

立法會
Legislative Council

LC Paper No. CB(1) 489/05-06
(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 Fourth meeting
held on Tuesday, 22 November 2005, at 10:45 am
in Conference Room A of the Legislative Council Building**

- Members present** : Hon CHOY So-yuk, JP (Chairman)
Hon WONG Yung-kan, 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 WONG Ting-kwong, BBS
- Members absent** : Hon Martin LEE Chu-ming, SC, JP
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon SIN Chung-kai, 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 C C LAY
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

I Confirmation of minutes

(LC Paper No. CB(1) 328/05-06 -- Minutes of the meeting held on
10 November 2005)

The minutes of the meeting held on 10 November 2005 were confirmed.

II Meeting with the Administration

(LC Paper No. CB(3) 504/04-05 -- The Bill
Ref: EP 55/25/01 Pt.14 -- The Legislative Council Brief
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) 338/05-06(01) -- List of follow-up actions arising from
the discussion on 10 November 2005
LC Paper No. CB(1) 338/05-06(02) -- Administration's response to LC Paper
No. CB(1) 338/05-06(01))

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 need to provide evidence for possession or control of specimens of Appendix II species;
 - (b) consult the trade on the proposal of extending the further grace period of three months in clause 55(6) to six months for possession of any specimens of Appendix I or II species which were not subject to licensing control on possession before the commencement of the Bill;
 - (c) re-consider the propriety of setting out provisions relating to convention instruments, such as definitions of “commercial purposes”, in Schedule 3, the amendment of which would be in the form of an Order published in the Gazette, leaving insufficient time for scrutiny by the Legislature;
 - (d) consider reviewing the term “Convention export permit” under clause 2 to expressly cover both export permits and re-export certificates;
 - (e) consider including in the meaning of “in transit” under clause 3 to cover a thing which was hand carried into Hong Kong, and amending proposed section 3(b) to ensure that all in-transit consignments in Hong Kong remain under the control of the Director of Agriculture, Fisheries and Conservation, such as being checked and sealed, from the time they were brought into Hong Kong up to the time they were taken outside Hong Kong; and
 - (f) ensure that a person, who might not be able to distinguish the specimens of Appendix II species under his possession or control were of wild or non-wild origin, would not be unnecessarily caught by clause 15, consideration should be given to prohibiting the possession of such specimens without licence.
4. The next meeting would be held on Tuesday, 29 November 2005, at 4:30 pm.

III Any other business

5. There being no other business, the meeting ended at 12:50 pm.

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

**Meeting on Tuesday, 22 November 2005, at 10:45 am
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000000 - 000043	Chairman	Confirmation of minutes of the meeting held on 10 November 2005 (LC Paper No. CB(1) 174/05-06)	
000044 - 000122	Chairman	Welcoming remarks	
000123 - 000555	Chairman Administration	Administration's response to follow-up actions arising from the discussion at the meeting on (LC Paper No. CB(1) 338/05-06(02))	
000556 - 000807	Chairman Administration Ms Audrey EU	Discussion on proposed section 21 regarding possession or control of specimens of Appendix II species	The Administration to consider specifying in proposed section 21 the need to provide evidence for possession or control of specimens of Appendix II species
000808 - 002035	Administration Chairman Mr Tommy CHEUNG Mr Vincent FANG Mr WONG Ting-kwong	Clause-by-clause examination of the Bill <u>Clause 1 - Short title and commencement</u> Discussion on the commencement date and grace period (a) Administration's explanation that some trades were in support of the early implementation of the Bill; and (b) members' support for extending the further grace period of three months in clause 55(6) to six months for possession of any specimens of Appendix I or II species which were not subject to licensing control on possession before the commencement of the Bill	The Administration to consult the trade on the proposal of extending the further grace period of three months in clause 55(6) to six months for possession of any specimens of Appendix I or II species which were not subject to licensing control on possession before the commencement of the Bill

Time marker	Speaker	Subject(s)	Action required
002036 - 003225	Administration ALA7 Chairman	<p><u>Clause 2 - Interpretation</u></p> <p>ALA7's concern about selection of convention instruments to be incorporated in Schedule 3. The provision of interpretations for some convention instruments like "commercial purposes" under Schedule 3 instead of the main body of the Bill might have implications on future amendments to these instruments, since amendments to Schedule 3 would be in the form of an Order made by the Secretary for the Environment, Transport and Works (SETW) published in the Gazette</p> <p>Administration's explanation -</p> <p>(a) convention instruments were in fact resolutions, decisions and notifications adopted or made by the Conference of the Parties or issued by the Secretariat in relation to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES);</p> <p>(b) these instruments covered mostly guidelines that were more technical in nature and would not affect the basic principles of CITES that were incorporated in the main body of the Bill;</p> <p>(c) as contents of these instruments might need to be updated or modified from time to time by the Conference of Parties, it might be more appropriate to set these out in Schedule 3 and to empower SETW to amend the Schedule by an Order published in the Gazette so as to ensure the timely incorporation of the relevant changes in the domestic law; and</p> <p>(d) the Legislature could consider setting up a Subcommittee to scrutinize the Order made by SETW</p>	<p>The Administration to re-consider the propriety of setting out provisions relating to convention instruments, such as definitions of "commercial purposes", in Schedule 3, the amendment of which would be in the form of an Order published in the Gazette, leaving insufficient time for scrutiny by the Legislature</p>

Time marker	Speaker	Subject(s)	Action required
003226 - 003417	Mr Vincent FANG Chairman Administration	Member's concern about the high level of penalty for commercial trading of Appendix I species under clause 10 Administration's explanation that the level of penalty reflected the severity of offence for commercial trading of Appendix I species, and that such level was same as the existing Ordinance	
003418 - 004127	ALA7 Administration Chairman	Further discussion on the propriety of including provisions relating to convention instruments in Schedule 3	
004128 - 005009	ALA7 Administration Chairman Mr WONG Ting-kwong	Discussion on whether "Convention export permit" included re-export cases	The Administration to consider reviewing the term "Convention export permit" under clause 2 to expressly cover both export permits and re-export certificates
005010 - 011404	Chairman Administration Mr WONG Ting-kwong ALA7	<u>Clause 3 - Meaning of "in transit"</u> Members' concerns - (a) whether the "in transit" arrangements under the Bill would cover specimens which were hand carried and did not involve any incoming carrier; and (b) the need for all in-transit consignments in Hong Kong to remain under the control of the Director of Agriculture, Fisheries and Conservation (DAFC), such as being checked and sealed, from the time they were brought into Hong Kong up to the time they were taken outside Hong Kong	The Administration to consider including in the meaning of "in transit" under clause 3 to cover a thing which was hand carried into Hong Kong, and amending proposed section 3(b) to ensure that all in-transit consignments in Hong Kong remain under the control of DAFC, such as being checked and sealed, from the time they were brought into Hong Kong up to the time they were taken outside Hong Kong

Time marker	Speaker	Subject(s)	Action required
011405 - 011817	Chairman Administration Mr WONG Yung-kan Mr WONG Ting-kwong	<u>Clause 4 - Application to hybrids</u> <u>Clause 5 - Restriction on import of specimens of Appendix I species</u>	
011818 - 012413	Administration Chairman Mr WONG Yung-kan	<u>Clause 6 - Restriction on introduction from the sea of specimens of Appendix I species</u> Member's concern that fishermen who were not aware of the fishes they caught were endangered species would contravene the law Administration's agreement to step up publicity to enhance public understanding on the protection of endangered species	
012414 - 012435	Administration Chairman Mr WONG Ting-kwong	<u>Clause 7 - Restriction on export of specimens of Appendix I species</u> <u>Clause 8 - Restriction on re-export of specimens of Appendix I species</u> Members' enquiry on whether there was a time limit on the re-export of imported Appendix I species and whether there was any control on species which were subsequently propagated after importation Administration's explanation - (a) there was no time limit on the re-export of Appendix I species but the re-exported quantity would be monitored; and (b) application for possession licence would be required for propagated Appendix I species	
012436 - 012910	Administration Chairman Mr WONG Yung-kan	<u>Clause 9 - Restriction on possession or control of specimens of Appendix I species</u> Discussion on hybrids as set out in Schedule 3	

Time marker	Speaker	Subject(s)	Action required
012911 - 14033	Administration Chairman Mr WONG Ting-kwong ALA7	<p><u>Clause 10 - Higher penalties for offences relating to specimens of Appendix I species committed for commercial purposes</u></p> <p><u>Clause 11 - Restriction on import of specimens of Appendix II and III species</u></p> <p><u>Clause 12 - Restriction on introduction from the sea of specimens of Appendix II species</u></p>	
013944 - 014033	Administration	<p><u>Clause 13 - Restriction on export of specimens of Appendix II and III species</u></p> <p><u>Clause 14 - Restriction on re-export of specimens of Appendix II and III species</u></p>	
014034 - 020048	Administration Chairman Mr WONG Ting-kwong Mr WONG Yung-kan Mr Vincent FANG ALA7	<p><u>Clause 15 - Restriction on possession or control of specimens of Appendix II species</u></p> <p>Members' concerns -</p> <p>(a) a person who might not be able to distinguish the specimens of Appendix II species under his possession or control were of wild or non-wild origin would be unnecessarily caught under this clause; and</p> <p>(b) need to provide photographs of Appendix I, II and III species to facilitate identification of endangered species</p> <p><u>Clause 16 - Higher penalties for offences relating to specimens of Appendix II and III species committed for commercial purposes</u></p>	The Administration to ensure that a person, who might not be able to distinguish the specimens of Appendix II species under his possession or control were of wild or non-wild origin, would not be unnecessarily caught by clause 15, consideration should be given to prohibiting the possession of such specimens without licence
020049 - 020108	Chairman	Schedule of meeting	