



世界自然基金會  
香港分會

WWF-Hong Kong

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25<sup>th</sup> August 2017

Legislative Complex  
1 Legislative Council Road  
Central, Hong Kong

Dear Members of the Legislative Council,

**Re: Legislative Proposal to Phase Out Hong Kong's ivory trade**

In view of the upcoming public hearing on September 6, we are writing to respectfully request your support for the Hong Kong Government's proposal to **ban the ivory trade** as soon as possible, with no compensation, and impose a **maximum penalty of 10 years imprisonment** to deter future wildlife crime offenders.

1. Why is the closure of Hong Kong's ivory market needed?

- Behind the white polished ivory products on sale in Hong Kong lies a trade that is rife with illegal practices – one that has helped drive the ongoing poaching crisis of African elephants, where rangers often lose their lives while trying to protect wildlife. Over the past 10 years, 1,000 rangers were killed in line of duty to protect elephants and wildlife (Appendix A: [Hard Truth Report](#))
- Current regulation of the ivory trade<sup>1</sup> contains numerous loopholes, as described by an ivory trader captured in an undercover research detailed in the *Hard Truth Report*, who stated that it is easy to smuggle illegal ivory of freshly killed elephants from Africa to Hong Kong, then take advantage of these loopholes to launder the illegal ivory using a legal ivory license. Recently, the government has also tested the ivory chopsticks sold in a shop in Sheung Wan which, through forensics technology, verified it to be illegal. A recent survey by TRAFFIC found that over one-third of Hong Kong traders have been encouraging mainland China tourists to illegally smuggle ivory out of the city without the correct permit. It is impractical to believe that the ivory trade can be properly regulated. Current regulations have, and will continue to invite, illegal trading activities in the city, and would require a monumental enforcement effort to prevent illegality.
- Governments around the world including Singapore, US and China have concluded that the best solution is the closure of ivory markets.

2. Can tusks extracted from elephants that have died naturally be used in the ivory trade?

- No. International laws have banned the trade of all elephant parts since 1989. This is because the poaching crisis is uncontrollable, and therefore even selling ivory

<sup>1</sup> A licensing system allows licensed traders to openly trade in ivory sourced prior to the 1990 international ban, even though there is no way to distinguish the age of ivory pieces with the naked eye (and only possible through forensic testing in a laboratory). Government of the trade, until recently, has been alarmingly lax. Traders were only required to submit trade records to the authorities roughly every five years.

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extracted from elephants that died of natural causes is a violation of international laws.

- For the past 27 years, the Hong Kong government took the approach that the ivory trade can be strictly controlled and regulated so as not to contribute to ongoing poaching in Africa. However they have faced numerous problems and challenges with this approach. Now, world's governments, including Hong Kong, China and US, are convinced that, given the difficulty in regulating the market and the ongoing poaching crisis in Africa, then the last resort is a total closure of ivory markets.
- African countries are facing many challenges in governance and corruption while they attempt to curb wildlife poaching. It is irresponsible for Hong Kong to request to open up a legal trade in ivory from elephants that have died naturally, and then expect African countries to bear the burden of differentiating and providing this ivory, while at the same time they are combatting poaching.
- Selling only ivory extracted from elephants of natural death is impractical. Once blood and flesh has been removed from raw tusks, it is impossible to distinguish ivory tusks extracted from elephants of natural death versus poaching. Hong Kong enforcement officers will be unable to properly regulate such a trade, and it will create an even bigger loophole for traders and criminal gangs to exploit and smuggle illegal ivory.

3. Is it a loss to Chinese tradition?

- Despite China has included ivory craftsmanship in the First National List of Intangible Cultural Heritage Conservation since 2006, the country has recently come to the realization that the "legal" ivory trade is inevitably driving elephant poaching, often to the benefit of crime syndicates. Therefore, China has decided to ban all ivory trade by end of 2017 even though it is an important tradition. To protect ivory carving as an intangible cultural heritage, the State Forestry Administration is encouraging carvers to use their skills on other materials, and also invited some to keep their craft alive via written, audio and video records.
- Culture is an evolving process. For example the old tradition of foot binding young women and polygyny marriage have been abandoned, and society constantly refines culture as time progresses.
- It is no longer common for Hong Kong people to buy ivory products. In fact an estimated 90% of the retail trade is for mainland China tourists.

4. How long should it take before the ivory ban becomes effective?

- There is strong international momentum urging the ivory trade to end as soon as possible. Countries, such as the US are implementing various commitments within a short time frame, and China is moving rapidly to end its domestic ivory trade by the end of 2017. A recent legal study found that a Hong Kong market closure can be implemented much sooner than government is proposing. (Appendix B: [Legal study on an ivory ban](#))
- The traders were well-informed that the ivory trade began to come under regulation in 1975 under the International Convention CITES<sup>2</sup>, and then eventually banned internationally in 1990. Since then, the traders have already enjoyed 27 years of grace period to liquidate their stock. In addition, the Hong Kong government is proposing that traders will be given 5 more years to liquidate their stock, which we believe is overly generous.

5. Has the Government kept traders informed of their proposal to close the ivory market?

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<sup>2</sup> CITES is the Convention on International Trade in Endangered Species of Wild Fauna and Flora

- The Hong Kong Government has been proactive in making numerous public announcements and engagement with traders so that they are well aware of the impending change in ivory trade regulations. This includes:
  - o *October 2015*, Under Secretary for the Environment Ms Christine Loh stated the Government is “open-minded” to ban the ivory trade
  - o *January 2016*, Chief Executive CY Leung has announced in his annual Policy Address to phase out the ivory trade
  - o *June 2016*, Environment Bureau has submitted a draft implementation plan to the Legislative Council.
  - o *Oct 2016*, The International CITES Convention, which Hong Kong and China are a signatory country to, has passed a resolution calling for the closure of domestic ivory markets that contribute to elephant poaching and illegal trade. (Appendix C: [CITES Res. 10.10 Rev CoP17](#))
- Furthermore, the ivory ban will not take effect until five years later in 2021. Hence, far from not having been warned, ivory traders are now been offered considerably more time to finally liquidate all of their stocks – 32 years in total.

#### 6. Why compensation is not justified

- The Hong Kong Government has been extremely accommodating in minimizing the impact of an ivory ban, and sought to minimize any impact.
  - o Traders will have had 32 years in total to sell their remaining stock.
  - o According to a recent survey by AFCD, the ivory trade was generally inactive, and it did not appear to constitute an essential part of the licensees’ business in general. (Appendix D: [Government survey on ivory trade and carvers](#) (Annex in Page 9)). Ivory traders have diversified their businesses.
  - o For ivory carvers, the Hong Kong government have already provided financial subsidies and re-training programs for them in the 1990s after the international trade ban. Most carvers have already transitioned into other industries.
- The proposed draft law does not infringe the traders’ “right to compensation for lawful deprivation of...property” as protected by Article 105 of the Basic Law of the Hong Kong SAR. (Appendix B: [Legal study on an ivory ban](#))
- No other countries, including the US and China, are providing compensation for their ivory ban. Hong Kong could compromise its reputation that it recently gained as a leader on the world stage in closing one of the most significant ivory markets globally, and set a precedent that undermines other countries approach to closing their ivory markets.
- Compensation will send the wrong educational message to society if it is granted to an industry where there are known elements of illegality. This includes the poaching crisis in Africa, smuggling via criminal gangs, laundering, and illegal selling in Asia.
- The Hong Kong Government had developed a licensing control system for the local ivory trade, with the intention being that ivory traders could liquidate their remaining stocks. It never suggested that the trade and the licenses should be sustained indefinitely. Hong Kong ivory traders should know full well that remaining in the ivory industry during these 27 years bears greater risk over time. Furthermore, statistics show that Hong Kong traders had been purchasing and importing small amounts of pre-Convention ivory in recent years. They took an ill-fated business risk to build up their stocks in this way, at a time when ivory prices were high, hoping that this was a good investment. It was not a wise business strategy, and should certainly not be compensated now with taxpayers' money for having taken this business risk.

- Lastly, suggestions that government offers a “licence buy-back programme” or “ex-gratia payments” are in fact calls for financial compensation. They should not be supported by government for the same reasons laid out above.

7. Is a maximum of 10 years imprisonment on wildlife crime justifiable?

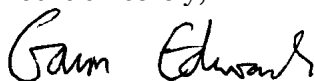
- The proposal for an increase in maximum penalties in Hong Kong of 10 years imprisonment is reasonable, and broadly in line with the maximum penalties in Australia (10 years), India (7 years) and China (life imprisonment).
- In recent years, the illegal wildlife trade has exploded globally to meet the increasing demand for animal products. With the involvement of crime syndicates, wildlife is trafficked with high resemblance to drugs or weapons, making it the fourth biggest illicit trade valued at over US\$19 billion annually. Hong Kong is a favoured route for transnational criminal gangs that smuggle wildlife products into Asia. Over the past five years, the number of smuggling cases has tripled, with the total value of contraband reaching HK\$130 million in 2015. (Appendix E: [Penalties on Wildlife Crime](#))
- Suggestions by traders to call for lower fines and sentences for trade in illegal wildlife products on the grounds that they may mistakenly trade illegal products do not make sense. Firstly because it is already illegal to trade such products. And secondly because Judges will always hand out sentences proportionate to the crime committed, rather than automatically awarding the maximum fine or sentence.

Every year over 20,000 elephants are killed, primarily for their tusks to satisfy the demand for ivory products in Asia, particularly in China and Thailand. Hong Kong is a key part of this trade as a major *transit* and *retail* hub.

Over 90,000 Hong Kongers have signed a WWF petition to support the ivory ban. Governments around the world are coming to the conclusion that the closure of ivory markets is vital to reverse the elephant poaching crisis. China’s President Xi Jinping (习近平) and ex-US President Barack Obama were first to reach consensus to phase out their ivory markets, followed by Singapore. Furthermore, US President Trump has passed an executive order on "Enforcing Federal Law with Respect to Transnational Criminal Organizations and Preventing International Trafficking". Now the world’s eyes are on Hong Kong, and expect a swift phase out of the ivory trade, without offering financial reward to this unscrupulous industry.

Hong Kong has earned an international reputation as a lawful society, and must ensure that this is maintained. Amidst the threats posed by global criminal syndicates and legal loopholes in local regulation that challenges our rule of law, we place our trust in you, the lawmakers of Hong Kong, to take all available measures to disrupt and prosecute those who prey on and profit from the deaths of these magnificent animals.

Yours sincerely,



Gavin Edwards,  
Director of Conservation  
WWF-Hong Kong

The letter is supported by **Save the Elephants** and **Mr. Crispian Barlow**, who will provide a corresponding verbal testimony respectively at the Hong Kong Legislative Council Public Hearing on September 6, 2017.