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中華人民共和國香港特別行政區政府總部食物及衛生局  
Food and Health Bureau, Government Secretariat  
The Government of the Hong Kong Special Administrative Region  
The People's Republic of China

本局檔號 Our Ref : FH/CR 1/2576/18  
來函檔號 Your Ref : CB2/BC/4/17

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Clerk to Bills Committee  
(Attn: Ms. Josephine So)  
Council Business Division 2  
Legislative Council Secretariat  
Legislative Council Complex  
1 Legislative Council Road  
Central, Hong Kong

30 October 2018

Dear Ms So,

**Bills Committee on  
Conservation of Antarctic Marine Living Resources Bill**

**List of follow-up actions arising from the discussion  
at the meeting on 8 October 2018**

Thank you for your letter dated 10 October 2018. The supplementary information requested by the Bills Committee is at Annex.

Yours sincerely,

( Ben GURUNG )

for Secretary for Food and Health

cc  
Director of Agriculture, Fisheries and Conservation

(Attn: Mr Mickey LAI; Fax: 2311 3731)

**Bills Committee on  
Conservation of Antarctic Marine Living Resources Bill**

**Supplementary information requested by Members and legal advisor to  
the Bills Committee at the meeting on 8 October 2018**

**Clauses 9(1) and 10(1): Minimum ranks of public officers**

As explained in our letter of 28 September 2018, apart from the Agriculture, Fisheries and Conservation Department (“AFCD”), officers from other departments, such as Marine Department and Customs and Excise Department, may be authorized to carry out relevant duties such as inspecting documents in relation to Antarctic marine organisms under the Ordinance. Hence, unlike section 29 of the Genetically Modified Organisms (Control of Release) Ordinance (Cap. 607) whose scope is confined to authorizing officers of AFCD, the Ordinance needs to provide for the flexibility for authorizing officers at different ranks in different grades of different departments in accordance with the operational needs. It is not practical to spell out the minimum rank(s) of the public officers in the Bill. Well-established mechanisms are already in place to ensure the authorization of officer at the appropriate rank to perform the necessary functions.

**Clause 15(3)(b): Necessary force**

2. We will move committee stage amendment to make it clear that the necessary force is reasonable. The amendment is provided at Appendix 1.

**Clauses 20 and 23: The proceeds from sale**

3. In deciding whether the proceeds from sale of a thing under clause 20 or 23 should be transferred to the Commission<sup>1</sup> Fund or the general revenue, the Director of Agriculture, Fisheries and Conservation (“DAFC”) will take into account various factors such as the total amount of the proceeds, the associated administrative cost and the nature of the offence. Generally speaking, if the proceeds are in connection with offences relating to illegal, unreported and unregulated (IUU) fishing in the Convention Area, such proceeds will be transferred to the Commission Fund unless the associated administrative cost is relatively too high to justify the transfer. We

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<sup>1</sup> Commission for the Conservation of Antarctic Marine Living Resources (“Commission”)

will draw up internal guidelines regarding the threshold level for deciding the handling of the proceeds.

**Clause 22(1): Advance notice to owner(s) of things seized**

4. It might be impractical to reach the owners of things seized in some cases. Thus, we will inform, as far as practical, the owner administratively.

**Map of the Convention Area**

5. The map of the Convention<sup>2</sup> Area is attached at Appendix 2.

**Evidential burden under 31(4) and 32**

6. We will move committee stage amendment to make it clear that only evidential burden is required. The amendment is provided at Appendix 1.

**Food and Health Bureau  
Agriculture, Fisheries and Conservation Department  
October 2018**

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<sup>2</sup> Convention on the Conservation of Antarctic Marine Living Resources (“Convention”)

Conservation of Antarctic Marine Living Resources Bill

Committee Stage

Amendments to be moved by the Secretary for Food and Health

<u>Clause</u>	<u>Amendment Proposed</u>
15(3)(b)	By adding “reasonably” after “use”.
31	By adding— “(5) A person is taken to have established a fact that needs to be established for a defence under subsection (4) if— (a) there is sufficient evidence to raise an issue with respect to the fact; and (b) the contrary is not proved by the prosecution beyond reasonable doubt.”.
32	By renumbering the clause as clause 32(1).
32	By adding— “(2) An employee is taken to have established a fact that needs to be established for a defence under subsection (1) if— (a) there is sufficient evidence to raise an issue with respect to the fact; and (b) the contrary is not proved by the prosecution beyond reasonable doubt.”.

Map of the Convention Area

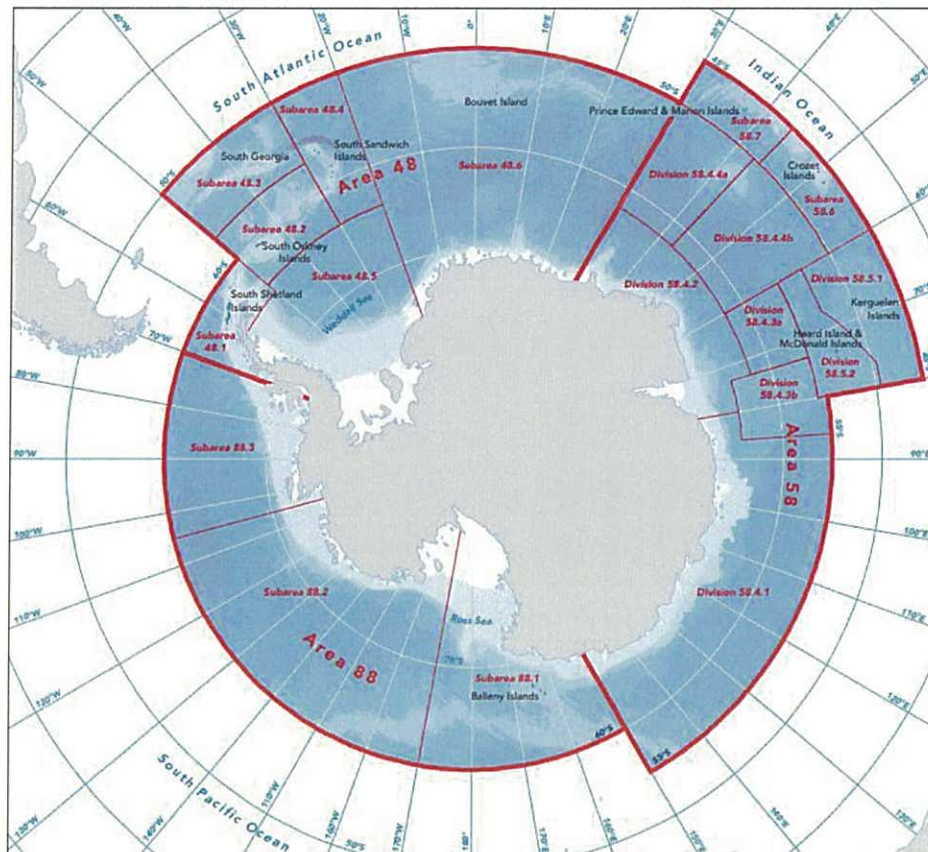


Convention Area  
Statistical Areas

0 500 1000 1500 2000 km  
1:45 000 000  
South Pole Lambert Azimuthal Equal  
Area projection



<http://gis.ccamlr.org>



(Source: <https://www.ccamlr.org/en/system/files/CCAMLR-Convention-Area-Map.pdf>)