## 立法會 Legislative Council

LC Paper No. CB(1) 328/05-06 (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 third meeting held on Thursday, 10 November 2005, at 2:30 pm in Conference Room A 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-yee, GBS, JP

Hon WONG Yung-kan, JP Hon Albert CHAN Wai-yip

Hon Audrey EU Yuet-mee, SC, JP Hon WONG Ting-kwong, BBS

**Members absent**: Hon SIN Chung-kai, JP

Hon Tommy CHEUNG Yu-yan, JP Hon Vincent FANG Kang, JP

Hon Andrew LEUNG Kwan-yuen, SBS, JP

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 CHAN Ping-kwong

Acting Assistant Director (Conservation)

Mr C S CHEUNG

Senior Endangered Species Protection Officer

#### Department of Justice

Mr Sunny CHAN

Senior Government Counsel

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

#### I Confirmation of minutes

(LC Paper No. CB(1) 174/05-06

-- Minutes of the meeting held on

4 October 2005)

The minutes of the meeting held on 4 October 2005 were confirmed.

#### II Meeting with the Administration

(LC Paper No. CB(1) 243/05-06(01) -- Administration's response to

summary of views/concerns (as at

9 November 2005)

LC Paper No. CB(1) 243/05-06(02) -- List of follow-up actions arising

from the discussion on

4 October 2005

LC Paper No. CB(1) 243/05-06(03) -- Administration's response to LC

Paper No. CB(1) 243/05-06(02))

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

- 3. The Administration was requested to -
  - (a) consider specifying in proposed section 21 the proof(s) which a person had to provide to the satisfaction of the Director of Agriculture, Fisheries and Conservation so that he could possess or control a specimen of an Appendix II species; and
  - (b) step up education and publicity to promote public awareness on the protection of the endangered species of animals and plants under Appendices I and II after the passage of the Bill.
- 4. The next meeting would be held on Tuesday, 22 November 2005, at 10:45 am.

### III. Any other business

5. There being no other business, the meeting ended at 4:20 pm.

Council Business Division 1 <u>Legislative Council Secretariat</u> 18 November 2005

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

# Meeting on Thursday, 10 November 2005, at 2:30 pm in Conference Room A of the Legislative Council Building

Time marker	Speaker	Subject(s)	Action required
000000 - 000352	Chairman	Confirmation of minutes of the meeting held on 4 October 2005 (LC Paper No. CB(1) 174/05-06)	
000353 - 001842	Chairman Administration	Administration's response to follow-up actions arising from the discussion at the meeting on 4 October 2005 (LC Paper No. CB(1) 243/05-06(02))	
001843 - 002009	Mr Martin LEE Administration Chairman	Member's enquiry on the availability of statistics to support the Administration's claim that smuggling activities were on the decline	
		Administration's explanation -	
		(a) of those prosecution cases against possession with smuggling element for the past three years, there was only one case each year which would not be covered by the Bill due to relaxation in the control of possession of Appendix II species;	
		(b) over 90% of prosecution in relation to import did not involve smuggling activities;	
		(c) the decline in smuggling activities might be attributable to the change in shipping routes in particular shipments going to and coming out from the Mainland, the stepping up of local enforcement actions, the higher penalties imposed which had resulted in greater deterrent effect and the increased public awareness through education and publicity	

Time marker	Speaker	Subject(s)	Action required
002010 - 002347	Administration Mr Martin LEE Chairman	Member's query on whether the low prosecution figures was a result of ineffective enforcement  Administration's explanation -  (a) one prosecution case each year referred to enforcement against non-compliance with	
		the requirements for the possession of Appendix II species, which would not be covered by the Bill after its passage. In fact, there had been 278 prosecutions in 2004; and	
		(b) Hong Kong was the first recipient of the Secretary-General's Certificate of Commendation which was introduced in 2002 by the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) to recognize exemplary enforcement action	
002348 - 002648	Chairman Administration	Chairman's concern that the relaxation on possession of non-live Appendix II species not of wild origins would encourage the killing of live species to facilitate trading	
		The Administration's explanation that import and export (I/E) of Appendix II species were now under control and an export permit would still be required under the Bill. The proposed relaxation was meant to strike a balance between protection of endangered species and trading activities	
002649 - 003236	Mr WONG Yung-kan Administration Chairman	Member's query on the need for control on domestically bred Appendix II species, particularly for medicinal use	

Time marker	Speaker	Subject(s)	Action required
003237 - 003648	Speaker  Chairman Administration	Administration's explanation -  (a) no Appendix II species was captive bred/artificially propagated in commercial scale in Hong Kong, except for some plant species such as orchids;  (b) possession of captive bred/artificially propagated Appendix II species was not subject to control but licences or permits were required for the I/E of Appendices I and II species; and  (c) enquiries could be made with the Agriculture, Fisheries and Conservation Department (AFCD) in case of doubt whether the captive bred/artificially propagated species were subject to control  Reference was made to proposed section 21, which provided that a person would not be required to obtain a licence for possession of Appendix II species if he could prove to the satisfaction of the Director of Agriculture, Fisheries and Conservation (DAFC) that the specimen was not a live animal or plant of wild origin.  Chairman's concern about the ambiguity as to how the criterion "to the satisfaction of DAFC" could be met  Administration's explanation -	The Administration to consider specifying in section 21 the proof(s) which a person had to provide to the satisfaction of DAFC so that he could possess or control a specimen of an Appendix II species
		(a) documentary proofs, such as relevant certificates and previous possession licences etc., would be considered acceptable; and	

Time marker	Speaker	Subject(s)	Action required
		(b) it was more appropriate to allow certain degree of flexibility in the legislation since it was not feasible to list out all the possible means of proof	
003649 - 004044	Mr Martin LEE Administration	Member's enquiry on the need for the Bill to provide controls that were stricter than that required under CITES	
		Administration's explanation -	
		(a) CITES was intent to control over I/E and international trading of scheduled species and there was no requirement for possession licence;	
		(b) stricter local control on live specimens of wild origin was required to combat smuggling activities; and	
		(c) control on possession of Appendix II species other than live specimens of wild origin was relaxed under the Bill on account of the recent decline in smuggling activities	
004045 -011802	ALA7 Administration Chairman Mr Martin LEE	ALA7's queries on the control on import, re-export and possession of specimen in transit under the Bill, which in her views might not be stricter than CITES	
		Administration's explanation -	
		(a) the proposed control on import and re-export of specimen in transit were in compliance with CITES requirements which was recognized by CITES;	
		(b) a Convention export permit would have to be produced in respect of specimen in transit via Hong Kong to other places;	

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		<ul><li>(c) the specimen in transit would remain in the carrier and its movements would be monitored by AFCD staff, as appropriate; and</li><li>(d) the main difference between CITES and the Bill was that</li></ul>	
		the former specified that the control was carried out by "Customs" while the Bill used the word "Director". However, the nature of control was the same between CITES and the Bill.	
011803 - 013227	Mr WONG Ting-kwong Administration Chairman	Member's concerns —  (a) it would be difficult to differentiate between domestically bred species from those of wild origins and the public might be unnecessarily caught if they were unsure about the origins of the species; and  (b) the proposed relaxation on the possession of non-live Appendix II species was confusing as the public would not be able to tell whether the species they kept should or should not be subject to control  Administration's explanation —  (a) possession of non-live or non-wild Appendix II species would be relaxed;  (b) proofs such as relevant certificates/photos could be produced in support of the origins of the species; and  (c) the public could seek assistance from AFCD when in doubt about the origins of species	The Administration to step up education and publicity to promote public awareness on the protection of the endangered species of animals and plants under Appendices I and II after the passage of the Bill

Time marker	Speaker	Subject(s)	Action required
013228 - 014000	Mr WONG Yung-kan Administration Chairman	Member's concern that the Bill was stricter than CITES in terms of control over Appendices I and II species	
		Administration's explanation -	
		(a) the main difference between CITES and the Bill was that the former did not control possession for Appendices I and II species while the latter did; and	
		(b) stricter local control on possession of Appendices I and II species was required to combat smuggling activities which were rampant in the 1970s	
014001 - 014859	Chairman Administration ALA7	Chairman's concern that some breeding farms might be able to export wild species under the disguise of domestically bred ones	
		Administration's explanation -	
		(a) there were export and domestic controls on farms engaged in the breeding of endangered species; and	
		(b) member countries would have to rely on each other's cooperation in complying with CITES requirements	
014900 - 015004	Chairman Administration	Schedule of meetings	

Council Business Division 1
<u>Legislative Council Secretariat</u>
18 November 2005