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Legislative Council Panel on Health Services

Information Note on Control of Medicines made from Endangered Species and Artificially Propagated Endangered Plant Species

INTRODUCTION

This paper informs Members of the proposed control of medicine made from endangered species and artificially propagated endangered plant species, with a view to protecting such species from over-exploitation. The proposals would make our legislation more in line with the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

BACKGROUND AND ARGUMENT

General Background

2. The CITES extends to the Hong Kong Special Administrative Region through the ratification made by the People's Republic of China. It requires that the import and export of the following species listed in its Appendices be subject to control: -

(a) Appendix I

Species which are highly endangered and threatened with extinction.

(b) Appendix II

Species which, unless trade is controlled, could be threatened with extinction.

(c) Appendix III

Species identified by any party to the CITES as requiring

protection from over-exploitation through international trade.

3. The Animals and Plants (Protection of Endangered Species) Ordinance (the Ordinance) Cap. 187 gives effect to the CITES in Hong Kong. It provides that a licence is required for the import, export and possession of the species listed in the Schedules to the Ordinance. The Schedules cover the species listed in Appendices I, II and III to the CITES. Although the CITES does not control the possession of endangered species as it controls international trade only, at present our legislation maintains certain degree of control over the possession of endangered species to help combat smuggling of such species.

Need for legislative amendments

4. In 1995, the CITES Secretariat reviewed the legislation of its Parties for compliance with the CITES. Our legislation, amongst 43 other countries/places (including the Mainland), was identified as not fully meeting the requirements of the CITES in respect of a number of areas, including the controls over international trade in: -

(a) medicines made from endangered species[1]; and
(b) artificially propagated CITES-listed plant species.

5. The CITES Secretariat had requested the concerned Parties to rectify the situation. At the Conference of the Parties to CITES held in 1997, we undertook to amend our legislation in two phases. Phase I amendments which involved extending our control to cover CITES Appendix III species and manufactured products of CITES Appendix II species were made in 1998. The Phase II amendments, which are the subject of this paper, would be carried out subject to availability of resources. To this end, we propose to amend Schedules 1, 2, 3 and 5 and the Sixth Schedule to the Ordinance to extend the control to cover all medicines made from endangered species and to cover artificially propagated CITES-listed plant species. We also propose to amend the Animals and Plants (Protection of Endangered Species) (Exemption) Order (i.e. the Exemption Order) to grant exemption to the import and possession of certain species to minimise inconvenience to the trade concerned while maintaining effective control for protection of endangered species. The exemption mechanism also allows the Government to focus our resources to enforce the CITES in the most

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[1] At present, the medicines which are under the control of the Ordinance include those made from tigers and rhinoceros only.

cost-effective way.

THE PROPOSAL

Medicines made from Endangered Species

6. A number of such species are found to be used in medicines. It is necessary to control the export, import and possession of medicines made from endangered species for protection of such species from over-exploitation. Exemptions are proposed to minimise inconvenience to the trade.

7. The specific proposals in respect of control of medicines made from endangered species are outlined as follows: -

(a) The export and import of medicines made from Appendix I species (e.g. bear gall bladder) of wild origin for commercial purposes would be prohibited;

(b) The export and import of medicines made from Appendix I species for non-commercial purposes[2] would be permitted, subject to production of both export and import licences issued by the competent authorities of the exporting and importing countries/places;

(c) The export and import of medicines made from Appendix I species originated from captive-bred or artificially propagated sources[3] registered with the CITES Secretariat and those made from Appendices II and III species (e.g. musk, king cobra gall bladder, pangolin scales) would be permitted, subject to the production of a valid export permit issued by a competent authority of the exporting country/place;

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2 "Non-commercial purposes" refer to "purposes not for obtaining economic benefit including profit and not directed toward resale, exchange, provision of a service or other form of economic use or benefit".

3 CITES provides for export and import of medicines containing Appendix I species of captive-bred or artificially propagated origins, provided that the breeding facilities are registered with the CITES Secretariat with endorsement by two-third of the Parties to CITES. Import of medicines made from captive-bred or artificially propagated sources into Hong Kong would require production of an export permit issued by the CITES management authority of the exporting country/place. In the permit, the authority would specify whether the species are of captive-bred or artificially propagated sources. At the wholesale and retail levels, AFCD would trace back to the export permits kept by the wholesalers to ascertain the sources of the species concerned.

(d) A licence would be required for possession of medicines made from Appendix I Species of wild origin for commercial purposes;

(e) The licensing requirement would be exempted for possession of medicines containing Appendix I species originated from captive-bred or artificially propagated sources and those containing Appendix II species, subject to keeping of transaction records for surprise inspection by Agriculture, Fisheries and Conservation Department (AFCD);

(f) In line with the current practice, no licence nor transaction records would be required for possession of medicines containing Appendix III species; and

(g) The export, import and possession of personal effects would be exempted from licensing controls.

Artificially Propagated CITES-Listed Plant Species

8. It is necessary to extend the control to the export, import and possession of artificially propagated CITES-listed plant species as it is impossible to readily differentiate an artificially propagated plant from its wild counterparts. The extended control would facilitate law enforcement at the customs. Exemptions are proposed to minimise inconvenience to the trade.

9. The specific proposals in respect of control of artificially propagated CITES-listed plant species are outlined as follows: -

(a) The export and import of artificially propagated Appendices I, II and III plant species would be permitted, subject to the production of a valid export permit issued by a competent authority of the exporting country/place;

(b) The licensing requirement for possession of artificially propagated Appendices I and II plant species would be exempted, subject to keeping of transaction records;

(c) In line with the current practice, no possession licence nor

transaction records would be required for possession of artificially propagated Appendix III plant species; and

(d) The export, import and possession of personal effects would be exempted from licensing controls.

Interaction with the Mainland

10. HKSAR is a separate customs territory under Article 116 of the Basic Law. The Ordinance applies to the trade in endangered species between HKSAR and the Mainland. To implement the proposed amendments to the Schedules and the Exemption Order of the Ordinance, AFCD has liaised with the Mainland authority on their readiness to implement the proposed control mechanism. The Mainland authority has agreed to issue the required export licences for exporting medicines made from endangered species and of artificially propagated CITES-listed plant species to HKSAR. They also note that upon commencement of the proposed control measures, medicines containing Appendix I species of wild origin (such as bear bile) would not be allowed to be exported to HKSAR.

STAFFING IMPLICATIONS

11. AFCD will require 15 additional staff for enforcing the proposed controls. It has already secured the necessary resources.

ECONOMIC IMPLICATIONS

12. Only the trade in medicines containing highly endangered species of wild origin will be prohibited. The other proposals will mainly control, rather than prohibit, the international trade of other less endangered species through the licensing system. Nevertheless, with the proposed exemptions to the import and possession of certain species, the inconvenience to the trade would be kept to the minimum.

PUBLIC CONSULTATION

13. AFCD has consulted the Endangered Species Advisory Committee (comprising representatives of the scientific community, the Chinese medicine trade and the animal and plant trading sectors), the

Endangered Species Protection Liaison Group (comprising representatives of

law enforcement officers and local green groups) and the Chinese Medicines Board (comprising representatives of Chinese medicine traders and practitioners). They either support or have no objection to the proposals.

14. AFCD has also arranged meetings and seminars with trade representatives. They show understanding that the controls are in accordance with the CITES requirements but have requested that the control measures should be as simple as possible. AFCD has taken their views into account in drawing up the proposals.

WAY FORWARD

15. We intend to make and then table the amendments to the Schedules and the Exemption Order of the Ordinance (which are subsidiary legislation) in this legislative session for negative vetting by the Legislative Council.

Environment and Food Bureau /
Agriculture, Fisheries and Conservation Department
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