

Society for the Prevention
of Cruelty to Animals (HK)
香港愛護動物協會



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Hon. Tanya Chan
Chairperson
Panel on Environmental Affairs
Legislative Council
Hong Kong

Dear Hon. Tanya Chan,

Re: Legislative proposal to phase out the local trade in ivory

The Society for the Prevention of Cruelty to Animals (Hong Kong) supports the Administration's move to phase out the local ivory trade, as well as to substantially increase penalties to combat wildlife trafficking.

Hong Kong is one of the few territories left in the world that permits the domestic trade in ivory. Even the world's largest ivory market, China, has already taken steps to ban the domestic trade in 2017.

Hong Kong position as a global transport hub, as well as the presence of a well connected legal ivory trade¹ has fuelled the killing of thousands of elephants for the ivory trade.

The poaching of elephants is brutal, cruel and increasingly violent. Militarised gangs chase elephant herds using helicopters and automatic weapons. Often, elephants are shot multiple times before they eventually collapse. Elephants that do not die are often maimed and die slowly. Other cruel methods include poisoning of water holes that sickens and kills all animals that drink from them.

In addition, anti-poaching personnel and park rangers may also be targeted and maimed or killed during anti-poaching operations or random encounters with poachers – the human toll in pain, suffering and death adds to the animal toll. In a 2015 survey, 75% of Hong Kong people support ending the ivory trade.²

The SPCA HK supports the Administration's proposals to ban the trade and end Hong Kong's participation in the slaughter of the world's elephants.

¹Lo, Cheryl and Edwards, Gavin (2015) "The Hard Truth. How Hong Kong's Ivory Trade is Fuelling Africa's Elephant Poaching Crisis." World Wildlife Fund (Hong Kong).
http://awsassets.wwfhk.panda.org/downloads/wwf_ivorytrade_eng_eversion.pdf

² "Ivory Demand Survey", Public Opinion Programme, Hong Kong University and WildAid, August 2015.
<https://www.hkpop.hku.hk/english/report/wildAidIvory/>



With regards to the Administration's proposals to amend the Protection of Endangered Species of Animals and Plants Ordinance CAP. 586 and ban trading in ivory in Hong Kong:

- 1. Ban the import and re-export of all elephant hunting trophies and remaining post-Convention ivory items³.**

The SPCA fully supports the proposal.

- 2. Ban the import and re-export of pre-Convention ivory and subject the commercial possession of pre-convention to licensing control in line with that for post-convention ivory.**

The SPCA fully supports the above proposal.

- 3. Ban the trade (and commercial possession) of all ivory (pre-Convention and post-Convention).**

The SPCA fully supports the above proposal, but has concerns regarding the timeline, possible loopholes and compensation.

a) Timeline

The SPCA is fully supportive of the proposal to make trading in elephant ivory illegal in Hong Kong. However, it is noted that currently Administration is proposing a three step approach to implementing a full ban on the ivory trade which will take five years. The SPCA views this as problematic and recommends:

Given the severity of elephant poaching, as well as Hong Kong's prominent role in the global ivory trade, the SPCA joins other NGOs in calling for halting the ivory trade much sooner than the proposed date of 31st December 2021.

b) Potential loopholes

The SPCA is also concerned about potential loopholes and views the following areas as especially problematic

- Little detail has been provided regarding any additional regulation and oversight of ivory that will be permitted for personal or non-commercial use, once its commercial possession has been banned.
- The SPCA HK is concerned that once the commercial trade of ivory is phased out, insufficient oversight of the legal possession of elephant ivory, as well as the mammoth ivory trade, will then become a cover for a black market trade in ivory, reducing the effectiveness of any legislative change.

³ Legislative Council Paper No. CB(1)705/16-17(05) "Legislative proposal to phase out the local trade in ivory and progress of Governments's efforts on nature conservation and marine conservation", March 2017. <http://www.legco.gov.hk/yr16-17/english/panels/ea/papers/ea20170327cb1-705-5-e.pdf>



- To keep illegal ivory out of Hong Kong, the SPCA HK would like to see a licensing or registration system that accounts for individual items of ivory held in the territory that can be tracked and independently verified, and does not rely solely on self-reporting.

In particular, the SPCA is concerned about and offers the following suggestions regarding the following:

Non-personal usage

The SPCA has concerns over the fact that the current exceptions allowed under CITES may be problematic unless there is stringent oversight and set criteria that can be referenced in terms of what usages are to be permitted in terms of scientific studies, education and law enforcement. Such possession should require a possession certificate issued by the AFCD.

Suggestion: An “ethics” panel could be set up to scrutinise each request for the exceptional use of ivory for science, education and law enforcement.

Personal usage

In particular, the exemption of personal or household effects from control creates a loophole that may lead to illegal trading of ivory.

Suggestion: It should be necessary for people possessing ivory items as personal or household effects to hold possession certificates for individual items issued by AFCD and to be able to produce this and the item on request of authorised officers.

Any transfer of ownership should be registered with the authorities. There should be strict liability and punishment for failing to comply. The penalty level for a licensing related offence should be increased for licences issued with respect to ivory possession.

Regulation of ex-commercial stock

If traders choose to give up their licences before Step 1 and Step 2 of the phase out plan⁴ and have on their hands a residual amount of ivory it is unclear as to what legal requirement the ex-traders will have to comply with.

The continued possession of residual stocks may now result in an illegal trade without oversight.

Suggestion: In line with our suggestion that holders of ivory as personal or household effects should be licensed, ex-traders should also be required to have possession licences for any residual stock they possess.

Regulation of the antique ivory trade

⁴ Ibid., pp3.



Under the amendment, an additional exception will be introduced – that of “Antique Ivory” as defined in the Amendment Bill as a piece of ivory removed from the wild and significantly altered before July 1935. This again may present problems in terms of illegal trade and laundering.

Suggestion: All “Antique Ivory” owners should hold possession licences and transfer of ownership should be tracked. Sales should be monitored and regulated. There should be strict liability for the seller and purchaser if they fail to comply with the legal requirements.

Regulation of the mammoth ivory trade

The SPCA is concerned regarding the use of the mammoth ivory trade as a continued loophole to launder elephant ivory, especially since it is difficult to distinguish elephant ivory from mammoth ivory with the naked eye.

An investigative report in 2015, reported that shopkeepers were willing to fake receipts stating that elephant ivory was actually mammoth ivory, so that customers could bring them out of Hong Kong.⁵

During the 17th CITES Conference of the Parties (COP) meeting in September 2016, the mammoth ivory trade was discussed as a means for laundering elephant ivory.⁶

It was recommended that

“...all Parties and non-Parties enact, as appropriate, legislation that allows for inspection of specimens in trade labelled as mammoth ivory in order to ensure that they are not in fact specimens of elephant ivory, for example by requiring a determination from a proper wildlife forensic laboratory.”⁷

Hong Kong, despite being a significant importer of mammoth ivory⁸, has no restrictions on the import, export or sale of mammoth tusks or products. There is also currently no registration system or regulatory mechanism to verify that these items are indeed mammoth ivory.

Suggestion: There needs to be legislation enacted and regulations introduced so that there is proper oversight and control of the mammoth ivory trade.

⁵ “The Illusion of Control. Hong Kong’s ‘Legal’ Ivory Trade”, WildAid, October 23, 2015. <http://www.wildaid.org/sites/default/files/resources/The%20Illusion%20of%20Control-Full%20Report.pdf>

⁶ “Seventeenth Meeting of the Conference of the Parties. 38. Identification of elephant and mammoth ivory in trade.” Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), 13 June 2016. <https://cites.org/sites/default/files/eng/cop/17/WorkingDocs/E-CoP17-38.pdf>

⁷ “Seventeenth Meeting of the Conference of the Parties. 38. Identification of elephant and mammoth ivory in trade. Addendum.” CITES, 29 September 2016. <https://cites.org/sites/default/files/eng/cop/17/WorkingDocs/E-CoP17-38-Add.pdf>

⁸ “Seventeenth Meeting of the Conference of the Parties. 38. Identification of elephant and mammoth ivory in trade.” Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), 13 June 2016, pp1. <https://cites.org/sites/default/files/eng/cop/17/WorkingDocs/E-CoP17-38.pdf>



To effectively combat the illegal trade in elephant ivory, the SPCA would like to see possible loopholes linked to the unmonitored and uncontrolled possession and transfer of the different 'classes' of ivory and the continuing mammoth ivory trade reviewed and closed.

c. Compensation

Over the past twenty six years, we have noted that the Administration has provided vocational retraining to the ivory carvers. The SPCA supports the Administration's efforts to provide vocational re-training to any remaining workers or crafts people within the industry should that be needed.

However, the SPCA does not support any government buy out of ivory or compensation to ivory traders.

4. Increasing the penalties for the possession of endangered species

The SPCA supports the proposal to significantly increase the penalties for illegal import, export and trade of endangered species.

However, given the frequency, size and value of seizures of endangered animals and plants, and the transnational crime networks that are often involved - the SPCA joins other groups to call for the inclusion of Cap. 586 Protection of Endangered Species of Animals and Plants Ordinance in Schedule 1 to the Import and Export Ordinance Cap. 60.

This would permit enforcement departments access to the full range of investigative powers currently provided under Cap.455 Organised and Serious Crimes Ordinance (OSCO) which would assist with investigating the criminal networks involved in wildlife crime in Hong and lead to the apprehension and prosecution of more members.

This inclusion would mobilise the necessary resources to investigate syndicates that operate through Hong Kong, and provide a more substantial deterrent to combating the poaching and smuggling of endangered animals.

The SPCA thanks the Administration for its work thus far and for the Legislative Councillors' support on this matter. We look forward to continued dialogue and positive progress on these issues.

Should you have any enquiries in relation to this submission, please do not hesitate to contact us on 2232563 or by email c/o: fiona.woodhouse@spca.org.hk.

Yours sincerely,

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