

Protection of Endangered Species of Animals and Plants (Amendment) Bill 2017
Submission for Meeting on 6 September 2017
By Conservation International Hong Kong

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A. KEY RECOMMENDATIONS

Conservation International Hong Kong strongly supports the Hong Kong Government's legislative proposal to ban Hong Kong's ivory trade and increase penalties for the smuggling and illegal trade of endangered species.

We respectfully submit 3 key recommendations, in order to maximize effectiveness and to minimize overall monetary/management costs for successful policy delivery:

- 1) Expedite the full ivory trade ban to be effective within 1 year of the Amendment's enactment, to more closely align with Mainland China's deadline for a full ban by close of 2017.**
 - Waiting until 2021 for the full ivory ban will make Hong Kong a haven for ivory from Mainland to be smuggled into Hong Kong, resulting in substantial Hong Kong government resources and tax payer funding required to manage this "leakage."
 - Delaying the full ivory ban timing also creates a strong risk of, and perverse incentive, for the criminal syndicates, poachers, smugglers and traders to accelerate the killing of more elephants for ivory before the 2021 deadline, adding more financial, personnel and administrative burden for Hong Kong.
 - A longer grace period for the full ban will simply allow for a longer period of ivory pricing uncertainty, arbitrage and volatility; and for a longer period for protest and delay by ivory traders to dispose of their stocks and transition to alternative business ventures.
- 2) Instead of financial compensation, offer non-financial assistance programs to ivory traders.**
 - Using taxpayer money to subsidize commercial interests through direct financial payments requires careful consideration to ensure fairness, prevent perverse outcomes, and avoid setting bad precedents.
 - Since no countries are offering compensation for ivory holders, if Hong Kong becomes the first and only market to do so, it can expect to be flooded with new ivory, from both existing stocks in other countries and from new ivory from freshly-killed elephants disguised as legal stock. Even Mainland China has decided against offering compensation to ivory traders, giving them only 12 months to sell their stocks.
 - Traders have already had at least 27 years notice to liquidate their inventory, since the 1990 international trade ban. Those who have held onto those stocks would seem to fall under 3 categories: (1) they are not effective at selling their ivory, (2) they keep choosing to invest/speculate in a commodity at risk of being banned, or (3) they are illegally replenishing their ivory stocks with illegal ivory. Using taxpayer money to subsidize ivory traders for lost income would convey the message that other businesspeople who are unsuccessful, speculative or

engaging in illicit activities could be eligible for taxpayer subsidies. As rough examples, investments that are speculative/exploratory (e.g., blockchain currency), outdated (e.g., high-emissions vehicles), potential to be banned (e.g. shark fin), and/or already illegal.

- In the case of illegal ivory stock, traders would of course falsely present stocks as being legal if compensation is offered. This essentially represents the use of taxpayer funds to pay for the killing of elephants and wildlife rangers, for income to the unscrupulous traders, and for the well-being of criminal networks behind ivory. This is clearly not a good, fair nor justifiable use of taxpayer funds.
- Hong Kong legal precedents suggest that the proposed Amendment measures do not represent expropriation of the ivory traders' property nor deprivation of the traders' business. This is because the traders are not being forced to transfer title of the property (ivory) to the government, and the ivory still retains commercial value during the grace period before the full ban. Even after the full ban, the ivory continues to have other beneficial use/value such as for possession, donation, exhibition, etc. Since the ivory is not being expropriated, there is no legal requirement to compensate the traders.
- While property rights are well protected under Article 105 of the Basic Law, the law and related legal precedents make clear that certain restrictions to property rights are acceptable if they ensure important societal benefits. Phasing out ivory trade provides at least 3 important and substantial societal benefits to (1) prevent the extinction of elephants, (2) reduce the loss of human life and destabilizing corruption in communities where poaching occurs, (3) increase public safety by reducing income to criminal and terrorist groups funded by ivory and other wildlife crimes. Since banning ivory is profoundly beneficial to Hong Kong and global society, there are clear grounds for restricting property rights for ivory holder to non-commercial uses.
- Instead of direct financial compensation, alternative livelihoods training and other mechanisms such as a small business loan fund, coupled with dedicated business development support services, will be much more effective in building long-term financial sustainability for the phased-out ivory traders. The government may also consider working with local and global cultural institutions (e.g., museums), NGOs, philanthropists and others to help ivory traders donate their stock in return for tax or other indirect financial benefits.

3) Adopt, utilize and actively enforce the proposed increase in penalties for illegal endangered species trade to (at least) a maximum of 10 years imprisonment.

- The decimation of elephant populations and existence of robust criminal wildlife enterprises is a direct result of centuries of operating at high profit, with low risk, low enforcement and low penalties. As such, significantly increasing penalties is an essential part of the solution.
- The proposed increase to 10 years maximum imprisonment is well-positioned among the benchmarks being set for illegal wildlife trafficking in other countries like Mexico (20 years), Australia (10 years), India (7 years), Japan (5 years), European Union (4 years or more). The lower Hong Kong's maximum imprisonment period along this spectrum, the more likely wildlife criminals will choose Hong Kong as their preferred base.
- The real question is whether 10 years maximum imprisonment is too low, compared to penalties for other activities involving organized criminal networks. Mainland China is considering life imprisonment for wildlife crime. In Hong Kong, any person who traffics in a dangerous drug (Narcotics Offences) is liable upon conviction to imprisonment for life. The battle against wildlife crime is not just about the murder of endangered species; it is also about protecting people from the criminal networks that underpin endangered species trade.
- Increased funding in enforcement personnel and activities is critical to ensure success alongside the significant increase in the penalties. Front-loading investments to catch and prosecute more perpetrators in the immediate future will pay off in terms of lower enforcement costs in the long-term, by sending a strong signal early on of the government's zero tolerance of wildlife crime.

B. WHY HONG KONG'S IVORY BAN IS SO IMPORTANT

This is truly a historic and pivotal opportunity for Hong Kong to demonstrate its leadership, courage, and moral values to the world. It is also a crucial step for advancing Hong Kong's reputation and position as a sophisticated, modern center for international trade in legitimate commodities; not a place where black market, illicit trade is invited and tolerated.

Further, the uncontested fact is this: Even if domestic ivory markets were shut down everywhere else, humanity has no chance of ending the illegal poaching of elephants and other endangered species unless Hong Kong adopts a full ivory ban and much stronger penalties and enforcement of wildlife crime.

Currently, 16 African presidents have signed onto the Elephant Protection Initiative to make a historic push, with detailed National Elephant Action Plans to shut down the supply side for ivory. Along with Mainland China and USA, Hong Kong is one of the primary demand-side countries for legal and illegal ivory trade. Mainland China and USA are implementing decisive legislative and regulatory measures now towards a full ban. All of their efforts will be futile if Hong Kong does not also step up to join hands with other leaders in this pivotal global effort to put ivory trade in the history books.

Therefore, when an effective ivory trade ban is enacted in Hong Kong, the whole world will celebrate.

Why will they celebrate?

The children and grandchildren of Hong Kong, and all over the world, will celebrate sharing this planet with elephants in the wild.

- Every 15 minutes, an elephant is killed for its ivory. That is nearly 100 elephants a day — almost 40,000 elephants a year.
- 30% of Africa's savannah elephants have died, most from poaching, in just 7 years, between 2007-2014. 60% of Africa's forest elephants have been killed by poachers since 2002.
- Scientists estimate that 10 million elephants roamed wild in Africa in the 19th century. Now only around 415,000 remain. Without an effective ivory ban, elephants could be extinct in 10 to 20 years. This would be a monumental tragedy for both elephants and our children.

Hong Kong and other countries will be safer from – and waste less resources on managing – the criminal actors who are the main beneficiaries of wildlife trafficking.

Wildlife trafficking is the fifth most profitable illegal trade (after drugs, human trafficking, oil theft and counterfeiting). Ivory is one of the most valuable wildlife products on the black market, and it is very difficult to track its source, smuggling or legality. With domestic trade of ivory still legal in some countries, it is virtually impossible to differentiate between, and very costly to manage, the legal versus illegal trade of ivory. The organized crime syndicates recognize how nicely wildlife trafficking complements their other illegal activities like weapons trafficking, counterfeit products and drugs. Weak wildlife trafficking laws and enforcement help sustain them and their threats to our society.

The global community will be safer from the terrorist groups that receive funding from wildlife trafficking.

Wildlife trafficking, a US\$7–10 billion enterprise, funds terrorist groups like the Lord's Resistance Army in Uganda, Darfur's Janjaweed militia and Al-Shabab (the Somali terrorist group responsible for the Nairobi shopping mall murders in 2013). Such terrorist operations may seem far away, but each horrific act disrupts global economic, political and social stability, which has ripple effects to Hong Kong's globalized economy.

Wildlife rangers and their families will celebrate the decreasing threats to their lives and presence of criminal influences in their communities.

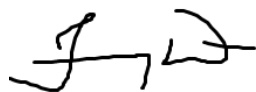
Defending elephants from poachers is a dangerous and high-risk endeavour. News outlets have reported on the growing sophistication of wildlife traffickers, who rely on an increasingly powerful arsenal — assault rifles, helicopters, night-vision goggles — to poach animals. Tragically, between 2009-2016, 595 rangers lost their lives protecting wildlife. Since 2003, more than 1000 wildlife rangers lost their lives in the line of duty. Usually, the widows and children of the fallen, nearly always from very low-income communities, are left with no income source.

Impoverished African communities will celebrate the possibility of earning a sustainable livelihood from the care – instead of slaughter – of elephants and other magnificent wildlife who have shared the land with their ancestors across millennia.

- Wildlife poaching threatens economies in Africa that depend heavily on wildlife-based tourism for jobs and livelihoods, providing a promising and sustainable economic opportunity for impoverished communities.
- Live elephants are 76 times more valuable than dead ones. The raw value of one elephant tusk is only US\$21,000. In stark contrast, the estimated value of one live elephant to tourism over its lifetime is US\$1.6 million (US\$23,000 per year).
- When elephants (and rhinos, etc.) are lost to poachers, the vast majority of the local people — as well as the nation as a whole — do not benefit. Most of the financial gain is enjoyed by criminal and corrupt actors.
- Safe and sustainable economic development is not only good for these local communities. The growing violence, conflict, corruption, and terrorism in these countries are quickly spreading across borders and create a major threat to global political, economic, and social stability.

In closing, the local and global community is eager to celebrate, commend, and support Hong Kong's success and leadership in this historic endeavor. Thank you for your vision, courage and commitment.

Yours sincerely,



Jude Wu
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The letter is supported by Ms. Krisdean Law, Director of Partnerships and who will provide a corresponding verbal testimony at the Hong Kong Legislative Council Public Hearing on September 6, 2017.

C. APPENDIX 1 – PHOTOS

Let us create the future we all want for our descendants.

A future where our children and grandchildren feel the awe, wonder, and joy of sharing the planet with elephants and other magnificent species.



A baby elephant with its mother in Maasai Mara National Reserve, Kenya. (© Jon McCormack)

A future where these tragedies are found only in history books.



Baby elephant with her dying mother, killed by poachers. Baby elephants are often orphaned when their mothers are killed by ivory poachers, which also disrupts the social and emotional relationships among these matriarchal families. (© DSWT)



Baby elephant, attempting to hide or nurse.
(Photo source unknown)



Rangers feed orphaned elephants at the David Sheldrick Wildlife Trust in Kenya. Rangers work in extreme and high-risk conditions. They are on the front lines dealing with anything from poachers with machetes to armed militias. (© Charlie Shoemaker)

The Value of An Elephant: 76 times more valuable alive

(figures shown in US\$)



D. APPENDIX 2: CONSERVATION INTERNATIONAL'S WORK TO END WILDLIFE TRAFFICKING

By partnering with governments, nonprofits, businesses and civil society, Conservation International (CI) promotes a comprehensive approach to addressing the threats posed by wildlife trafficking. This includes working with local communities directly impacted by elephant and other wildlife poaching, supporting governments in both the supply and demand side countries for illegal wildlife with their policies and enforcement capacity, building public awareness and support to save wildlife, and collaborating with international consortia on coordinated solutions.

HELPING LOCAL COMMUNITIES BENEFIT FROM WILDLIFE CONSERVATION

Conservation International works in places where humans and elephants share a home, to ensure that local people see benefits from their wildlife. For example, in Northern Kenya, we partner with Northern Rangelands Trust and the local Samburu community on the Sarara Initiative, a new effort to increase wildlife tourism and enhance security for residents. In Cambodia, our scientists have captured camera-trap footage of Asian elephant herds returning to protected forests. Working with the Cambodian government, CI has helped to establish and manage protected areas, supporting ranger patrols and providing alternative livelihoods for communities that once depended on logging to survive.

SUPPORTING GOVERNMENTS THROUGH THE ELEPHANT PROTECTION INITIATIVE

CI is the co-secretariat, along with Stop Ivory, of the African-led Elephant Protection Initiative (EPI), an organization that has been endorsed by 23 conservation groups, with a membership of 16 countries where African elephants range. The EPI is a joint commitment by African nations to close domestic ivory markets and forego international sales until elephant populations rebound. The EPI supports African governments in developing and implementing National Elephant Action Plans (10 to date) to protect their elephants from poaching and illegal trade. To date, 13 countries have used Stop Ivory's Stockpile Tools to carry out inventories and improve the management of their ivory and other wildlife product stockpiles. Stop Ivory's Stockpile Management System offers an independent and CITES approved management system which many countries have found helpful in meeting their CITES commitments in an independently verifiable manner. The EPI has also supported putting 10 ivory stockpiles beyond economic use.

COORDINATING TRANSNATIONAL POLICIES AND SOLUTIONS

CI is a member of the U.S. Wildlife Trafficking Alliance, a public-private initiative. We have also joined seven international conservation organizations to work with the Duke of Cambridge and the Royal Foundation through an effort called United for Wildlife. The purpose: to promote better protection of endangered wildlife, reduced demand for illegal wildlife products, improved law enforcement, engagement of the private sector and involvement of young people in conservation.

INSPIRING PUBLIC CONCERN AND ACTION

CI regularly conducts outreach campaigns to educate and mobilize general public support against illegal wildlife trade. In early 2018, we will release a virtual reality film campaign that transports viewers anywhere in the world to the awe-inspiring places where African communities share their home with majestic and threatened African wildlife.