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Panel on Environmental Affairs

Meeting on 27 June 2016

Background brief on conservation of incense trees in Hong Kong prepared by the Legislative Council Secretariat

Purpose

This paper provides background information on the conservation of incense trees in Hong Kong. It also gives a brief account of the major views and concerns expressed by Members when related issues were discussed by the relevant committees of the Legislative Council in the 2013-2014 to 2015-2016 legislative sessions.

Background

Incense tree

2. Incense tree (also known as *Aquilaria sinensis*) is a native tree species found particularly abundant in fung shui woods behind rural villages in Hong Kong. Trees of the species *Aquilaria* produce a dark aromatic resin at wounds as a reaction against fungal infection. Sections of tree trunks or branches that contain patches of fragrant, resinous wood enter into the trade under the name "agarwood" (沉香木). Also, the resin accumulated from the wood is used as a valuable Chinese medicine called "Chen Xiang" (沉香). Good quality Chen Xiang, derived mostly from the species *Aquilaria malaccensis*, was formerly imported from the Asian tropics into the Mainland. Owing to depletion of supply of such quality products, resin from the local species of *Aquilaria* (i.e. incense tree) has been used as a substitute.

Protection of and enforcement against illegal felling of incense trees

3. Incense tree is listed as "Vulnerable" in the Red List of Threatened Species of the International Union for Conservation of Nature, as well as the China Red List. Currently, all species of *Aquilaria* including incense tree are listed in Appendix II under the Convention on International Trade in Endangered Species of Wild Fauna and Flora ("CITES"),¹ and their import and export require relevant licences.

4. Hong Kong implements CITES through enforcement of the Protection of Endangered Species of Animals and Plants Ordinance (Cap. 586) ("the Ordinance") which is the local legislation that gives effect to CITES. The Ordinance provides that no person shall import, introduce from the sea, export, re-export or possess any endangered species, whether alive, dead, its parts or derivatives, except under and in accordance with a licence issued in advance by the Agriculture, Fisheries and Conservation Department ("AFCD").

5. Enforcement actions against illegal felling of incense trees are undertaken by the Police, with the assistance of AFCD.² According to the Administration, AFCD conducts regular patrols in country parks and special areas, as well as joint operations with the Police from time to time at black spots, and communicates with villagers to collect intelligence on illegal tree felling and suspicious persons nearby. The Police and the Customs and Excise Department also exchange intelligence with their respective counterparts in the Mainland.

Major views and concerns expressed by Members

6. Issues relating to the protection of incense trees were brought up at the meetings of the Panel on Environmental Affairs ("the Panel") on 22 February 2016 when the Administration briefed the Panel on the protection of endangered species,

¹ CITES is an international treaty that has been ratified by 182 countries (called Parties) since it was first entered into force in 1975. The aim of CITES is to prevent species from becoming endangered or extinct because of international trade. CITES regulates more than 35 000 animal and plant species, including their parts and products, to ensure the international trade in them does not threaten their survival. CITES regulates international trade (both commercial and non-commercial) through a system of permits and certificates in which the required permits/certificates must accompany the species in question when leaving and entering a country.

² All suspected cases are reported to the Police for criminal investigation. AFCD will render assistance in inspecting the exhibits, providing expert advice and serving as expert witness in the court proceedings as necessary.

and on 29 March 2016 when the Panel received public views on the Biodiversity Strategy and Action Plan of Hong Kong. Related issues were raised by Members during examination of the Estimates of Expenditures 2014-2015, 2015-2016 and 2016-2017. The major views and concerns expressed by Members are summarized in the ensuing paragraphs.

Measures to combat illegal felling of incense trees

7. Members urged the Administration to introduce more effective measures to combat illegal felling of incense trees and smuggling of locally harvested agarwood. They suggested that the Administration should:

- (a) establish high level collaborations with the relevant Mainland authorities to strengthen customs checks and joint enforcement actions;
- (b) introduce dedicated legislation against illegal felling of incense trees;
- (c) impose a trade ban on agarwood or its products in Hong Kong, or put in place measures to regulate such trade by, for example, devising a certification system to identify the origins of the incense trees involved;
- (d) set up a database or publish an official reference regarding the population, distribution and habitats of incense trees in Hong Kong; and make public such information to facilitate monitoring and protection work by members of the community;
- (e) explore the use of technologies to enhance surveillance over incense trees, such as installing infrared cameras or other electronic monitoring systems in areas planted with those trees;
- (f) set up a special duty squad with self-defence training gear to step up patrolling and enforcement actions; and
- (g) leverage public participation in the protection of incense trees, such as mobilizing the public and green groups to assist in treating the wounds of affected trees with anti-fungal paint.

8. The Administration advised that AFCD had reinforced patrols in country parks, with specific focus on black spots of illegal tree felling activities. It had strengthened its intelligence collection regarding illegal tree felling and suspicious

persons appeared near the black spots. Field staff responsible for the management of country parks were alerted to stay vigilant of illegal tree felling activities. As incense trees were widely distributed in the countryside, patrolling by a special duty squad might not be as cost effective as regular patrolling by AFCD staff. The Administration further advised that the public could make use of the 1823 hotline to report the location of incense trees being cut down, or dial 999 to report suspected cases of illegal tree felling to the Police. Members of the public and concern groups might also contact AFCD to obtain anti-fungal paint for applying on the wounds of damaged incense trees.

9. As regards the suggestion of setting up a database or drawing up a map of the distribution of incense trees in Hong Kong, the Administration advised that due to the widespread distribution and difficulty of access, there was practical difficulty in conducting a territory-wide survey on this species, which would involve significant manpower and resources. Although AFCD had kept information on the locations of older incense trees, such information should not be publicized lest those persons involved in incense tree felling might make use of the information to locate the trees.

10. The Administration further advised that under the framework of CITES, the Administration had all along been liaising with the relevant Mainland authorities on the protection of incense trees. As there was no trading of locally harvested agarwood or its products in the local market, and most of the people engaged in illegal tree felling activities in Hong Kong came from the Mainland, the Administration took the view that imposing a trade ban on agarwood or its products in Hong Kong would not help combat such activities.

11. On the use of technologies to enhance surveillance over the rare tree species, the Administration advised that deployment of remote electronic monitoring systems in the countryside was subject to physical constraints. AFCD was conducting a trial in the Tai Po Kau Nature Reserve on the effectiveness of using surveillance closed-circuit television to deter illegal tree felling activities. Depending on the trial results, the Administration might extend the trial to other country parks or countryside areas.

Penalty on illegal felling of incense trees

12. As regards some Members' query that the current penalty on cases involving illegal felling of incense trees did not have sufficient deterrent effect, the Administration responded that under the Forests and Countryside Ordinance (Cap. 96), any person who vandalized or damaged a tree, including felling a tree illegally, was liable to a maximum penalty of \$25,000 and imprisonment for one

year. Depending on the circumstances of individual cases, the Police might initiate prosecutions under the Theft Ordinance (Cap. 210), which imposed a heavier penalty (i.e. any person arrested and charged with theft was liable to a maximum penalty of a fine of \$100,000 and imprisonment for 10 years). The Administration took the view that the penalty had sufficient deterrent effect on the offenders and it had no intention to increase the penalty.

Council questions

13. At the Council meetings of 19 February and 2 July 2014, and 4 February 2015, Mr LEUNG Che-cheung, Ms Claudia MO and Mr WONG Kwok-hing raised questions respectively on illegal felling of incense trees. Issues covered in the questions include whether the Administration will enact legislation to combat illegal tree-felling and the measures to protect incense trees in Hong Kong. The questions and the Administration's replies are hyperlinked in the **Appendix**.

Recent developments

14. The Panel received submissions from various concern groups calling for more effective measures to protect incense trees. The relevant submissions are hyperlinked in the **Appendix**.

15. At the meeting on 27 June 2016, the Administration will update the Panel on the status of incense trees in Hong Kong and the measures taken to protect incense trees.

Relevant papers

16. A list of relevant papers is set out in the **Appendix**.

Conservation of incense trees in Hong Kong

List of relevant papers

Date of meeting	Event	Paper
1 April 2014	Special meeting of Finance Committee for examination of Estimates of Expenditure 2014-2015	Written questions raised by Members and Administration's replies (Reply serial numbers: ENB016, 030 and 044) Minutes (Paragraphs 8.29)
30 March 2015	Special meeting of Finance Committee for examination of Estimates of Expenditure 2015-2016	Written questions raised by Members and Administration's replies (Reply serial numbers: ENB007, 219 and 228)
22 February 2016	Meeting of the Panel on Environmental Affairs	Administration's paper on update on the protection of endangered species and biodiversity in Hong Kong (LC Paper No. CB(1)557/15-16(04)) Background brief on protection of endangered species and biodiversity in Hong Kong prepared by the Legislative Council Secretariat (LC Paper No. CB(1)557/15-16(05)) Minutes of meeting (LC Paper No. CB(1)857/15-16)
29 March 2016	Special meeting of the Panel on Environmental Affairs	Administration's paper on update on the protection of endangered species and biodiversity in Hong Kong (LC Paper No. CB(1)557/15-16(04))

Date of meeting	Event	Paper
		Background brief on public consultation on Biodiversity Strategy and Action Plan for Hong Kong prepared by the Legislative Council Secretariat (LC Paper No. CB(1)712/15-16(01))
6 April 2016	Special meeting of Finance Committee for examination of Estimates of Expenditure 2016-2017	Written questions raised by Members and Administration's replies (Reply serial numbers: ENB008, 014, 024, and 203)

Submissions from conservation/concern groups on the subject

Issuance Date	Submissions
6 November 2014	Referral memorandum from the Public Complaints Office of the Legislative Council Secretariat regarding the protection of Incense Trees in Hong Kong (Chinese version only) (Restricted to Members) (LC Paper No. CB(1)176/14-15(01))
23 October 2015	Referral memorandum from the Public Complaints Office of the Legislative Council Secretariat regarding legislating against the sale of and strengthening protection of wild incense trees (Chinese version only) (Restricted to Members) (LC Paper No. CB(1)39/15-16(01))
13 January 2016	Joint submission from 大澳環境及發展關注協會、土沉香生態及文化保育協會、"救救土沉香，瀕危滅絕中"網上群組、一群新界區關注土沉香的居民、一群大嶼山關注土沉香的居民、一群南丫島關注土沉香的居民、一群西貢關注土沉香的居民及一群元朗關注土沉香的居民 regarding legislating against the sale of and strengthening protection of wild incense trees (Chinese version only) (LC Paper No. CB(1)433/15-16(01))

Hyperlinks to relevant Council Questions:

Date	Council Questions
19 February 2014	Press release on Council question (oral) raised by Mr LEUNG Che-cheung
2 July 2014	Press release on Council question (written) raised by Ms Claudia MO
4 February 2015	Press release on Council question (written) raised by Mr WONG Kwok-hing