

**Endangered Species Advisory Committee
Confirmed Minutes of Meeting**

Date : 25 February 2005 (Friday)
Time : 9:30 a.m.
Venue : Room 702, Agriculture, Fisheries and Conservation Department (AFCD)
Headquarters

Attendance

Chairman

Dr TAM Wing-kun, B.B.S., J.P.

Members

Mr CHIU Ching-cheung

Mr LI Ying-sang, M.H., J.P.

Dr Alice LUI SO Yee-lai

Mr WONG Hing-keung

Mr Thomas WONG Kwok-fun

Miss Christina CHONG Assistant Secretary, Environment, Transport and Works Bureau

Secretary

Miss Sylvia LEE Assistant Secretary (Boards)1, AFCD

In Attendance

AFCD

Mr CHEUNG Chi-sun Senior Endangered Species Protection Officer

Miss Pauline TONG Endangered Species Protection Officer/Enforcement

Absent with Apologies

Prof. Kelvin CHAN Kam-chuen

Dr Craig Kirkpatrick

Prof. SHAW Pang-chui

Dr Paul SHIN Kam-shing

Dr SUN Mei

Prof. TONG Yao

Mr Thomas CHAN, J.P. Director of Agriculture, Fisheries and Conservation

Mr C.C. LAY Assistant Director of Agriculture, Fisheries and Conservation
(Conservation)

Mr Ferdinand LEUNG Koon-wah Assistant Commissioner of Customs and Excise
(Boundary and Ports)

Opening Remarks by the Chairman

31/05 The Chairman welcomed everybody to the meeting, in particular Mr WONG Hing-keung who attended the meeting for the first time. He informed the meeting that the Committee Paper CP/ESAC/5/2005 was issued on 3 February 2005. Two members had made comments on the Committee Paper and proposed to discuss the issue at meeting.

Agenda Items

I. A Bill to Amend the Ordinance on Protection of Endangered Species (Committee Paper: CP/ESAC/5/2005)

32/05 Mr CHEUNG Chi-sun presented Committee Paper CP/ESAC/5/2005.

33/05 A member expressed concern on the proposed increase of licence fees. Mr CHEUNG Chi-sun explained that the proposed change in fees was in line with the Government's policy to achieve full cost recovery for its charged services. To relief the impacts on traders, the Secretary for Financial Services and the Treasury had agreed to increase the fees by phases.

34/05 In response to the member's suggestion to streamline the procedures for goods inspection at the airport, Mr CHEUNG Chi-sun agreed to refer the matter to the parties concerned for consideration.

35/05 The member said that the procedures to monitor traders' records and stocks should be simple and easy to implement. Mr CHEUNG Chi-sun explained that upon the enactment of

the new Ordinance, all Appendix II specimens, apart from live animals and plants of wild origin, would no longer require a possession license. Records that needed to be maintained by traders would be limited.

36/05 The member worried that increasing the licence fees would affect the competitiveness of Hong Kong traders, in particular that of Re-export Certificate for tourist souvenirs. Mr CHEUNG Chi-sun responded that most of the tourist items would be exempted from licensing requirements.

37/05 A member enquired whether the proposed fee items were the first batch of government fees charged to achieve full cost recovery. Miss Christina CHONG answered that some government fees had already been charged at full cost.

38/05 The member enquired whether the term “牌照” in paragraph 8 to 13 in the Chinese version of the Committee Paper, and “許可證” in paragraph 14 were the same as the term “管有証” currently used. Mr CHEUNG Chi-sun confirmed that they all referred to “licence”. Miss Christina CHONG added that the terms would be unified in the legislative document.

39/05 With reference to paragraph 16 of the paper, the member opined that it might be difficult for a specimen holder to declare both the scientific name and common name of the specimen in question. Mr CHEUNG Chi-sun clarified that existing legislation had the same requirement and that the specimen holder would only need to provide the name he knew.

40/05 With regard to paragraph 18 of the Committee Paper, the member asked whether an authorized officer could only be empowered to inspect documents in relation to the suspected breach of the law. Mr CHEUNG Chi-sun confirmed that this was in fact the intent of the provision. The Chairman added that the English version of the paragraph had been written with such meaning.

41/05 The member asked if a warrant was required for stopping, boarding and searching a vessel, vehicle, train or aircraft mentioned in paragraph 19. Mr CHEUNG Chi-sun explained that same as the existing Ordinance, a warrant would not be required in such urgent occasions.

42/05 The member opined that the phrase “搜查該人及其財物” in paragraph 20 was too broad. He enquired whether the items to be searched could be limited by use of the phrase “搜查該人及其物件”. Miss Christina CHONG said that the Ordinance would be written to avoid contravention of human rights.

43/05 The member asked whether the new Ordinance could limit the duration to detain a suspect. Mr CHEUNG Chi-sun answered that any detention period must be reasonable and the

detained person could at any time institute legal action if he thought that the detention was unreasonable.

44/05 The member opined that it was odd to forfeit seized items in cases without conviction. Mr CHEUNG Chi-sun explained that although no one was found guilty in some cases, the items concerned might be of illegal origin. The Chairman added that any forfeiture would be by a court order.

45/05 The member enquired about the number of appeals a person could lodge to the Administrative Appeals Board against a decision of the Director of Agriculture, Fisheries and Conservation stipulated in paragraph 32 of the Committee Paper. Mr CHEUNG Chi-sun answered that an appeal could only be lodged to the Board once. Miss Christina CHONG added that the appellant could also apply for judicial review of the Board's decision. The member said that the Ordinance should stipulate the final appeal mechanism.

46/05 The member enquired about the criteria for registration as scientific institutes in paragraph 41 of the Committee Paper. Mr CHEUNG Chi-sun answered that the criteria were stipulated by CITES.

47/05 The member worried that trade associations and schools which were not registered scientific institutes would be required to apply for licence for display of specimen samples. Mr CHEUNG Chi-sun clarified that paragraph 41 was applicable for import, export or re-export purpose. Possession of specimens for educational study would be exempted as mentioned in paragraph 42 of the Committee Paper.

48/05 A member asked whether AFCD had standard procedure to handle complaints against improper acts of authorized officers. Mr CHEUNG Chi-sun answered that the public could lodge complaints to the Complaints Officer of AFCD, who would handle the complaint in accordance with internal guidelines.

49/05 A member wondered if it was reasonable to empower an authorized officer to arrest a person without warrant. Mr CHEUNG Chi-sun explained that this would enable the officer to take immediate enforcement action if necessary.

50/05 A member enquired whether the Committee could have a look of the final draft Bill prior to submission to the Legislative Council. Mr CHEUNG Chi-sun answered that the draft Bill would be gazetted after it was approved by the Chief Executive in Council. A circular letter on this would also be issued to inform all those on AFCD's record.

51/05 Having consulted members' view, the Chairman concluded that the Committee supported the proposed legislative amendment.

II. Any Other Business

52/05 Members had no further business to discuss.

III. Date of Next Meeting

53/05 The Chairman said that members would be informed of the meeting date in due course.

54/05 The meeting was adjourned at 11:00 a.m.

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