Endangered Species Advisory Committee (ESAC) Minutes of Meeting

Date : 10 February 2017 (Friday)

Time : 10:00 a.m.

Venue : Room 701, Agriculture, Fisheries and Conservation Department (AFCD)

Headquarters

Attendance

Chairman

Professor SHAW Pang-chui

Members

Ms CHAN Chiu-ling, Ophelia, BBS

Mr CHAN Wing-suen

Mr CHEUNG Chi-wah

Dr CHEUNG Siu-gin

Ms CHIU Yuk-lin, Colleen

Mr LEUNG Lak-kee, Ricky

Professor SO Wing-mui, Winnie

Ms TSANG Wing-wing

Ms WONG Siu-ling, Gabriella, M.H.

Professor ZHAO Zhong-zhen, M.H.

Dr LEUNG Siu-fai, JP Director of Agriculture, Fisheries and Conservation

Mr CHAN Kin-fung, Simon Assistant Director of Agriculture, Fisheries and

Conservation (Conservation)

Ms Vivian CHAN Senior Administrative Officer (Nature Conservation),

Environmental Protection Department

Mr LAI Lau-pak, Ellis Assistant Commissioner of Customs and Excise (Boundary

and Ports)

Secretary

Miss Phyllis CHAN

Assistant Secretary (Boards)1, AFCD

In Attendance

AFCD

Mr Boris KWAN Senior Endangered Species Protection Officer (Acting)

Mr Timothy LAM Endangered Species Protection Officer/Enforcement

Ms Phoebe SZE Endangered Species Protection Officer/Licensing 2

Customs and Excise Department (C&ED)

Ms Kitty POON Head of Ports and Maritime Command

Absent with Apologies

Mr LAU Sai-yuan, William

Ms YU Li-hua

OPENING REMARKS

1/17 <u>The Chairman</u> welcomed all members to the first meeting of the new term.

2/17 <u>The Chairman</u> introduced members and government representatives to each other. He also took the opportunity to thank the retired members, Dr CHIU Sein-tuck, Professor LEUNG Mei-yee, Ms LO Lai-shan and Mr TSANG Kwok-keung for their contribution to the Committee.

3/17 <u>The Chairman</u> 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. Declaration of Interests and Transparency Measures

- Mr Boris KWAN briefed members on the guidelines on declaration of interests and the proposed revised transparency measures (Appendix A). He drew members' attention that currently, only the agenda and meeting notes of ESAC meetings were uploaded on AFCD website while committee papers would be made available to the public upon request. To enhance the openness and transparency of ESAC, it was recommended to the Committee that committee papers would be uploaded to AFCD website as well. Subject to the Committee's agreement, the proposed revised transparency measures would be adopted.
- 5/17 A member asked for the reasons for deleting names of individual members in the confirmed minutes and also the arrangement if a member wished to retain his/her name in the minutes. The Chairman replied that according to his understanding, the reason behind such measure was to ensure that members could express their views freely in meetings. Dr LEUNG Siu-fai, JP of AFCD supplemented that any member who wanted to retain his/her name in the minutes could make a request to the Secretary.
- 6/17 Members noted the guidelines on declaration of interests and had no comments on the proposed revised transparency measures.

II. Matters Arising from the Last Meeting held on 12 April 2016

- (a) Strengthening the Control of Ivory Trade in Hong Kong (Para. 8/16 to 14/16)
- 7/17 Mr Boris KWAN of AFCD said that he would provide detailed information on the subject to members under agenda item III.
- (b) Education and Publicity (Para. 24/16 to 26/16)

8/17 <u>Ms Phoebe SZE</u> of AFCD reported that the Department had taken members' advice to display publicity materials regarding endangered species protection on aircrafts. From August to October 2016, ivory control was advertised in in-flight magazines of Cathay Pacific Airways and Cathay Dragon Airways.

9/17 In response to the Chairman's enquiry, <u>Ms SZE</u> said that they had explored with the above-mentioned airways on the feasibility of broadcasting TV Announcements in the Public Interest on aircrafts. They were notified that the advertising time allowed for television programme on aircrafts was limited and the schedule was already full in 2016; nonetheless, they would explore the time slots available in 2017.

10/17 As regards a member's enquiry, <u>Ms SZE</u> responded that the theme and topic of publicity would depend on the need of each publicity event. Messages on general licensing and regulatory control of endangered species under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) or specific species would be deployed depending on the objective of the publicity. The in-flight magazine was targeted at ivory.

III. Plan to Phase out the Local Trade in Ivory (Committee Paper : CP/ESAC/1/2017)

11/17 <u>Mr CHEUNG Chi-wah</u> declared that he was a Senior Head of WWFHK which advocated the ban of ivory trade in Hong Kong. With the aid of a PowerPoint presentation, <u>Mr Boris KWAN</u> briefed members on Committee Paper CP/ESAC/1/2017, which outlined the Government's plan to phase out the local trade in ivory (hereinafter referred to as "the Plan").

12/17 In response to the Chairman's enquiry on indictable offences, Mr Boris KWAN elaborated that offences could generally be divided into summary offences and indictable offences. Summary offences which represented the less serious ones would usually be tried in Magistrates' Courts. On the other hand, indictable offences were more serious offences with heavier penalty and might be tried in courts of a higher level than Magistrates' Courts. Besides, the time limit for initiating prosecution of a summary offence was within 6 months of committing the offence, whereas there was no time limit for an indictable offence. He said that one of the amendments to the Protection of Endangered Species of Animals and Plants Ordinance (the Ordinance) would be promulgating a new set of penalties for offences convicted on indictment under the Ordinance, with a view to reflecting the severity of the

offences and the commitment of the Government to protect endangered species and combat wildlife trafficking.

13/17 A member enquired about the consequence if ivory traders could not dispose of their ivory stock within the 5-year grace period and the way to identify antique ivory. Mr Boris <u>KWAN</u> indicated that although ivory stocks could not be possessed for commercial purposes from 31 December 2021 onwards, possession for non-commercial purposes would be allowed. The grace period was not only to allow the ivory traders to dispose of the ivory in their possession but also to allow them to undergo business transformation. As regards the way to identify antique ivory, Mr KWAN replied that an ivory would possibly be classified as an antique specimen if it was very old (say around 100 years old), and in a worked form. In the current legislative amendment exercise, a clear definition of antique ivory would be provided. Besides, he said that since antique ivory would be exempted from the ban, traders of antique ivory must provide documentary evidence to prove the genuineness. Members of the public who had difficulty to distinguish antique ivory might obtain authentication services provided by companies or forensic laboratories. In addition, when the total ban of ivory trade took effect, relevant guidelines and samples of documentary evidence of antique ivory would be made available at AFCD's website for the reference of the public.

14/17 A member reiterated his reservation on the disposal of forfeited ivory by incineration, as recorded in the minutes of last meeting. He was of the view that forfeited ivory should be retained as it was the cultural property of mankind and could be made good use of to achieve educational purposes. He understood that some of the forfeited ivory and specimens of endangered species had been donated to universities and public institutions, which he thought was effective in serving as a record of history and a warning to future generations. As announced in the Policy Address, the Government would establish a testing centre for Chinese medicines, and under which a herbarium on Chinese medicine of international standard would be set up. He suggested donating forfeited ivory and specimens of other endangered species that were traditional materials of Chinese medicine to the herbarium to serve as a record of Chinese culture and as a publicity means. Mr Boris KWAN thanked for the member's suggestion and pointed out that apart from disposal by incineration, forfeited ivory was also donated to different institutions for educational and research purposes, and to other government departments for enforcement-related training purposes. He said that opportunities to cooperate with or donate specimens to the proposed herbarium on Chinese medicine could be explored.

15/17 Another member reflected that ivory products, such as ivory chopsticks, could be purchased online. She would like to know the situation of ivory trade in Hong Kong and if there was any plan of education activities in the coming 5 years regarding the phasing out of the local trade in ivory. In response, Mr Boris KWAN said that the Department had conducted a survey on the local ivory trade, which revealed that it was generally inactive in Hong Kong and did not constitute a large part of most traders' businesses. Although trade in ivory products still existed, the volume was already much lower than that in 1990 before the ban on international ivory trade. Since local ivory trade would still be legal during the 5-year grace period, there should be sufficient time for the traders to dispose of their ivory stock and to undergo business transformation. In addition, education and publicity activities would be carried out in the period with a view to educating the traders and the general public about the aim and measures of the Plan. Mr Simon CHAN of AFCD supplemented that ivory purchased at licensed premises in Hong Kong was legitimate but could not be brought out of Hong Kong. In this regard, publicity through various means, including the broadcasting of announcements and displaying of posters at boundary control points, as well as advertisements in Mass Transit Railway (MTR) stations, was carried out to disseminate the message that no ivory could be brought out of Hong Kong without a licence.

16/17 A member asked whether it was an offence for a Hong Kong resident to bring an ivory carving in his possession out of Hong Kong when he emigrated to another country. Mr Boris KWAN answered that carrying away an ivory carving as a personal property in times of emigration was generally allowed under the Ordinance and the CITES, but might be subject to the licensing requirements of the country of destination.

A member comprehended that all Licences to Possess (licence) would expire on or before 30 December 2021, and asked if AFCD would continue to keep record of the quantity and movement of ivory stock as a measure to prevent the occurrence of illegal transaction in underground market after the total ban. He was concerned that it might become more difficult to uncover illegal transactions of ivory when information about the keeping premises could no longer be obtained through the licensing system in the future. Mr Boris KWAN replied that at present, AFCD conducted investigations through undercover operations and scrutiny of the internet to combat illegal sale of ivory without a valid licence. He emphasised that these measures would continue after 2021. Besides, Mr Simon CHAN said that AFCD did not rule out the possibility of illegal transactions after the total ban, and would step up intelligence collection, investigation and enforcement actions. He drew members' attention that the aim of the Plan was to curb illegal hunting and killing of elephants by banning ivory trade and eliminating its market in Hong Kong. It was expected that the demand for ivory would considerably decrease with the elimination of the domestic market. He pointed out that closure

of domestic markets for ivory was a global trend and had been urged by CITES at the 17th Meeting of the Conference of the Parties (CoP17) to CITES. China also planned to close its domestic market for ivory within 2017. Dr LEUNG Siu-fai, JP elaborated that there were currently around 380 companies/individuals (hereinafter referred to as "licensees") who had a licence for keeping ivory for commercial purposes. Since possession of ivory for non-commercial purposes was exempted from the licensing requirement under the Ordinance, the actual number of individuals in possession of ivory in Hong Kong could be numerous. Starting from 31 December 2021 when the trade in ivory was completely banned in Hong Kong, there would no longer be any licensees and it was assumed that all possessions of ivory were only for non-commercial purposes. In light of the above, keeping record of the ivory stock after the total ban would involve registration of a large but unknown number of individuals in possession of ivory, and it would be difficult to implement and cause inconvenience to the public. Hence, AFCD considered stepping up investigation and enforcement against illegal trade to be the more effective and practicable measures in addressing the issue.

18/17 A member suggested that the Department could consider requesting ivory traders to give a notice to buyers on every ivory item sold during the 5-year grace period, such that buyers could be well-informed of the total ban. Mr Boris KWAN replied that they would consider different means of publicity, for example displaying notice or poster in licensed shops to serve that purpose.

19/17 A member reflected that there were opinions that the process of phasing out the local trade in ivory could be accelerated, and he would like to know the Department's response in this regard. He also asked if the Department would consider including offences of illicit wildlife trade in the Organized and Serious Crimes Ordinance. In response, Mr Boris KWAN explained that two main factors were taken into account in considering the length of the phasing out process, including the reasonable time for the relevant traders to undergo business transformation and dispose of their ivory stock, and the validity period of the existing licences. The validity period of a licence was five years and implementing the Plan was not one of the prescribed conditions for cancellation of a valid licence under the Ordinance. Also, it was necessary to allow a reasonable period of time to enable the traders to transform their businesses and/or to dispose of their existing stock. Moreover, he said that the plan to promulgate a new set of penalties for offences convicted on indictment would have already reflected the severity of the offences.

(Professor ZHAO Zhong-zhen, M.H. left the meeting at this juncture.)

The Chairman opined that AFCD should be prepared for the opposition from ivory traders that might only emerge close to the end of the 5-year grace period. Dr LEUNG Siu-fai, JP revealed that the registered stock of ivory had decreased from the initial amount of about 600 tonnes to about 70 tonnes at present. And the number of ivory transactions had also decreased in recent years because the demand had become smaller. He remarked that it was not the purpose of the 5-year grace period to allow time for ivory traders to sell out all their stocks, which was also not anticipated in view of the small demand in the market; rather, it was aimed to enable the relevant traders to transform their businesses. In fact, some of the traders had already changed their business to the selling of the ivory of extinct mammoths or jewellery.

A member asked the representatives of C&ED if there was any indication that the recent offences involving illicit wildlife trade (particularly ivory) were related to organised crimes. Mr LAI Lau-pak, Ellis of C&ED reported that C&ED had detected 41 cases of ivory smuggling in 2016, which had dropped significantly compared with 105 cases of ivory smuggling in 2015. According to the data in the past few years, the number of ivory smuggling cases and amount of ivory seized had decreased. It reflected that the enforcement and publicity actions against ivory smuggling had positive effects. Also, the imprisonment of offenders in recent smuggling cases might have created a deterrent effect. He concluded that there was no indication of organised crimes involved at the moment.

IV. Report on the 17th Meeting of the Conference of the Parties to CITES (Committee Paper: CP/ESAC/2/2017)

With the aid of a PowerPoint presentation, <u>Ms Phoebe SZE</u> briefed members on Committee Paper CP/ESAC/2/2017, which reported the outcomes of the CoP17 to CITES.

Noticing that four shark species were newly included in Appendix II, a member enquired if fins of these species were under trade control. Ms Phoebe SZE replied that after amendment to the Ordinance to give effect to the changes as adopted at CoP17, the import and re-export of live sharks of these species, their fins and any other parts would be allowed but subject to licensing control, while the trade in fins and specimens of these shark species within Hong Kong would be allowed. Since fins of different shark species could not be easily distinguished, the member asked about AFCD's preparation work to facilitate enforcement actions for the newly included shark species. In response, Ms SZE said that training had been provided to frontline staff of C&ED and AFCD to identify the species newly brought under

CITES control over the years. In April 2017, training on the identification of shark species, including the four newly added species would be given to staff of C&ED and AFCD. Ms SZE further stated that DNA tests would be applied to identify the species if visual identification was not feasible.

Products Association had provided relevant identification support to AFCD. Besides, he stressed that the marine product industry had long been embracing the principles of legality, reasonableness and compassion (法、理、情) in shark fins trade. Shark fins traders had followed the trade regulations as required under CITES, and should be given a reasonable and equal treatment as other marine product traders. It was considered a discrimination that trade in shark fins, but not other parts of a shark's body, such as its flesh, bones and livers, was commonly blamed by non-governmental organisations (NGOs). He also thought that shark fins had played an important part in Chinese food culture, and hoped that this culture could be preserved by strictly following the regulations of CITES for the sustainable use of sharks.

A member asked if the listing proposal of Hong Kong warty newt (香港瘰螈) was initiated by AFCD. As he was working on the conservation of horseshoe crabs (馬蹄蟹), he would like to know more about the procedures of making a listing proposal in CoPs. Mr Boris KWAN elaborated that only Parties to CITES (Parties) could submit proposals to amend the CITES Appendices. Parties would generally consult other relevant countries before submitting amendment proposals for discussion and vote in CoPs. The listing proposal of Hong Kong warty newt was submitted by China in consultation with Hong Kong as a place where the species was found.

26/17 A member was glad to see that the Government had added humphead wrasse (蘇眉) onto the list of items that should not be included in the menus of official entertainment functions. However, he was concerned that there were reports from the University of Hong Kong and TRAFFIC revealing insufficient enforcement actions against illegal trade in humphead wrasse. In response, Mr Boris KWAN said that humphead wrasse was listed in Appendix II which trade was allowed but subject to licensing control. Only trade in specimens of the species in Appendix I was prohibited. He pointed out that most of the species under CITES were listed in Appendix II as they were not presently threatened with extinction but controlled trade would help protect them from over-exploitation. For humphead wrasse which was usually traded live from wild sources, an export permit was required from the exporting country and an import permit was needed for importing into Hong Kong. Upon import, an authorised officer from AFCD would inspect the permits and the shipment. In addition, shops

selling humphead wrasse had to apply for a Licence to Possess for each keeping premises, and keep all transaction documents as required under the conditions imposed on the licence. Authorised officers would conduct spot checks, and if shops held more humphead wrasse than the quantity permitted by the licence, they would be subject to prosecution. He continued that there had been enforcement actions by AFCD on humphead wrasse's trade, particularly during festive seasons when there was higher market demand for high-value fishes.

27/17 Noticing that devil rays (蝠鱝屬所有種) was newly included in Appendix II, the member asked if this species had any relation with the ray fins (瑤魚翅/魔鬼魚翅) commonly found in the market. Furthermore, he opined that shipping companies were easily exposed to the risks of breaching the law by carrying shark fins. Mr KWAN indicated that licensing control was applicable to the trade in devil rays, no matter in whole or in part, in accordance to CITES. If there was difficulty in distinguishing fins of devil rays from that of other rays or sharks species, DNA test would be used to confirm the species identity. He continued that AFCD was getting in touch with shipping companies with a view to enhancing their understanding of the Ordinance and the species regulated under CITES.

28/17 In relation to the above discussion, a member commented that it was not possible for shipping companies to check what was carrying in every cargo and they could only check the documents provided by exporters. He believed that it was the responsibility of C&ED to conduct cargo examination.

V. Summary Progress Report of CITES Work (Committee Paper: CP/ESAC/3/2017)

29/17 Mr Timothy LAM and Ms Phoebe SZE of AFCD briefed members on Committee Paper CP/ESAC/3/2017. Mr LAM furnished members with information about enforcement, licensing and disposal of seized specimens while Ms SZE briefed members on publicity and education, international and local liaison and meetings, as well as training courses conducted in 2016.

(Mr CHAN Wing-suen and Dr LEUNG Siu-fai, JP left the meeting at this juncture.)

30/17 A member asked if there was any increasing trend in trafficking certain wildlife species. Mr Timothy LAM said that ivory, seahorse (海馬), pangolin (穿山甲) and skins/ skin

products of controlled species were some of the most commonly seized items. However, the number of cases involved export, import or transit of endangered species in the past few years were steady and there was no indication of any increase in the smuggling of a particular species. In response to the member's enquiry about the trend of illegal trafficking of totoaba dried fishmaw (石首魚花膠), Mr LAM said that enforcement actions as well as publicity and education measures were taken against both smuggling and illegal selling of dried fishmaw of totoaba which was a species listed in Appendix I. AFCD had conducted undercover inspections of dried seafood shops and arranged officers to educate the traders on the relevant trade regulations. Subsequent to the seizure of totoaba fishmaw from two shops in 2015, there was no totoaba dried fishmaw found being sold in the dried seafood shops in the follow up inspections in 2015 and 2016.

31/17 A member suggested AFCD to hold publicity events in the annual Hong Kong Flower Show and the Flower, Bird, Insect and Fish Show. Also, she expressed concern about illegal felling of incense trees (Aquilaria sinensis) (土沉香). She observed that almost all of the old and large incense trees in Hong Kong had been felled, and opined that it seemed easy for illegal loggers from the Mainland to fell or prune incense trees and smuggle them across the border. She worried that if there was no effective means to deter illegal logging of incense trees, the trend would be aggravated and ultimately other valuable tree species might also be affected. Mr Simon CHAN replied that AFCD had been very concerned about the issue, and had been in close liaison and collaboration with the Hong Kong Police Force (HKPF) and C&ED for strengthening enforcement actions against illegal felling or pruning of incense trees and their smuggling respectively. Given that incense trees were widely distributed in countryside areas throughout Hong Kong, special measures were carried out to strengthen their protection, for example, large incense trees were protected by tree guards, if situation warranted. Besides, AFCD was conducting trials of installing monitoring camera traps at places where incense trees were found. It would facilitate quick actions by AFCD and HKPF when tree felling or pruning was observed. Moreover, he said that some Quarantine Detector Dogs (QDDs) were under training for detecting agarwood. After training, they would be deployed for detecting smuggled agarwood and specimens of other endangered species at boundary control points. He added that the taking of incense trees from the wild was a theft, and the heaviest penalty so far was imprisonment of 55 months. A stronger deterrent effect was expected when heavier penalties were imposed with the amendment to the Ordinance. He informed members that as announced in the 2017 Policy Address, the Government would implement the Biodiversity Strategy and Action Plan, under which a species action plan would be drawn up for conserving incense trees.

In response to the Chairman's enquiry, <u>Mr Simon CHAN</u> said that there were nine QDDs at present, and AFCD was planning to increase the number.

33/17 A member asked if there was any proposal of total ban of trade in incense trees. Mr Simon CHAN replied that incense trees was listed in Appendix II, which trade was allowed with valid licences. He said that regarding the report of selling Hong Kong's agarwood in an agarwood expo in the Mainland, AFCD had reported to the relevant Mainland enforcement authorities that no licence was issued for export of such species from Hong Kong. In response to the member's enquiry about artificial propagation of incense trees in Hong Kong, Mr CHAN indicated that AFCD had produced around 8,000 seedlings of incense tree per year and planted the seedlings in country parks and countryside areas. NGOs which were interested in assisting in the replanting could contact the Department.

As studies revealed that some Chinese medicines contained endangered species, a member asked if AFCD had conducted any study on this matter. He also said that while many big shipping companies agreed not to carry shark fins, data showed no significant drop in the import of shark fins in Hong Kong, which might be associated with misdeclaration. Mr Boris KWAN answered that as long as a species was listed in one of the appendices of CITES, no matter it was in whole or in part and no matter found in medicines, food, clothes, furniture and any other commodities, it was under the regulation of the appendix concerned. In other words, if a Chinese medicine contained CITES-listed species, its trade was regulated by the Ordinance. As regards the import of shark fins, he indicated that there were currently 8 controlled shark species and the shark fins imported into Hong Kong mostly came from different shark species that were not the controlled ones.

Ms Kitty POON of C&ED supplemented that the Department had been adopting a risk management approach to detect the illegal importation / exportation of unmanifested cargo and controlled items. C&ED had been working closely with AFCD in combating smuggling of endangered species. Regarding the member's concern on the accuracy of goods description, AFCD and C&ED would meet with shipping companies to explain the control of import and export of endangered species.

VI. Serving the Community - Service Standards Committee 42nd Monitoring Report

(Committee Paper : CP/ESAC/4/2017)

36/17 <u>Ms Phoebe SZE</u> briefed members on Committee Paper CP/ESAC/4/2017. The paper was about the performance results with respect to the services/applications on the licensing of endangered animals and plants during the period from 1 October 2015 to 30 September 2016.

37/17 In response to the Chairman's enquiry, <u>Ms Phoebe SZE</u> answered that more applications were usually received around three months before festive seasons.

VII. Any Other Business

38/17 Members did not raise any other business for discussion.

VIII. Date of Next Meeting

39/17 <u>The Chairman</u> said that members would be informed of the date of next meeting in due course.

40/17 The meeting was adjourned at 12:45 p.m.

- End -

Transparency Measures of the Endangered Species Advisory Committee

The following transparency measures are in force for the Endangered Species Advisory Committee (the Committee):

- 1) Relevant information on the composition, functions and transparency measures of the Committee are kept and updated at regular intervals.
- 2) The following information on members of the Committee is available to the public upon request:
 - (a) attendance records;
 - (b) years of service on the Committee;
 - (c) occupation/profession by broad categories; and
 - (d) membership of other advisory and statutory bodies.
- 3) Membership and Terms of Reference of the Committee are uploaded onto the homepage of the Agriculture, Fisheries and Conservation Department. (web site: http://www.afcd.gov.hk/english/aboutus/abt_adv/abt_adv_c.html)
- 4) Notices, agendas, confirmed minutes of meetings and discussion papers/reports, except material containing private, commercial or confidential information, are uploaded onto the homepage of Agriculture, Fisheries and Conservation Department. (web site: http://www.afcd.gov.hk/english/aboutus/abt_adv/abt_adv_c.html)
- 5) Names of individual members will be deleted in the confirmed minutes but upon request from specific members, their names should be retained.
- 6) The "ICAC Guidelines on Declaration of Interests" are adopted by the Committee.
- 7) Press conferences are held and press releases are issued on a need basis, when decisions of public interests are made at the Committee meetings.

February 2017