

**立法會**  
**Legislative Council**

LC Paper No. CB(1) 328/05-06  
(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 third meeting  
held on Thursday, 10 November 2005, at 2:30 pm  
in Conference Room A of the Legislative Council Building**

- Members present** : Hon CHOY So-yuk, JP (Chairman)  
Hon Martin LEE Chu-ming, SC, JP  
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP  
Hon WONG Yung-kan, JP  
Hon Albert CHAN Wai-yip  
Hon Audrey EU Yuet-mee, SC, JP  
Hon WONG Ting-kwong, BBS
- Members absent** : Hon SIN Chung-kai, JP  
Hon Tommy CHEUNG Yu-yan, JP  
Hon Vincent FANG Kang, JP  
Hon Andrew LEUNG Kwan-yuen, SBS, JP
- Public officers attending** : Environmental Protection Department  
  
Mr Roy TANG  
Deputy Director of Environmental Protection (3)  
  
Mr Eric CHAN  
Assistant Director (Conservation)  
  
Miss Christina CHONG  
Senior Administration Officer (Conservation Division) 2

Agriculture, Fisheries and Conservation Department

Mr CHAN Ping-kwong  
Acting Assistant Director (Conservation)

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

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**I Confirmation of minutes**

(LC Paper No. CB(1) 174/05-06 -- Minutes of the meeting held on  
4 October 2005)

The minutes of the meeting held on 4 October 2005 were confirmed.

**II Meeting with the Administration**

(LC Paper No. CB(1) 243/05-06(01) -- Administration's response to  
summary of views/concerns (as at  
9 November 2005)

LC Paper No. CB(1) 243/05-06(02) -- List of follow-up actions arising  
from the discussion on  
4 October 2005

LC Paper No. CB(1) 243/05-06(03) -- Administration's response to LC  
Paper No. CB(1) 243/05-06(02))

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

3. The Administration was requested to -
  - (a) consider specifying in proposed section 21 the proof(s) which a person had to provide to the satisfaction of the Director of Agriculture, Fisheries and Conservation so that he could possess or control a specimen of an Appendix II species; and
  - (b) step up education and publicity to promote public awareness on the protection of the endangered species of animals and plants under Appendices I and II after the passage of the Bill.
4. The next meeting would be held on Tuesday, 22 November 2005, at 10:45 am.

**III. Any other business**

5. There being no other business, the meeting ended at 4:20 pm.

Council Business Division 1  
Legislative Council Secretariat  
18 November 2005

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

**Meeting on Thursday, 10 November 2005, at 2:30 pm  
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000000 - 000352	Chairman	Confirmation of minutes of the meeting held on 4 October 2005 (LC Paper No. CB(1) 174/05-06)	
000353 - 001842	Chairman Administration	Administration's response to follow-up actions arising from the discussion at the meeting on 4 October 2005 (LC Paper No. CB(1) 243/05-06(02))	
001843 - 002009	Mr Martin LEE Administration Chairman	<p>Member's enquiry on the availability of statistics to support the Administration's claim that smuggling activities were on the decline</p> <p>Administration's explanation -</p> <ul style="list-style-type: none"> <li>(a) of those prosecution cases against possession with smuggling element for the past three years, there was only one case each year which would not be covered by the Bill due to relaxation in the control of possession of Appendix II species;</li> <li>(b) over 90% of prosecution in relation to import did not involve smuggling activities;</li> <li>(c) the decline in smuggling activities might be attributable to the change in shipping routes in particular shipments going to and coming out from the Mainland, the stepping up of local enforcement actions, the higher penalties imposed which had resulted in greater deterrent effect and the increased public awareness through education and publicity</li> </ul>	

Time marker	Speaker	Subject(s)	Action required
002010 - 002347	Administration Mr Martin LEE Chairman	<p>Member's query on whether the low prosecution figures was a result of ineffective enforcement</p> <p>Administration's explanation -</p> <p>(a) one prosecution case each year referred to enforcement against non-compliance with the requirements for the possession of Appendix II species, which would not be covered by the Bill after its passage. In fact, there had been 278 prosecutions in 2004; and</p> <p>(b) Hong Kong was the first recipient of the Secretary-General's Certificate of Commendation which was introduced in 2002 by the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) to recognize exemplary enforcement action</p>	
002348 - 002648	Chairman Administration	<p>Chairman's concern that the relaxation on possession of non-live Appendix II species not of wild origins would encourage the killing of live species to facilitate trading</p> <p>The Administration's explanation that import and export (I/E) of Appendix II species were now under control and an export permit would still be required under the Bill. The proposed relaxation was meant to strike a balance between protection of endangered species and trading activities</p>	
002649 - 003236	Mr WONG Yung-kan Administration Chairman	Member's query on the need for control on domestically bred Appendix II species, particularly for medicinal use	

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		<p>Administration's explanation -</p> <p>(a) no Appendix II species was captive bred/artificially propagated in commercial scale in Hong Kong, except for some plant species such as orchids;</p> <p>(b) possession of captive bred/artificially propagated Appendix II species was not subject to control but licences or permits were required for the I/E of Appendices I and II species; and</p> <p>(c) enquiries could be made with the Agriculture, Fisheries and Conservation Department (AFCD) in case of doubt whether the captive bred/artificially propagated species were subject to control</p>	
003237 - 003648	Chairman Administration	<p>Reference was made to proposed section 21, which provided that a person would not be required to obtain a licence for possession of Appendix II species if he could prove to the satisfaction of the Director of Agriculture, Fisheries and Conservation (DAFC) that the specimen was not a live animal or plant of wild origin.</p> <p>Chairman's concern about the ambiguity as to how the criterion "to the satisfaction of DAFC" could be met</p> <p>Administration's explanation -</p> <p>(a) documentary proofs, such as relevant certificates and previous possession licences etc., would be considered acceptable; and</p>	The Administration to consider specifying in section 21 the proof(s) which a person had to provide to the satisfaction of DAFC so that he could possess or control a specimen of an Appendix II species

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		(b) it was more appropriate to allow certain degree of flexibility in the legislation since it was not feasible to list out all the possible means of proof	
003649 - 004044	Mr Martin LEE Administration	<p>Member's enquiry on the need for the Bill to provide controls that were stricter than that required under CITES</p> <p>Administration's explanation -</p> <p>(a) CITES was intent to control over I/E and international trading of scheduled species and there was no requirement for possession licence;</p> <p>(b) stricter local control on live specimens of wild origin was required to combat smuggling activities; and</p> <p>(c) control on possession of Appendix II species other than live specimens of wild origin was relaxed under the Bill on account of the recent decline in smuggling activities</p>	
004045 -011802	ALA7 Administration Chairman Mr Martin LEE	<p>ALA7's queries on the control on import, re-export and possession of specimen in transit under the Bill, which in her views might not be stricter than CITES</p> <p>Administration's explanation -</p> <p>(a) the proposed control on import and re-export of specimen in transit were in compliance with CITES requirements which was recognized by CITES;</p> <p>(b) a Convention export permit would have to be produced in respect of specimen in transit via Hong Kong to other places;</p>	

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		<p>(c) the specimen in transit would remain in the carrier and its movements would be monitored by AFCD staff, as appropriate; and</p> <p>(d) the main difference between CITES and the Bill was that the former specified that the control was carried out by “Customs” while the Bill used the word “Director”. However, the nature of control was the same between CITES and the Bill.</p>	
011803 - 013227	Mr WONG Ting-kwong Administration Chairman	<p>Member’s concerns –</p> <p>(a) it would be difficult to differentiate between domestically bred species from those of wild origins and the public might be unnecessarily caught if they were unsure about the origins of the species; and</p> <p>(b) the proposed relaxation on the possession of non-live Appendix II species was confusing as the public would not be able to tell whether the species they kept should or should not be subject to control</p> <p>Administration’s explanation -</p> <p>(a) possession of non-live or non-wild Appendix II species would be relaxed;</p> <p>(b) proofs such as relevant certificates/photos could be produced in support of the origins of the species; and</p> <p>(c) the public could seek assistance from AFCD when in doubt about the origins of species</p>	The Administration to step up education and publicity to promote public awareness on the protection of the endangered species of animals and plants under Appendices I and II after the passage of the Bill



Time marker	Speaker	Subject(s)	Action required
013228 - 014000	Mr WONG Yung-kan Administration Chairman	<p>Member's concern that the Bill was stricter than CITES in terms of control over Appendices I and II species</p> <p>Administration's explanation -</p> <p>(a) the main difference between CITES and the Bill was that the former did not control possession for Appendices I and II species while the latter did; and</p> <p>(b) stricter local control on possession of Appendices I and II species was required to combat smuggling activities which were rampant in the 1970s</p>	
014001 - 014859	Chairman Administration ALA7	<p>Chairman's concern that some breeding farms might be able to export wild species under the disguise of domestically bred ones</p> <p>Administration's explanation -</p> <p>(a) there were export and domestic controls on farms engaged in the breeding of endangered species; and</p> <p>(b) member countries would have to rely on each other's cooperation in complying with CITES requirements</p>	
014900 - 015004	Chairman Administration	Schedule of meetings	