

Secretary

Ms Phyllis CHAN

Assistant Secretary (Boards)1, AFCD

In Attendance

AFCD

Mr Boris KWAN

Senior Endangered Species Protection Officer

Mr Timothy LAM

Endangered Species Protection Officer (Enforcement)

Dr Azaria WONG

Endangered Species Protection Officer (Licensing)1

Dr Edward LAU

Endangered Species Protection Officer (Licensing)2

Dr Flora LEUNG

Endangered Species Protection Officer (Inspection)

C&ED

Ms Aubrey AU

Head of Ports Control Group

Absent with Apologies

Professor SO Wing-mui, Winnie

Ms TANG Mui-fun, Karen

Ms TSANG Wing-wing

OPENING REMARKS

46/19 The Chairman welcomed everyone to the meeting.

47/19 The Chairman informed members that, as an established practice, to facilitate the taking of minutes of meeting, sound recording would be made during the meeting. The audio records would be destroyed after the meeting minutes had been confirmed.

AGENDA ITEMS

I. Matters Arising from the Last Meeting held on 22 February 2019

(a) Disposal of Timber Forfeited under the Protection of Endangered Species of Animals and Plants Ordinance, Cap. 586 (Para. 6/19 to 19/19)

48/19 Dr Flora LEUNG reported on the progress of the disposal of forfeited timber. She said that AFCD had continued to actively explore possible non-commercial uses of the forfeited timber and contacted different groups and organisations in this regard, including Hong Kong Palace Museum, The Commissioner for Heritage's Office, Po Leung Kuk Jockey Club Tai Tong Holiday Camp, Drainage Services Department, and so on. During this reporting period, a total of 22 tonnes of forfeited timber was donated to other government departments and local organisations for non-commercial uses, such as construction, facilities enhancement, and scientific research. Moreover, AFCD and the Palace Museum, Beijing signed a Memorandum of Understanding in June 2019, under which 140 tonnes of timber confiscated by AFCD, including 80 tonnes of Red sandalwood (*Pterocarpus santalinus*), 30 tonnes of Malagasy rosewood (*Dalbergia louvelii*) and 30 tonnes of Honduras rosewood (*Dalbergia stevensonii*), would be donated to the Palace Museum for the repair and restoration of cultural relics and historic buildings. It was expected that this batch of forfeited timber would be delivered to the Palace Museum in early 2020. In view of the high demand of the Palace Museum for timber of the abovementioned species, AFCD would explore with the museum the possibility of making further donation later.

49/19 In response to the Chairman's enquiry, Dr Flora LEUNG indicated that AFCD still kept more than 1 000 tonnes of forfeited timber after the donation. In answering another enquiry from the Chairman about whether it was feasible to use the forfeited timber to manufacture office furniture for government departments, Mr Boris KWAN pointed out that the difficulty of this disposal option lied in finding suitable wood processing factories and specialists in Hong Kong. Factories that were capable of processing the forfeited timber which were mostly wood logs were mainly located in Mainland China and other countries. For this reason, AFCD considered that donation of the forfeited timber to the Palace Museum was a comparatively feasible disposal option at the moment.

50/19 Dr LEUNG Siu-fai, JP supplemented that donation of forfeited timber to museums for repair of cultural relics was a feasible disposal option supported by members in previous meetings. It enabled the disposal of a large quantity of forfeited timber and ultimately helped prevent wastage of such valuable natural resources. Nevertheless, he pointed out that storage of the forfeited timber incurred ongoing large expenses. While AFCD would continue to identify suitable government departments and organisations for timber donation, the Department welcomed any other suggestions from members for disposing of the stock.

(b) Proposed Fee Revision for Licences and Certificates Issued under the Protection of Endangered Species of Animals and Plants Ordinance (Para. 42/19 to 43/19)

51/19 Mr Boris KWAN reported that following the brief introduction of the subject matter in Agenda Item VII. - Any Other Business in the last meeting, Committee Paper CP/ESAC/5/2019 titled “Proposed Fee Revision for Licences and Certificates Issued under the Protection of Endangered Species of Animals and Plants Ordinance” was circulated to members on 22 May 2019. The Committee Paper informed members of the results of the review conducted by AFCD on the fees for the licences and certificates issued under the Protection of Endangered Species of Animals and Plants Ordinance (“the Ordinance”) and sought members’ views and comments on the proposed fee revision. AFCD also consulted relevant parties on the proposed fee revision in June 2019. While a few opposing views were received during the consultation, most stakeholders had no comments. Mr KWAN informed members that in view of the challenging external and local economic environment, the Financial Secretary announced on 15 August 2019 the implementation of a moratorium on review of government fees and charges set on a cost recovery basis until 31 December 2020. Therefore, the abovementioned proposed fee revision was put on hold at present.

**II. Report on the 18th Meeting of the Conference of the Parties to CITES
(Committee Paper: CP/ESAC/6/2019)**

52/19 Dr Edward LAU briefed members on the outcomes of the 18th Meeting of the Conference of the Parties (CoP18) to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) (Committee Paper CP/ESAC/6/2019).

(Mr WONG Yin-shun, Matthew attended the meeting at this juncture.)

53/19 The Chairman asked whether the new source code “Y” applied to American Ginseng that were planted by humans in the wild. Dr LAU answered in the affirmative and elaborated that the new source code “Y” referred to plants obtained through assisted production from wild sourced and artificially propagated plants. It was created because some plant species were propagated and grown in diverse production systems with various degrees of human intervention and their sources could not be accurately reflected using the source codes “W” (wild) or “A” (artificially propagated). Mr Boris KWAN responded to the Chairman’s follow-up question that the source codes were used to signify the origin of the specimens of CITES-listed species only and they would not affect the CITES requirement for an export permit or a certificate on the international trade in the specimens.

54/19 In response to a member’s enquiry on how to determine if a plant specimen was wild or artificially propagated, Mr Boris KWAN briefly explained the definitions of the term ‘wild’ and ‘artificially propagated’ according to CITES guidelines and pointed out that it was the responsibility of the CITES Management Authority of the State of export to determine the source of the specimen.

55/19 A member remarked that Tokay gecko (*Gekko gecko*) and Warty newts (*Paramesotriton* spp.), which would be newly added to Appendix II, could both be found in Hong Kong. He asked whether the new listing would likely increase the capture of these species, and if so, what measures AFCD would take to prevent and monitor such situation. Mr Boris KWAN responded that there was little likelihood of that happening because trade in species listed in Appendix II was controlled by the CITES permit system, in which AFCD would check and evaluate meticulously whether the specimen was legally obtained and whether the export would be detrimental to the survival of the species. In addition, he said that Hong Kong Newt, which was the only species in the genus *Paramesotriton* that could be found in Hong Kong, had already been added to Appendix II in the previous CoP meeting (i.e. CoP17), and AFCD did not observe any upward trend in the local capture of this species.

56/19 Pointing out that Hong Kong Newt was on the list of protected wild animals under the Wild Animals Protection Ordinance (Cap. 170), the above member would like to know whether the Government would also add Tokay gecko (*Gekko gecko*) to that list. In response, Mr Simon CHAN indicated that AFCD was conducting an assessment on the extinction risk and conservation status of animal and plant species occurring in Hong Kong to compile a list of threatened species for Hong Kong in a fashion similar to the IUCN Red List of Threatened Species. The assessment results would be used for formulating or modifying policies and measures necessary for the conservation of the species. Moreover, he said that apart from

provisions for the conservation of the protected wild animals, Cap. 170 also contained provisions for the conservation of any wild animals, for example, prohibition on hunting of any wild animal by certain means.

57/19 A member noticed that online sale of the turtle and tortoise species that would be transferred from Appendix II to Appendix I became more active recently. He believed that the possessors would like to dispose of their stock quickly before the Ordinance was amended to give effect to the changes. He asked how the amendment would affect the possessors who owned these species. Dr Azaria WONG responded that at present, only the possession of a live specimen of wild origin of these species required a Licence to Possess for commercial purposes. After the Ordinance was amended, possession of any specimen of these species for commercial purposes would require a Licence to Possess. To apply for a Licence to Possess, the applicant needed to provide supporting documents to prove that the specimen was legally obtained. For example, application for possessing a specimen that was imported from overseas should be supported by a CITES Export Permit. In response to the member's follow-up question, Dr WONG said that AFCD would not issue a Licence to Possess if it could not confirm that the specimen was of legal origin. If a person would like to apply for a Licence to Possess in respect of an Appendix I turtle which was bred in captivity from imported parents for commercial purposes, he or she should have declared and proven to AFCD's satisfaction about such captive breeding activity in advance so that the Department could keep a record of the origin of the captive bred turtle.

58/19 Taking Tokay gecko (*Gekko gecko*) as an example, a member asked how AFCD would handle applications for export of this species after it was added to Appendix II when the local assessment on the list of threatened species was not yet completed to give the latest information on the population and extinction risk of such species. Mr Boris KWAN answered that AFCD would not issue any CITES Export Permit if there was insufficient information to ascertain that the export would not be detrimental to the survival of the species. Dr LEUNG Siu-fai, JP supplemented that AFCD adopted a precautionary approach in handling applications for export of CITES species. The Department would not issue any CITES Export Permit if the application lacked necessary information and supporting documents. When the local assessment on the list of threatened species was completed, the latest information about the extinction risk and conservation value of the species would be used for assessing applications for export of CITES species.

59/19 A member remarked that import of any species should be treated with due caution, because the planting or release of exotic species might spread disease to their close relatives in

the local habitat. In addition, the introduction of varieties of a species could have impacts on the ecosystem of the place of import.

III. Summary Progress Report of CITES Work (Committee Paper: CP/ESAC/7/2019)

60/19 Mr Timothy LAM briefed members on Committee Paper CP/ESAC/7/2019.

61/19 The Chairman considered that the Endangered Species Resource Centre (ESRC) played an important role in educating the public on endangered species protection. Understanding that the guided tours were led by AFCD staff members at present, he suggested AFCD to recruit volunteers to help in the guided tours or other work of the centre. Mr Boris KWAN replied that they would consider the suggestion.

62/19 A member remarked that volunteers of her Association had visited the ESRC recently and had very positive feedback on the visit. She suggested that since volunteers had the ability to reach many people, they could help AFCD to spread the knowledge of protection of endangered species. She encouraged AFCD to invite staff members and volunteers of various non-governmental organisations (NGOs) to visit the centre and offer “Train the Trainer” seminars or courses for them to acquire in-depth knowledge of the topics of their concerns. Mr Boris KWAN responded that AFCD would explore whether NGOs and their volunteers were interested in visiting the centre and make necessary arrangements. The Department could also arrange specific workshops for them if they expressed interest in specific topics relating to endangered species.

63/19 A member asked if AFCD noticed any seasonal pattern in the number of seizure. He also asked if the courts actually imposed heavier penalties, such as longer term of imprisonment, after the penalties under the Ordinance was increased on 1 May 2018. In response to the first question, Mr Timothy LAM said that he did not observe any seasonal pattern in the overall number of seizure but there were relatively higher number of seizure of certain species in some periods of time. For example, there were more cases involving illegal import of orchids around Chinese New Year. To address that, publicity measures targeted at cross-boundary travellers would be stepped up to remind them not to bring orchids into Hong Kong without a required licence. In replying the second question, Mr LAM indicated that during the reporting period, heavier penalties for illegal import of endangered species were seen. For example, offenders of illegal import of seahorse specimens were mostly fined in the

past, but in Case No. 323/2019, 324/2019 and 325/2019, the three offenders were sentenced to an imprisonment of 6 to 9 months. Increased sentences were also seen in cases involving rhino specimens, where the offenders were sentenced to 12 to 15 months' imprisonment instead of a few weeks' imprisonment. He added that the court would consider several factors when determining the seriousness of the offences under the Ordinance and hence the sentences. They included the quantity and the conservation status of endangered species involved as well as the potential impact of the illegal act on the ecology.

64/19 A member remarked that it was reported recently that scientists created fake rhino horns using horse hair in an effort to confuse the market and ultimately diminish the demand for real rhino horns. He asked whether trade in fake rhino horns made from horse hair was also considered a breach of the Ordinance. Mr Boris KWAN answered that trade in specimens claimed to be rhino horns, even if they were not real, were governed by the Ordinance. Mr CHAN Tsz-tat of C&ED supplemented that the traders might also have committed offences under the Trade Descriptions Ordinance (TDO) by giving false trade descriptions in the sale of rhino horns. C&ED would carry out investigations if there were any suspected violations of the TDO.

65/19 Another member pointed out that some people might try to exploit any loophole in the law in order to escape from bearing legal responsibility. For example, possessor of a live three-lined box turtle of wild origin might claim that the turtle had been bred in captivity so as to avoid being prosecuted for possessing an Appendix II specimen without a Licence to Possess. Nevertheless, after hearing the supplementary information about the TDO from C&ED, the member believed that the TDO and the Ordinance could be enforced concurrently to close such loophole. In response, Mr CHAN Tsz-tat said that for any prosecution on providing false trade descriptions under the TDO, there needed to be evidence to prove that the specimen in the transaction was different from what the trader claimed. In some cases, expert advice was needed. Mr Boris KWAN added that under the Ordinance, it was the responsibility of the possessor to provide proof upon request that the species was not originated from the wild and thus exempted from the licensing requirement. Besides, he supplemented that at present, technologies, such as the utilisation of stable isotope, could be used to distinguish the origin of specimens.

66/19 To make people aware of the latest situation of endangered species, a member suggested that the Government should make available to the public the number of Licence to Import being issued. Mr Boris KWAN responded that the relevant figure was accessible to the public. However, such figure could not reflect the actual number of endangered species being

imported to Hong Kong, because not all import required a Licence to Import. He explained that Hong Kong had stricter regulations than CITES requirements with regard to the import of endangered species. For any import of live specimens of Appendix II species of wild origin, a Licence to Import issued by AFCD was required, in addition to a CITES Export Permit issued by the exporting place. Therefore, the figure of Licence to Import could only reflect the import situation of this type of specimens as well as Appendix I specimens. The member considered that despite such limitation, it was worthwhile to make the figure available to the public because it would enable people and organisations in the society to understand the latest situation and the trend in the trade in endangered species.

67/19 A member appreciated that a pre- and post-visit questionnaire survey was conducted with a group of P.1 students who visited ESRC. In his opinion, a well-designed questionnaire was of utmost importance to evaluate the change in the level of environmental awareness for the visitors. Therefore, he encouraged AFCD to invest more effort in designing the questions and collecting more feedback from visitors. The data collected could be used to create statistics for assessing the effectiveness of the ESRC in raising public awareness on endangered species protection. He also suggested that the questionnaire could ask visitors what kinds of exhibits they wished to see and whether they were interested in being volunteer helpers for work relating to endangered species protection when opportunities arose. This would facilitate AFCD to improve the content of the exhibition and guided tour and also find a pool of potential volunteers.

68/19 A member noticed that two mako shark species would be newly added to Appendix II. He asked if importers would be liable to prosecution if they accidentally imported a mako shark as a result of mixing with other shark fins of non-scheduled species. In response, Mr Timothy LAM said that AFCD would carry out investigation into every case of suspected illegal import of endangered species. When considering prosecution, the Department would look into various evidence, including the fact as to whether the importers had tried their best to make sure their import shipment did not contain endangered species. In response to a follow-up question from the member, Mr LAM said that there was no precedent for prosecution of illegal import of scheduled shark fins that were imported by container.

69/19 In response to another question from the member, Mr LAM said that when conducting a cargo examination, the inspecting officer would look at the accompanying export permit and ensure the actual quantities shipped was within the approved quantity as shown in the part of "Export endorsement". Investigation would be initiated if irregularities were found.

70/19 A member asked why the number of prosecution was considerably lower than the number of investigation during the reporting period. He also asked whether the Government planned to further increase the penalties under the Ordinance to produce a stronger deterrent effect. Mr Timothy LAM responded that the lack of sufficient evidence or failure to locate/contact the owner might cause some cases unable to proceed with prosecution. In addition, for more serious cases under the Ordinance, it took time to escalate the cases to District Court for trial. All these factors would affect the number of prosecutions in a reporting period. In response to the member's question about the penalties under the Ordinance, Mr LAM indicated that the penalties were just increased significantly on 1 May 2018. The maximum fine and imprisonment term for indictable offences concerning Appendix I species were increased to \$10,000,000 and ten years respectively. He said that it was noticeable that after 1 May 2018, heavier penalties for offences under the Ordinance were imposed by courts. He added that AFCD had made reference to the penalties for crimes involving endangered species in other Parties in preparing the proposed amendments. Therefore, the current penalties in Hong Kong should be comparable to that of other Parties.

IV. Serving the Community - Service Standards Committee 45th Monitoring Report
(Committee Paper : CP/ESAC/8/2019)

71/19 Dr Azaria WONG briefed members on the performance results with respect to the licensing of endangered animals and plants during the period from 1 October 2018 to 30 June 2019 (Committee Paper CP/ESAC/8/2019). Members noted the report.

V. Any Other Business

72/19 The Chairman enquired when the next incineration exercise of confiscated ivory stockpile would be. Mr Boris KWAN replied that the last ivory incineration exercise took place in June 2019. Members would be informed of future ivory incineration exercises and be invited to witness and audit the process.

VI. Date of Next Meeting

73/19 The Chairman said that members would be informed of the date of next meeting in due course.

74/19 The meeting was adjourned at 12:32 p.m.

- End -