

立法會
Legislative Council

LC Paper No. LS59/04-05

**Paper for the House Committee Meeting
on 29 April 2005**

**Legal Service Division Report on
Protection of Endangered Species of Animals and Plants Bill**

I. SUMMARY

1. **Objects of the Bill** To regulate the import, introduction from the sea, export, re-export, possession and control of certain endangered species of animals and plants and parts and derivatives of those species and to give effect to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).
2. **Comments**
 - (a) The Bill will repeal and re-enact the Animals and Plants (Protection of Endangered Species) Ordinance (Cap. 187), enacted in 1976 to give effect to CITES;
 - (b) The existing controls regime will be more closely aligned with CITES and include its latest requirements;
 - (c) The new regime will also remove some local controls that are no longer necessary and streamline and improve the licensing and control system;
 - (d) The existing fee structure will be revised and simplified.
3. **Public Consultation** The Endangered Species Advisory Committee and representatives of the trade have been consulted. They supported the legislative proposals as the Bill would simplify the existing licensing requirements. They had no strong views on the proposed fee levels.
4. **Consultation with LegCo Panel** The Panel on Environmental Affairs was briefed at its meeting on 22.11.04. Concerns were expressed over the impact on the illegal trade in endangered species and international trade on medicines, particularly traditional Chinese medicine. Consultation with the trade on the revised licensing fee structure was also considered necessary.
5. **Conclusion**
 - (a) Members may wish to consider the need for studying the Bill in detail on account of the concerns which have been expressed at the Panel.
 - (b) Our scrutiny of the provisions in the Bill will continue.

II. REPORT

Objects of the Bill

To regulate the import, introduction from the sea, export, re-export, possession and control of certain endangered species of animals and plants and parts and derivatives of those species and to give effect to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

LegCo Brief Reference

2. EP 55/25/01 Pt. 14 dated 13 April 2005 and issued by the Environmental Protection Department.

Date of First Reading

3. 27 April 2005.

Comments

4. CITES was signed in Washington D.C. on 3.3.73 and extended to Hong Kong since 1976. It was then given effect in Hong Kong by the Animals and Plants (Protection of Endangered Species) Ordinance (Cap. 187) (the Ordinance).

5. Although CITES aims to control international trade only and does not control possession of endangered species, the Ordinance maintains a certain degree of regulation over their possession or control. The objective of the additional regulation was to tackle the problem of smuggling, which was rampant when it was first enacted in 1976.

6. The Bill proposes to repeal the Ordinance and re-enact its provisions with the following changes –

(a) aligning the control regime with the CITES requirements in respect of control over international trade in medicines made from endangered species not now included in the Sixth Schedule to the Ordinance;

(b) updating the scheduled species to bring them in line with the latest CITES requirements following the last meeting of the Conference of the Parties to CITES in October 2004;

- (c) removing certain local controls that are over and above CITES requirements to minimize the inconvenience and cost of compliance without compromising local obligations under CITES;
- (d) streamlining the licensing system and improving the control scheme, including setting out more clearly some of the control measures, removing inconsistent treatments in the exemptions provided and making the whole piece of legislation easier to comprehend;
- (e) revising the fee structure based on the streamlined licensing system and costing figures (including comparable fee levels), with 14 existing fee items replaced by nine new fee items.

7. It is noted that due to the proposed repeal of the Ordinance, transitional provisions will be made so that former licences shall remain valid until their expiry and pending licence applications will be treated as applications under appropriate provisions in the new legislation. A right of appeal subsisting or pending under the repealed Ordinance will also be dealt with similarly. A grace period of 3 months will be granted in the case of possession or control of a specimen not previously subject to licensing requirement before the new licensing requirement will apply.

Public consultation

8. According to paragraph 12 of the LegCo Brief, the Administration has consulted the Endangered Species Advisory Committee and representatives of the trade (including those from traditional Chinese medicine, flora, pet and leather trade groups) on the legislative proposals including the new fee scheme. They support the proposals as they will simplify the existing licensing requirements and reduce the types of fees payable. They have no strong views on the proposed fee levels.

Consultation with LegCo Panel

9. The Panel on Environmental Affairs was briefed on the legislative proposals at its meeting on 22 November 2004. Concerns were raised over the proposed removal of certain controls over the illegal trade in endangered species which were additional to those required by CITES. There were also concerns over the impact of the proposed control on international trade in medicines made from endangered species, particularly the traditional Chinese medicine trade. It was also considered that the Administration should consult the trade on the revised licensing fee structure.

Conclusion

10. Members may wish to consider the need to study the Bill in detail on account of the concerns expressed by Members at the Panel.

11. Our scrutiny of the legal and drafting aspects of the Bill will continue.

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