

PROTECTION OF ENDANGERED SPECIES OF ANIMALS AND PLANTS BILL

COMMITTEE STAGE

Amendments to be moved by the Secretary for the Environment,
Transport and Works

Clause

Amendment Proposed

2(1)

(a) By deleting the definition of "commercial purposes" and substituting -

"commercial purposes" (商業目的) means -

(a) a purpose relating to trade or business; or

(b) a purpose of obtaining profit or other economic benefit (whether in cash or in kind) and directed towards sale, resale, exchange, provision of a service or other form of economic use or benefit, whether direct or indirect,

and "non-commercial purposes" (非商業目的) shall be construed accordingly;".

(b) In the definition of "Convention export permit", by deleting "Convention export permit" (《公約》出口准許證)" and substituting "Convention certifying document" (《公約》證明文件)".

(c) By adding -

"former licence" (前許可證) means a licence within the meaning of section 7 of the repealed Ordinance;"

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By deleting the clause and substituting -

"3. Meaning of "in transit"

For the purposes of this Ordinance, a thing is in transit if -

- (a) it is brought into Hong Kong from a place outside Hong Kong;
- (b) it is in the process of being taken to another place outside Hong Kong; and
- (c) it remains under the control of the Director or an authorized officer from the time it is brought into Hong Kong up to the time it is taken outside

Hong Kong." .

- 5(1)(b)(ii) By deleting "Convention export permit" and substituting "Convention certifying document".
- 5(2)(b) By deleting "Convention export permit" and substituting "Convention certifying document".
- 11(1)(b)(ii) By deleting "Convention export permit" and substituting "Convention certifying document".
- 11(2)(b) By deleting "Convention export permit" and substituting "Convention certifying document".
- 17 (a) In paragraphs (a) and (b), by deleting "Convention export permit" and substituting "Convention certifying document".
- (b) In paragraph (c) -
- (i) by deleting "Convention export permit" and substituting "Convention certifying document";
- (ii) by deleting "that permit" and substituting "that document".
- 18 In paragraphs (a), (b) and (c), by deleting

"Convention export permit" and substituting
"Convention certifying document".

19(1) In paragraphs (a)(i) and (b), by deleting
"Convention export permit" and substituting
"Convention certifying document".

21 (a) By re-numbering the clause as clause 21(1).
(b) In subclause (1), by adding "by documentary
evidence or otherwise" after "the Director".
(c) By adding -
 "(2) In subsection (1),
 "documentary evidence" (文件證據)
 includes but is not limited to a former
 licence, a certificate in lieu or other
 Convention certifying document.".

22(1) By deleting "Convention export permit" and
substituting "Convention certifying document".

22(2) (a) In paragraph (a), by deleting "Convention
export permit" and substituting "Convention
certifying document".

(b) In paragraph (b) -
 (i) by deleting "date of the expected

arrival of the vessel, vehicle,
train or aircraft in" and
substituting "intended date on";

- (ii) in subparagraph (iii), by adding
"where the animal is to be brought
into Hong Kong by a vessel,
vehicle, train or aircraft," before
"providing".

22(3) In the English text, by deleting "purpose" and
substituting "purposes".

29(1) By deleting "state" and substituting "give".

41 (a) In the heading, by deleting ", 38".

(b) By deleting ", 38".

42(1) By deleting ", 38".

44(3) By adding "and to imprisonment for 6 months" after
"level 6".

55 By deleting subclause (1) and substituting -

"(1) In this section, "relevant date"

(有關日期) means the date of commencement of

this Ordinance."

- 55(6) By deleting "3" and substituting "6".
- Schedule 1,
Part 1,
section 6 By deleting "countries" and substituting "places".
- Schedule 1,
Part 2,
Appendix III By deleting "*Pelodiscus sinensis*<Chinese softshell turtle>(China)".
- Schedule 1 In paragraph 2 of the annotations set out at the end of the Appendices -
- (a) in sub-subparagraph (ii), in the Chinese text, by deleting "是";
 - (b) by deleting "state" where it twice appears and substituting "place".
- Schedule 1 In paragraph 8 of the annotations set out at the end of the Appendices -
- (a) in subparagraph (e), by deleting "country" where it twice appears and substituting "place";
 - (b) by deleting "Convention documents" and substituting "Convention certifying documents".

Schedule 3,
Part 1,
item II

By deleting "state" and substituting "place".

Schedule 3,
Part 1,
item III

- (a) In paragraph 1(b), by deleting "country" and substituting "place".
- (b) In paragraph 3, in the English text, by deleting "are" and substituting "shall be".
- (c) In paragraph 4(a)(ii), by deleting "country" and substituting "place".
- (d) In paragraph 5 -
 - (i) in the English text, by deleting "are" and substituting "shall be";
 - (ii) by adding "shall" before "be treated as".
- (e) By deleting paragraph 7(a) and substituting -
 - "(a) any plant species or other taxa listed in Appendix I shall be annotated in accordance with Article XV of the Convention if the provisions of this Ordinance relevant to Appendix I are to apply to artificially propagated hybrids derived from such species or taxa;"
- (f) In paragraph 8, by deleting everything after "containers," and substituting "shall not be

considered as specimens of a scheduled species for the purposes of this Ordinance if they have been artificially propagated."

Schedule 3,
Part 1,
item IV

(a) In paragraph 3(b), by deleting "country" and substituting "place".

(b) In the heading immediately before paragraph 4, by deleting "the trade in" and substituting "marking of".

(c) By deleting paragraph 4 and substituting -
"4. A specimen bred in captivity shall be marked in accordance with the provisions on marking in the Resolutions adopted by the Conference of the Parties and the type and number of the mark shall be indicated on any Convention certifying document issued in respect of the specimen."

Schedule 3,
Part 1

By deleting item V.

Schedule 3,
Part 1,
item VI

(a) By deleting paragraphs 2 and 3.

(b) In paragraph 4, by deleting everything after "fragments" and substituting "shall not be considered as specimens of a scheduled

species for the purposes of this Ordinance.”.

(c) By deleting paragraph 5 and substituting -

“5. In this Schedule -

- (a) “coral sand” means coral material not identifiable to the level of genus and consisting entirely or in part of finely crushed fragments of dead coral no larger than 2 mm in diameter and which may also contain, amongst other things, the remains of Foraminifera, mollusc and crustacean shell, and coralline algae;
- (b) “coral fragments” means unconsolidated fragments of broken finger-like dead coral and other coral material between 2 and 30 mm in diameter, which are not identifiable to the level of genus;
- (c) “coral rock” means hard

consolidated coral material not identifiable to the level of genus but identifiable to the level of order, larger than 3 cm in diameter, formed of fragments of dead coral and which may also contain cemented sand, coralline algae and other sedimentary rocks, and includes live rock and substrate, but does not include dead coral;

- (d) "live rock" means pieces of coral rock to which are attached live specimens of invertebrate species and coralline algae not included in the Appendices and which are transported moist, but not in water, in crates;
- (e) "substrate" means pieces of coral rock to which are

attached invertebrates (of species not included in the Appendices) and which are transported in water like live corals;

(f) "dead coral" means pieces of coral identifiable to the level of species or genus, which are dead when exported, but which may have been alive when collected, and in which the structure of corallites (the skeleton of the individual polyp) is still intact;

(g) "live coral" means pieces of coral identifiable to the level of species or genus, which are alive and transported in water."

Schedule 3,
Part 2,
paragraph 1

By deleting "should" and substituting "shall".

Schedule 3,
Part 2,

By deleting "should" and substituting "shall".

paragraph 2

Schedule 3,
Part 2,
paragraph 3

(a) In subparagraph (a), by deleting "country" where it twice appears and substituting "place".

(b) In subparagraph (b), by deleting "country" where it twice appears and substituting "place".

Schedule 3,
Part 2,
paragraph 4

(a) By deleting "The" and substituting "Subject to paragraph 16 of this Part, the".

(b) By deleting "should" and substituting "shall".

(c) In the English text, by deleting "may" and substituting "shall".

Schedule 3,
Part 2

By deleting paragraphs 5 and 6.

Schedule 3,
Part 2,
paragraph 9

By deleting everything before "either" and substituting -

"9. All pre-Convention certificates shall include".

Schedule 3,
Part 2

By deleting paragraph 10.

Schedule 3,
Part 2,

(a) By deleting "should" and substituting

paragraph 11

"shall".

- (b) In the English text, by deleting "may" and substituting "shall".

Schedule 3,
Part 2

By deleting paragraph 12.

Schedule 3,
Part 2

By deleting paragraph 13 and substituting -

"13. A phytosanitary certificate used as a certificate of artificial propagation in accordance with Article VII, paragraph 5, of the Convention for the purpose of the export of an artificially propagated specimen of an Appendix II species shall include the scientific name of the species and the type and quantity of the specimens covered by the certificate, and bear a stamp, seal or other specific indication stating that the specimens are artificially propagated."

Schedule 3,
Part 2,
paragraph 15

By deleting everything after "trade in specimens" and substituting "of coral rock, where the genus cannot be readily determined, the scientific name for the specimens shall be *Scleractinia*".

Schedule 3,
Part 2,
paragraph 16

- (a) In subparagraph (a), by deleting "the port of

final destination" and substituting "a place of import".

(b) In subparagraph (c) -

(i) by deleting everything before "and the new date" and substituting -

"(c) ~~the~~ appropriate enforcement personnel of the place of import who extended the validity of the permit or certificate has included the date of arrival in that place";

(ii) by deleting "export permit or re-export certificate" and substituting "permit or certificate".

(c) In subparagraph (d), by deleting everything before "before" and substituting -

"(d) the shipment is to be imported into another place for consumption from the place of import".

(d) In subparagraph (e) -

(i) by deleting "export permit or re-export certificate" and

substituting "permit or
certificate";

(ii) by deleting "country" and
substituting "place".

Schedule 3,
Part 2

By deleting paragraph 17 and substituting -

"17. A permit or certificate issued
retrospectively shall not be accepted ~~except~~
~~that in a particular case, the Director,~~
~~having regard to~~ unless it was issued in
accordance with the requirements concerning
the retrospective issue of documents under
the Convention or any Convention instrument,
~~may accept the permit or certificate.~~".

Schedule 3,
Part 2

By deleting paragraphs 18, 19 and 20.

Schedule 3,
Part 2,
paragraph 21

(a) By deleting everything before "been altered"
and substituting -

"21. Where a permit or certificate has".

(b) By deleting "unless".

(c) By deleting "has been authenticated" and
substituting "shall be authenticated".

Schedule 3,
Part 2

By deleting paragraph 22 and substituting -

"22. Where a security stamp is affixed to a permit or certificate, the security stamp shall be cancelled by the stamp or seal and signature of the relevant authority issuing the document."

Schedule 3,
Part 2

By deleting paragraph 23.

Schedule 3,
Part 2,
paragraph 24

(a) By deleting "that do not" and substituting "shall".

(b) By deleting "shall not be accepted".

Schedule 3,
Part 2,
paragraph 26

(a) By deleting "sample collections be" and substituting "sample collections shall be".

(b) In subparagraph (a), by deleting everything before ", on which" and substituting -

"(a) a sample collection shall be covered by an ATA carnet and be accompanied by a document".

(c) In subparagraph (b) -

(i) by deleting "permit issued under the Convention" and substituting "document";

(ii) by deleting "should" and substituting "shall".

- (d) In subparagraph (c) -
 - (i) by deleting "permit issued under the Convention" and substituting "document";
 - (ii) by deleting "countries" and substituting "places".
- (e) In subparagraph (d), in the Chinese text, by deleting "等".

Schedule 3,
Part 2,
paragraph 28

By deleting everything after "lost," and substituting "the owner of the collection shall inform the relevant authority issuing the document and the relevant authority of the place in which that matter occurred as soon as practicable.".

Schedule 3,
Part 2,
paragraph 29

- (a) By deleting "not be accepted by Parties unless they".
- (b) In subparagraph (c), by deleting "country" and substituting "place".
- (c) In subparagraph (d) -
 - (i) by deleting "should" and substituting "shall";
 - (ii) by deleting "state" and substituting "place".
- (d) In subparagraph (e), by deleting "country"

and substituting "place".

Schedule 3,
Annex to Part
2

- (a) In the cross-heading, by deleting "**should**" and substituting "**shall**".
- (b) In paragraph (g), by deleting "The" and substituting "In the case of an export permit, the".
- (c) In paragraph (l), by deleting "handwritten".
- (d) By deleting everything after paragraph (m) and substituting -

"(n) In the case of a certificate of origin, a statement that the specimens originate in the place that issued the certificate."

Schedule 3,
Part 3

- (a) By deleting "should" and substituting "shall".
- (b) In paragraph (b), by adding ", frozen museum specimens, duplicate herbarium specimens" after "embedded museum specimens".