

立法會
Legislative Council

LC Paper No. CB(1) 174/05-06
(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 second meeting
held on Tuesday, 4 October 2005, at 2:30 pm
in the Chamber of the Legislative Council Building**

Members present : Hon CHOY So-yuk, JP (Chairman)
Hon Martin LEE Chu-ming, SC, JP
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon SIN Chung-kai, JP
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 Andrew LEUNG Kwan-yuen, SBS, JP
Hon WONG Ting-kwong, BBS

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

Attendance by invitation : The Hong Kong Medicine Dealers' Guild

Mr WONG Ying-lau
Chairman

Hong Kong International Pot Plant & Gardening General Association

Mr CHAN Fo-kwong
Chairman

Po Sau Tong Ginseng & Antler Association Hong Kong Ltd

Mr CHAN Tak-tai
Chairman

Hong Kong Chinese Medicine Merchants Association Ltd

Mr TSANG Chiu-hing

Sharks Fin and Marine Products Association Ltd

Mr LIM Tin-que
Secretary

Sharks Fin Trade Merchants Association

Mr CHIU Ching-cheung
Chairman

Hong Kong Dried Sea Food & Grocery Merchants Association Ltd

Mr MAK Ching-po
Chairman

Hong Kong Chinese Prepared Medicine Traders Association Ltd

Mr TAM Kwok-leung
Deputy Chairman

Hong Kong Fur Federation

Mr Thomas WONG
Chairman

Hong Kong Yee Yee Tong Chinese Medicine Merchants
Association Ltd

Mr LAU Siu-lun

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

Miss Mandy POON
Legislative Assistant (1)4

I Meeting with the Administration and deputations

Meeting with the Administration

LC Paper No. CB(1) 2311/04-05(01) -- Letter dated 18 July 2005 from
Hon WONG Ting-kwong to the
Administration (Chinese version
only)

LC Paper No. CB(1) 2311/04-05(02) -- Administration's response to
CB(1) 2311/04-05(01)

LC Paper No. CB(1) 2311/04-05(03) -- Administration's response to
summary of views/concerns

Meeting with deputations

- (a) The Hong Kong Medicine Dealers' Guild
- (b) Hong Kong International Pot Plant & Gardening General Association
- (c) Po Sau Tong Ginseng & Antler Association Hong Kong Ltd

- (d) Hong Kong Chinese Medicine Merchants Association Ltd
- (e) Sharks Fin and Marine Products Association Ltd
- (f) Sharks Fin Trade Merchants Association
- (g) Hong Kong Dried Sea Food & Grocery Merchants Association Ltd
LC Paper No. CB(1) 2311/04-05(01) (Chinese version only)
- (h) Hong Kong Chinese Prepared Medicine Traders Association Ltd
LC Paper No. CB(1) 2311/04-05(02) (Chinese version only)
- (i) Hong Kong Fur Federation
- (j) Hong Kong Yee Yee Tong Chinese Medicine Merchants Association Ltd

Submissions from deputations not attending the meeting

- LC Paper No. CB(1) 2311/04-05(06) -- Submission from the American and Canadian Ginseng Importers Trade Association (HK) Ltd
- LC Paper No. CB(1) 2311/04-05(07) -- Submission from the Kadoorie Farm & Botanic Garden (English version only)
- LC Paper No. CB(1) 2353/04-05(03) -- Submission from the WWF Hong Kong (English version only)

The Committee deliberated (Index of proceedings attached in **Annex A**).

2. The Administration was requested to -

- (a) advise the proposed controls under the Bill which were over and above the requirements of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and/or not covered under the existing Animals and Plants (Protection of Endangered Species) Ordinance (Cap. 187) and the justifications for such controls. To also advise whether a scheduled species caught or bred domestically in Hong Kong fell within the control under the Bill;
- (b) elaborate the requirements under the proposed section 29(1) on a person to state the scientific name and common name of a scheduled species in his possession or under his control (live or dead) and the elements of offence under the proposed section 29(2), in particular, not knowing the scientific name amounted to reasonable excuse under the proposed section 29(2)(a). To also consider specifying in proposed section 29 the different levels of control for scheduled species (live or dead) under CITES Appendices;

- (c) consider applying different grace periods for dealings in different scheduled species. To also advise the arrangements for unsold stock after expiry of the grace periods;
- (d) explain the rationale for empowering authorized officers, including those from the Agriculture, Fisheries and Conservation Department, to enter/inspect trading premises, dispose/forfeit things seized (in particular, things which the owners did not know that they were scheduled species) and arrest; and
- (e) relay to the Economic Development and Labour Bureau the need to clarify any misunderstandings about the need for the proposed controls which were indeed in line with international practices.

3 Members agreed to the following schedule of meetings -

	<u>Date</u>	<u>Time</u>
(a)	Tuesday, 1 November 2005	10:45 am
(b)	Thursday, 10 November 2005	2:30 pm
(c)	Tuesday, 22 November 2005	10:45 am

(Post-meeting note: On the advice of the Chairman, the meeting on 1 November 2005 was subsequently cancelled while another meeting had been scheduled for 29 November 2005 at 4:30 pm.)

II. Any other business

4. There being no other business, the meeting ended at 4:30 pm.

Council Business Division 1
Legislative Council Secretariat
27 October 2005

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

**Meeting on Tuesday, 4 October 2005, at 2:30 pm
in the Chamber of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000000 – 000524	Chairman	Welcoming remarks	
000525 – 000822	Chairman Administration	Administration's introduction on the Bill	
000823 – 000833	Mr WONG Ying-lau The Hong Kong Medicine Dealers' Guild	Supporting the Bill but the Administration should streamline the procedures for application of import and export (I/E) licence to facilitate trading	
000834 – 001137	Mr CHAN Fo-kwong Hong Kong International Pot Plant & Gardening General Association	Supporting the Bill but the Administration should list out more clearly the species which were under the protection of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)	
001138 – 001344	Mr CHAN Tak-tai Po Sau Tong Ginseng & Antler Association Hong Kong Ltd	Expression of views as set out in LC Paper No. CB(1) 2353/04-05(01)	
001345 – 001539	Mr TSANG Chiu-hing Hong Kong Chinese Medicine Merchants Association Ltd (CMMA)	Expression of views as set out in LC Paper No. CB(1) 2353/04-05(02)	
001540 – 001714	Mr LIM Tin-que Sharks Fin and Marine Products Association Ltd	Supporting the Bill	
001715 – 002042	Mr CHIU Ching-cheung Sharks Fin Trade Merchants Association (SFTMA)	Supporting the Bill but this should not affect the trading of sharks fin which did not involve endangered species of sharks	

Time marker	Speaker	Subject(s)	Action required
002043 – 002334	Mr MAK Ching-po Hong Kong Dried Sea Food & Grocery Merchants Association Ltd	Expression of views as set out in LC Paper No. CB(1) 2311/04-05(04)	
002335 – 002932	Mr TAM Kwok-leung Hong Kong Chinese Prepared Medicine Traders Association Ltd	Expression of views as set out in LC Paper No. CB(1) 2311/04-05(05)	
002933 – 003051	Mr Thomas WONG Hong Kong Fur Federation	Supporting the Bill	
003052 – 003216	Mr LAU Siu-lun Hong Kong Yee Yee Tong Chinese Medicine Merchants Association Ltd	Supporting the Bill	
003217 – 005147	Administration Chairman	Administration's response to deputations' views as set out in LC Paper No. CB(1) 2311/04-05(03). Further explanation on power of arrest and seizure by authorized officers and power to require the production for scientific name and common name	
005148 – 005846	Mr Martin LEE Administration Chairman	Administration's explanation on the need for scientific name - (a) requirement of CITES to provide scientific name in all I/E licences; and (b) defence provisions provided under section 29(2)	
005847 – 011133	Mrs Selina CHOW Mr TSANG Chiu-hing, CMMA Administration	Discussion on the trades' difficulties in providing scientific name, the negative image associated with the trading of furs and sharks fin and the assistance to be provided by the Administration to facilitate compliance with the Bill by the trades Administration's explanation (a) there were different I/E requirements for scheduled species under CITES appendices;	The Administration to elaborate the requirements under the proposed section 9 and to consider specifying the different levels of control for scheduled species (live or

Time marker	Speaker	Subject(s)	Action required
		<p>(b) provision of scientific name would only be required for scheduled species under the scenarios set out in clause 29, i.e. is being or has been imported or exported or introduced from the sea or in transit; and</p> <p>(c) there were educational and publicity programmes on the protection of endangered species</p>	<p>dead) under CITES Appendices</p>
<p>011134 – 012108</p>	<p>Ms Audrey EU Administration Mr TAM Kwok-leung Hong Kong Chinese Prepared Medicine Traders Association Ltd Chairman</p>	<p>Discussion on transitional arrangements, in particular, for trading of species which were not subject to existing control and the need for different grace periods for dealings in different scheduled species</p> <p>Administration’s explanation -</p> <p>(a) proposed controls under the Bill which were not covered under the existing Ordinance would include possession of some live species of animals and plants such as parrots; import of plant species under Appendix I which were not of wild origins for commercial purposes; control on Chinese medicinal products containing endangered species in addition to Appendix I animal species;</p> <p>(b) possession of scheduled species which were not covered under the existing Ordinance would be subject to a six-month grace period instead of the usual three-month period; and</p> <p>(c) unsold stock of scheduled species could be registered with the Agriculture Fisheries and Conservation Department (AFCD) and further applications for possession licence could be made after expiry of the grace periods</p> <p>Chinese medicinal trade’s concern -</p> <p>(a) extension of control to cover Chinese medicinal products containing endangered species would pose difficulties to the trade, particularly at the present stage when registration of proprietary Chinese medicine was underway and any changes to the contents of the medicinal products would involve cumbersome procedures; and</p> <p>(b) need a longer grace period to dispose of the products and their packaging</p>	<p>The Administration to consider applying different grace periods for dealings in different scheduled species and to advise the arrangements for unsold stock after expiry of the grace periods</p>

Time marker	Speaker	Subject(s)	Action required
012109 – 012728	Mr Vincent FANG Administration Chairman	<p>Member's enquiry on -</p> <ul style="list-style-type: none"> (a) AFCD's performance pledge on the issuance of licence for scheduled species; (b) acceptability of duplicates of licences; (c) assistance to the trades in providing scientific name; and (d) tracking arrangements for medicinal products containing endangered species <p>Administration's response -</p> <ul style="list-style-type: none"> (a) assistance would be rendered to facilitate compliance with the Bill by the trades in respect of the provision of scientific name and issue of licences; (b) licence for possession would not specify a time limit within which the products should be sold; (c) there was no tracking requirements for medicinal products containing endangered species; and (d) in line with CITES requirements, original copies of export licences had to be provided to AFCD and Mainland authorities had been requested to refrain from keeping the original copies 	
012729 – 013523	Mr WONG Ting-kwong Administration Chairman	<p>Member's enquiry on -</p> <ul style="list-style-type: none"> (a) whether assistance provided by AFCD would be subject to a charge; (b) propriety of conferring power of arrest on AFCD staff who might not be familiar with the exercise of such power; and (c) need for designated copy of export licence for retention by importers <p>Administration's response -</p> <ul style="list-style-type: none"> (a) AFCD would provide free verification service to the trades to facilitate compliance with the Bill; 	<p>The Administration to explain the rationale for empowering authorized officers, including those from AFCD to enter/inspect trading premises, dispose/forfeit things seized (in particular, things which the owners did not know that they were scheduled species) and arrest</p>

Time marker	Speaker	Subject(s)	Action required
		<p>(b) only authorized officers of AFCD were empowered to arrest and suitable training would be provided; and</p> <p>(c) there would be further liaison with Mainland authorities on the provision of export licence</p>	
013524 – 013115	Mr SIN Chung-kai Administration Chairman	<p>Member’s query on the rationale for re-application of licence for possession by retailers when existing stock of scheduled species were sold out and had to be replenished</p> <p>Administration’s explanation -</p> <p>The proposed control did not prohibit the trading of scheduled species but their import and export as well as possession had to be subject to control in line with CITES requirements</p>	
013116 – 014115	Mr CHIU Ching-cheung, SFTMA	<p>Trade’s enquiry on actions to be taken with regard to the exclusion of sharks fin from the menu of Disney’s restaurants</p> <p>Administration’s explanation that the Bill would only impose control on endangered species and the exclusion of sharks fin from the menu of Disney’s restaurants was a commercial decision</p>	
014116 – 014553	Mr WONG Yung-kan Administration Chairman	<p>Member’s enquiry on whether scheduled species caught or bred domestically in Hong Kong fell within the control under the Bill</p> <p>Administration’s explanation that trading of scheduled species, including those caught or bred domestically in Hong Kong, would be subject to control under the Bill</p>	The Administration to advise whether a scheduled species caught or bred domestically in Hong Kong fell within the control under the Bill
014554 – 014925	Mr Martin LEE Administration Chairman	<p>Member’s enquiry on whether the proposed control under the Bill were in excess of CITES requirements</p> <p>Administration’s explanation -</p> <p>(a) the proposed control which were in excess of CITES requirements mainly involved the control on possession of scheduled species under Appendix I and live species of wild origins under Appendix II; and</p>	The Administration to advise the proposed controls under the Bill which were over and above CITES and the justifications for such controls

Time marker	Speaker	Subject(s)	Action required
		(b) most European countries imposed control on possession of scheduled species	
014926 – 015200	Mrs Selina CHOW Administration	Member’s concern about the misunderstanding about trading of furs and sharks fin in Hong Kong	The Administration to relay to the Economic Development and Labour Bureau the need to clarify any misunderstandings about the need for the proposed controls which were indeed in line with international practices
015201 – 015257	Mr CHIU Ching-cheung, SFTMA Administration	Trade’s request for removal of control on possession of live species under Appendix II as this was in excess of CITES requirements Administration’s emphasis on the need to strike a balance between protection of endangered species and trading activities	
015258 – 015631	Mr TSANG Chiu-hing, CMMA Administration	Trade’s concern about seizure of scheduled species from retailers who might be unaware of the origins of scheduled species and their non-compliance with import requirements Administration’s explanation that AFCD would provide free service to retailers to verify the origins of scheduled species	
015632 – 015814	Chairman Mrs Selina CHOW	Schedule of meetings	