</p> <p>(a) the need for such provisions in Schedule 3 when similar controls had already been set out in the main body of the Bill; and</p> <p>(b) direct incorporation of Convention instruments in the Bill was not appropriate. Suitable modifications were required to suit the need of local legislation</p>	
010810 - 011434	ALA7 Administration Chairman	<p>Administration's explanation that the inclusion of Convention resolutions in Schedule 3 would set out more clearly the existing requirements under the Convention which would apply to Hong Kong and would facilitate the trades in their dealings with endangered species</p> <p>ALA7's query that the basis on which the Administration could require Parties to the Convention to act or not to act was the Convention itself, not the provisions set out in the Bill</p>	
011435 - 011606	Ms Audrey EU Administration	Discussion on the deletion of paragraph 5 of Part 2, Schedule 3 which aimed at removing duplication of revised paragraph 4	
011607 - 012742	ALA7 Chairman Administration	<p>ALA7's query on paragraph 16 of Part 2, Schedule 3 regarding the extension of export permits or re-export certificates for timber species - who should extend the permits or certificates and whether the permits or certificates extended by Hong Kong would be accepted</p> <p>Administration's agreement to suitably amend the provisions to clearly reflect the procedures to be adopted by Hong Kong</p>	

Time marker	Speaker	Subject(s)	Action required
012743 - 012837	ALA7 Administration Chairman	Administration's agreement to suitably amend the drafting of Schedule 3 to make it clear that other Parties to the Convention are not abided by the laws in Hong Kong	
012838 - 013630	ALA7 Chairman Administration Ms Audrey EU	<p>ALA7's queries -</p> <p>(a) whether the phrase "relevant authority of the country in which the matter occurred" in paragraph 28 of Part 2, Schedule 3 referred to the relevant authority in Hong Kong or the Mainland if the matter occurred in Hong Kong; and</p> <p>(b) whether it would be more appropriate to substitute "country" by "place"</p> <p>Ms Audrey EU's support to (b)</p> <p>Administration's response -</p> <p>(a) "relevant authority" was defined under section 2 of the Bill; and</p> <p>(b) consideration would be given to substituting "country" by "place"</p>	
013631 - 014909	ALA7 Chairman Administration Mrs Selina CHOW Mr SIN Chung-kai	<p>ALA7's concern whether the Chinese rendition of "duplicate" in Part 3, Schedule 3 meant "cloning"</p> <p>Administration's explanation that the Chinese rendition was the common term used in laboratory to describe a duplicate of specimen and did not include cloning</p>	
014910 - 015219	ALA7 Administration	Reference to Chinese version of Committee Stage amendment to Schedule 1 of the Bill was not found in the English version	
015220 - 015428	Chairman	Schedule of meetings	