

**立法會**  
**Legislative Council**

LC Paper No. CB(1) 1814/05-06

Ref : CB1/SS/2/05

**Paper for the House Committee meeting on 23 June 2006**

**Report of the Subcommittee on  
Protection of Endangered Species of Animals and Plants  
(Exemption for Appendix I Species) Order and  
Protection of Endangered Species of Animals and Plants  
(Exemption for Appendices II and III Species) Order**

**Purpose**

This paper reports on the deliberations of the Subcommittee on Protection of Endangered Species of Animals and Plants (Exemption for Appendix I Species) Order and Protection of Endangered Species of Animals and Plants (Exemption for Appendices II and III Species) Order.

**Background**

2. The Protection of Endangered Species of Animals and Plants Bill was introduced into the Legislative Council in April 2005 to replace the Animals and Plants (Protection of Endangered Species) Ordinance (Cap. 187) enacted in 1976. The Bill sought to align Hong Kong's control regime of endangered species with the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)<sup>Note</sup> and to streamline the licensing requirements. The Bill was passed by the Legislative Council in March 2006 and the new Ordinance would come into operation on the day appointed by the Secretary for the Environment, Transport and Works (SETW) by notice published in the Gazette.

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Note CITES aims to regulate international trade in endangered species and protect wildlife from over exploitation/extinction. The import and export of the species, including their readily recognizable parts and derivatives listed in the following Appendices, are subject to control -

Appendix I – Species threatened with extinction which are or may be affected by trade.

Appendix II – Species which, although not necessarily now threatened with extinction, may become so unless trade in specimens of such species is subject to strict regulation in order to avoid utilization incompatible with their survival; and other species which must subject to regulation in order that trade in specimens of certain species referred to above may be brought under effective control.

Appendix III – Species which any Party to CITES identifies as being subject to regulation within its jurisdiction for the purpose of preventing or restricting exploitation, and as needing the co-operation of other Parties in the control of trade.

## Orders

3. The current control regime of endangered species in Hong Kong as laid out in Cap. 187 requires a licence to be issued by the Director of Agriculture, Fisheries and Conservation (DAFC) for the import, export, re-export or possession of all scheduled species unless exempted. The Animals and Plants (Protection of Endangered Species) (Exemption) Order made under section 18 of Cap. 187 exempts certain scheduled species from licensing requirements. Such exemptions are part and parcel of the control mechanism set out in CITES articles, resolutions, decisions or notifications.

4. Under section 47 of the new Ordinance, the Chief Executive in Council may make an order to exempt certain Appendix I endangered species from licensing requirements while SETW may make an order to exempt certain Appendices II and III species from licensing requirements. The Appendix I Order and the Appendices II and III Order are required to replace the existing Animals and Plants (Protection of Endangered Species) (Exemption) Order.

5. Both Orders contain provisions for exemption in respect of -

- (a) specimens for co-operative conservation programmes;
- (b) specimens for scientific or educational study or for display in a museum or herbarium; and
- (c) specimens that form part of a person's personal or household effects.

Appendix II Order also provides for exemption in the export of an artificially propagated plant species which is accompanied with a phytosanitary certificate.

## The Subcommittee and its deliberations

6. At the House Committee meeting on 2 June 2006, Members agreed to form a Subcommittee to study the Orders. Mr SIN Chung-kai was elected as Chairman of the Subcommittee. The membership list of the Subcommittee is in **Appendix I**. The Subcommittee has held one meeting.

7. The Subcommittee supports the policy intent of the Orders in general because CITES is applicable to Hong Kong and thus Hong Kong has the obligation to comply with the international control regime on endangered species. Members however note with concern the lack of publicity on the control regime, and consider it necessary that more efforts should be made to promote public awareness of the Orders. For instance, a person may not be aware of the specified limit on the quantity of scheduled species which they are allowed to bring into Hong Kong. According to the Administration, the Government has been organizing various educational and publicity activities, including Announcements of Public Interest, exhibitions, school talks and radio play etc, to strengthen the public's understanding about protection of endangered species and the requirements under Cap. 187. As for the publicity on the requirements under the new Ordinance, the Administration has held some

50 consultations with the trades and other interested parties since 2003 and sent three information letters to 18 000 traders and other relevant persons. More publicity and education programmes will be launched to promote public awareness on the protection of endangered species before the commencement of the new Ordinance. These will include advertisements at public transport systems, information letters to traders, exhibitions, newspaper and magazine articles. Notices and posters will be put up at the airport and other control points. The Administration will also discuss with airline companies to identify ways, such as distribution of promotional leaflets, to disseminate information on the control of endangered species to their passengers.

8. In the course of examination of the Orders, members have raised questions on the scope of exemptions in respect of import, export, re-export and possession of scheduled species.

#### Exemption in respect of import of specimens for co-operative conservation programme

9. The Orders provide that a person who imports a specimen of an Appendix I or II species shall be exempt from licensing requirements if he can, upon the landing of the specimen in Hong Kong, prove to the satisfaction of an authorized officer that the specimen is a programme specimen which is arranged to be loaned, donated or exchanged for non-commercial purposes between participants in a co-operative conservation programme.

10. Members have enquired about the evidence which a person or an organization has to produce to prove that the specimen is a programme specimen, and whether prior notification is required before the programme specimen is imported in Hong Kong. The Administration's explanation is that in order to be eligible for the exemption, the person or the organization concerned has to produce a Convention export permit issued by the relevant authority of the place from which the programme specimen is brought into Hong Kong. Upon arrival of the programme specimen in Hong Kong, the Customs and Excise Department will notify the Agriculture, Fisheries and Conservation Department which will take up the case to ensure compliance with the control regime on endangered species in Hong Kong.

#### Exemption in respect of possession or control of specimens for scientific or educational study or for display in museum or herbarium

11. The Orders provide that a person who has in his possession or under his control a specimen (other than a live Appendix I animal) shall be exempt from licensing requirements if he proves to the satisfaction of the Director that the specimen is possessed or controlled for the purpose of scientific or educational study or for display in any museum or herbarium.

12. Members have enquired if the proposed exemption is also applicable to private museums or herbaria and if so, what will be done to prevent possible abuse of the exemption. The Administration's explanation is that at present, there is no statutory definition for museum or herbarium, the terms will be interpreted in accordance with their ordinary dictionary meanings. However, when enforcing the

relevant provisions in the Orders, the Director will make reference to the relevant international standards on museum and herbarium, such as the collection and maintenance of the specimens and the provision of access to the public etc.

#### Exemption in respect of import etc of personal or household effects

13. The Orders provide in general that, a person who imports, exports or re-exports a specimen (other than a live animal) shall be exempt from licensing requirements if the specimen is part of the personal or household effects of the person, and the specimen was legally acquired by the person. However, the exemption does not apply where the person acquired the Appendix I or II specimen outside his usual place of residence and the specimen is being -

- (a) taken into Hong Kong;
- (b) taken out of Hong Kong to the person's usual place of residence; or
- (c) taken out of Hong Kong with the intention of it being taken to the person's usual place of residence.

14. Given that a person may have more than one place of residence, members have enquired about the criteria in determining the phrase "usual place of residence". According to the Administration, the phrase will be interpreted in accordance with its ordinary dictionary meaning to allow for greater flexibility.

#### **Amendments**

15. No amendments to the Orders are required except that a minor textual amendment to the Chinese version will be made under a Rectification of Error Order.

#### **Conclusion**

16. The Subcommittee considers that all aspects of the two proposed Orders have been fully deliberated. It would be for individual Members to decide whether or not to support the Orders.

#### **Advice sought**

17. Members are invited to note the deliberations of the Subcommittee.

Prepared by  
Council Business Division 1  
Legislative Council Secretariat  
22 June 2006

**Subcommittee on  
Protection of Endangered Species of Animals and Plants  
(Exemption for Appendix I Species) Order and  
Protection of Endangered Species of Animals and Plants  
(Exemption for Appendices II and III Species) Order**

**Membership list**

**Chairman**                      Hon SIN Chung-kai, JP

**Members**                      Hon CHOY So-yuk, JP  
   Hon Audrey EU Yuet-mee, SC, JP  
   Hon WONG Ting-kwong, BBS

(Total : 4 Members)

**Clerk**                              Miss Becky YU

**Legal Adviser**                Miss Anita HO

**Date**                                9 June 2006