

立法會
Legislative Council

LC Paper No. CB(2)1951/17-18
(These minutes have been seen
by the Administration)

Ref : CB2/BC/4/17

**Bills Committee on
Conservation of Antarctic Marine Living Resources Bill**

**Minutes of meeting
held on Monday, 16 July 2018, at 2:30 pm
in Conference Room 3 of the Legislative Council Complex**

Members present : Hon Steven HO Chun-yin, BBS (Chairman)
Hon Kenneth LEUNG
Dr Hon Elizabeth QUAT, BBS, JP
Hon SHIU Ka-fai
Hon HUI Chi-fung

Public Officers attending : Item II

Mr Daniel CHENG Chung-wai, JP
Deputy Secretary for Food and Health (Food) 1

Mr Bill WONG Kwok-piu
Principal Assistant Secretary for Food and Health (Food) 3

Ms Leonora IP Wan-yok
Senior Assistant Law Draftsman
Department of Justice

Miss Celia HO Wai-kwan
Government Counsel
Department of Justice

Ms Louise LI Wai-hung
Senior Fisheries Officer (Fisheries Management)
Agriculture, Fisheries and Conservation Department

Clerk in attendance : Miss Josephine SO
Chief Council Secretary (2) 2

Staff in attendance : Mr Cliff IP
Assistant Legal Adviser 8

Ms Wendy LO
Senior Council Secretary (2) 2

Miss Cally LAI
Legislative Assistant (2) 2

Action

I. Election of Chairman

Election of Chairman

Mr Steven HO, the member who had the highest precedence in Council among members of the Bills Committee present, presided over the election of the Chairman. Mr HO invited nominations for the chairmanship of the Bills Committee.

2. Mr Steven HO was nominated by Mr SHIU Ka-fai and the nomination was seconded by Mr Kenneth LEUNG. Mr Steven HO accepted the nomination. Mr Kenneth LEUNG, the member who had the highest precedence in Council among members present other than Mr Steven HO, then presided over the election of the Chairman. As there was no other nomination, Mr LEUNG declared Mr Steven HO elected as the Chairman of the Bills Committee. Mr HO then took the chair.

3. Members agreed that the election of Deputy Chairman was not necessary.

II. Meeting with the Administration

(File Ref: FH CR 1/2576/18, LC Paper Nos. CB(3)732/17-18, LS80/17-18 and CB(2)1813/17-18(02))

4. The Bills Committee deliberated (index of proceedings attached at **Annex A**).

Action

Follow-up actions required of the Administration

5. The Administration was requested to provide written response to issues raised by members at the meeting as set out in **Annex B**.

III. Any other business

Invitation for views

6. The Bills Committee agreed to invite written submissions from interested parties on the Conservation of Antarctic Marine Living Resources Bill ("the Bill"). Members noted that the Bills Committee would post a notice on the Legislative Council website and issue letters to the 18 District Councils, to invite views on the Bill.

Schedule of meetings

7. The Chairman asked the Clerk to check, after the meeting, members' availability and schedule future meetings of the Bills Committee in consultation with him.

(Post-meeting note: With the concurrence of the Chairman, the next two meetings of the Bills Committee were scheduled as follows:

- (a) 8 October 2018 (Monday) from 2:30 pm to 4:30 pm; and
- (b) 6 November 2018 (Tuesday) from 2:30 pm to 4:30 pm.

Members were informed of the above meeting schedule vide LC Paper No. CB(2)1848/17-18 on 18 July 2018.)

8. There being no other business, the meeting ended at 3:14 pm.

**Proceedings of the meeting of the Bills Committee on
Conservation of Antarctic Marine Living Resources Bill
on Monday, 16 July 2018, at 2:30 pm
in Conference Room 3 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)/Discussion	Action Required
000448 - 000618	Mr Steven HO Mr SHIU Ka-fai Mr Kenneth LEUNG	Election of Chairman	
000619 - 001041	Chairman Admin	The Administration's briefing on the Conservation of Antarctic Marine Living Resources Bill ("the Bill").	
001042 - 001133	Chairman Mr SHIU Ka-fai	Mr SHIU Ka-fai expressed support for the Bill. He advised that the wholesale and retail trade generally considered that the implementation in Hong Kong of the Convention on the Conservation of Antarctic Marine Living Resources ("CCAMLR") and the introduction of regulatory control over the trading of toothfish would not cause significant burden on their operation.	
001134 - 001400	Chairman Mr HUI Chi-fung Admin	Mr HUI Chi-fung's enquiries and the Administration's responses on (a) the annual trade volume (including import, export and re-export) of toothfish in Hong Kong in recent years; and (b) the views of environmental concern groups on the Bill.	
001401 - 001757	Chairman Mr HUI Chi-fung Admin	Mr HUI Chi-fung's enquiries and the Administration's responses on: (a) the government departments to be involved in the enforcement of the Conservation of Antarctic Marine Living Resources Ordinance ("the Ordinance") (if the Bill was passed); (b) the estimated manpower resources to be required for processing licence applications, operating the Catch Documentation Scheme for toothfish, handling the testing of toothfish samples, conducting vessel inspections as well as combating illegal import and export of toothfish etc; and (c) the procedures involved in the testing of toothfish samples.	

Time marker	Speaker	Subject(s)/Discussion	Action Required
001758 - 002321	Chairman Mr Kenneth LEUNG Admin	<p>Mr Kenneth LEUNG's enquiries and the Administration's responses on:</p> <p>(a) how port inspections of fishing vessels carrying Antarctic marine living resources and seeking to enter Hong Kong waters would be conducted; and</p> <p>(b) how to ensure that, in the event that a vessel seeking to enter Hong Kong was suspected of having had engaged in illegal, unreported and unregulated ("IUU") fishing activities, public officers concerned would have the necessary capability to undertake frontline enforcement work, in particular, handling the testing of toothfish samples.</p>	
002322 - 002848	Chairman ALA8 Admin	<p>The Legal Adviser to the Bills Committee informed members that he would write to the Administration to seek (a) clarification on certain legal and drafting aspects of the Bill, possibly including issues in relation to the extra-territorial effect under clause 4(2) and the "direct reference approach" ("DRA") under clause 4(3) of the Bill; and (b) explanation on the rationale behind the Administration's proposal to make two regulations only, after the Bill was passed, for implementing in Hong Kong six Conservation Measures ("CMs") of CCAMLR.</p> <p>The Administration's preliminary responses to the issues raised by the Legal Adviser to the Bills Committee, including that:</p> <p>(a) one regulation would deal with import/export control covering electronic data reporting and the other would cover port inspection and control of relevant vessels;</p> <p>(b) implementation of CMs might require extra-territorial effect in the future; and</p> <p>(c) DRA would facilitate subsequent implementation of CMs, which would be amended in the annual meetings of Members of the Commission for the Conservation of Antarctic Marine Living Resources established under Article VII of CCAMLR ("the Commission").</p>	

Time marker	Speaker	Subject(s)/Discussion	Action Required
002849 - 003351	Chairman Mr HUI Chi-fung Admin	Mr HUI Chi-fung reiterated his concern on how port inspection and control would be conducted to, if necessary, deny entry of vessels engaged in IUU fishing activities to Hong Kong waters. The Administration's response in this regard.	
003352 - 004000	Chairman Admin	<p>The Chairman's enquiries and the Administration's responses on (a) the types of toothfish products imported into Hong Kong and (b) the coordination among government departments in conducting port inspection and control.</p> <p>The Administration was requested to provide the Bills Committee with:</p> <p>(a) photos of the two species of toothfish, namely Antarctic toothfish, <i>Dissostichus mawsoni</i> and Patagonian toothfish, <i>Dissostichus eleginoides</i>, protected under CCAMLR; and</p> <p>(b) a breakdown of fishing vessels which had been licensed to operate/carry out harvesting activities in the Convention Area, by countries or places in which the vessels were registered; and the number of licensed vessels (including fishing vessel, receiving vessel or transporting vessel operated in the Convention Area) carrying toothfish or other Antarctic marine living resources that had entered Hong Kong in recent years.</p> <p>The Chairman's view that the Administration should organize education and publicity programmes for the trade as well as the public in general, explaining the implementation of CCAMLR and the regulatory control over the trading of toothfish in Hong Kong.</p>	<p>Admin (Annex B refers)</p>
004001 - 004656	Chairman Mr HUI Chi-fung Admin	<p>Mr HUI Chi-fung's enquiries on (a) the exact function(s) to be performed by the Commission for the purposes of the Ordinance (if the Bill was passed) and (b) the necessity of giving the Commission a legal personality in Hong Kong (clause 3 of the Bill).</p> <p>The Administration's response in this regard, including that legal personality was required to be given to the Commission under CCAMLR,</p>	

Time marker	Speaker	Subject(s)/Discussion	Action Required
		<p>so that the Commission would not need to apply for business registration etc. in Hong Kong.</p> <p>The Administration was requested to:</p> <p>(a) explain in writing the reasons for giving the Commission a legal personality in Hong Kong; what "necessary" means in clause 3(b) of the Bill; the exact function(s) to be performed by that Commission for the purpose of the Ordinance (if the Bill was passed); and</p> <p>(b) provide a written response to address other issues raised by members earlier at the meeting.</p>	Admin (Annex B refers)
004657 - 004849	Chairman	<p>The Bills Committee agreed to invite written submissions from the public and 18 District Councils on the Bill.</p> <p>The Chairman's closing remarks.</p>	

**Bills Committee on
Conservation of Antarctic Marine Living Resources Bill**

**List of follow-up actions arising from the discussion
at the meeting on 16 July 2018**

The Administration was requested to provide the Bills Committee with photos of the two species of toothfish, namely Antarctic toothfish, *Dissostichus mawsoni* and Patagonian toothfish, *Dissostichus eleginoides*, protected under the Convention on the Conservation of Antarctic Marine Living Resources.

2. The Administration was also requested to provide a written response to address the following issues raised by members:

- (a) a breakdown of fishing vessels which had been licensed to operate/carry out harvesting activities in the Convention Area, by countries or places in which the vessels were registered; and the number of licensed vessels (including fishing vessel, receiving vessel or transporting vessel operated in the Convention Area) carrying toothfish or other Antarctic marine living resources that had entered Hong Kong in recent years;
- (b) the government departments to be involved in the enforcement of the Conservation of Antarctic Marine Living Resources Ordinance (if the Bill is passed); and the estimated manpower resources to be required for processing licence applications, operating the Catch Documentation Scheme for toothfish, handling the testing of toothfish samples, conducting vessel inspections as well as combating illegal import and export of toothfish etc.;
- (c) how port inspections of fishing vessels carrying Antarctic marine living resources and seeking to enter Hong Kong waters would be conducted; and how to ensure that, in the event that a vessel seeking to enter Hong Kong was suspected of having had engaged in illegal, unreported and unregulated fishing activities, public officers concerned would have the necessary capability to undertake frontline enforcement work, in particular, handling the testing of toothfish samples; and
- (d) the reasons for giving the Commission for the Conservation of Antarctic Marine Living Resources a legal personality in Hong Kong (clause 3 of the Bill); what "necessary" means in clause 3(b) of the Bill; and the exact function(s) to be performed by that Commission for the purposes of this Ordinance (if the Bill is passed).