

**Bills Committee on Protection of Endangered Species of Animals and Plants  
(Amendment) Bill 2017**

**Government's Response to the List of Follow-up Actions  
Arising from the Discussion at the Meeting on 11 December 2017**

This paper sets out the Government's response to the matters raised by Members at the meeting of the Bills Committee (the Committee) on Protection of Endangered Species of Animals and Plants (Amendment) Bill 2017 (the Bill) on 11 December 2017.

**(a) the reasons for Hong Kong to impose a total ban on ivory trade which is stricter than the European Union ("EU") regime governing intra-EU ivory trade and re-export of ivory under specified conditions as set out in paragraph 8 of LC Paper No. CB(1)327/17-18(02)**

2. In the light of growing concerns over the poaching of elephants in Africa and the smuggling of ivory worldwide in recent years, the global community has earnestly called for stepped-up control over international and domestic ivory trade to ensure that the survival of elephants is not threatened.

3. The EU has already adopted control measures stricter than the requirements of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). Import and export of ivory to and from the EU, as well as intra-EU, for commercial purposes are generally prohibited, while intra-EU ivory trade and re-export of ivory from the EU for commercial purposes are allowed only under limited circumstances. The European Commission has also adopted a guidance document requiring EU countries to stop re-export of raw ivory with effect from 1 July 2017 and ensure strict enforcement of those EU laws regulating the approval of intra-EU ivory trade and re-export of worked ivory from the EU. Besides, the EU has commenced consultation in September 2017 to solicit information and feedback on taking further measures to restrict or prohibit ivory trade.

4. For ivory trade in Hong Kong, our situation is different from those in the EU. Hong Kong has been identified by CITES as one of the parties of primary concern regarding the poaching of elephants and illegal ivory trade<sup>1</sup>, mainly due to the following reasons:

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<sup>1</sup> At the Sixteenth Meeting of the Conference of the Parties to CITES held in 2013, China (with Hong Kong Special Administrative Region included and specified), Thailand, Malaysia, the Philippines, Vietnam, Kenya, Uganda and the United Republic of Tanzania were identified by CITES as parties of primary concern regarding the poaching of elephants and illegal ivory trade.

(1) A substantial increase of ivory poaching and trafficking has been observed worldwide in recent years during which Hong Kong has recorded a number of seizures of large-scale import of illegal ivory. As a result, Hong Kong has been identified by CITES as a major transit point; and

(2) Given the history of Hong Kong as a centre of ivory trade in the Asian region in the 1980s, a substantial amount of post-Convention ivory had been imported into Hong Kong before the international ivory trade ban in 1990. The huge ivory retail market in Hong Kong has thus been criticised by CITES, green groups, the media, the general public and some Legislative Councillors as prone to provide a front for possible laundering of illegal ivory.

5. The Agriculture, Fisheries and Conservation Department (AFCD) conducted radiocarbon dating on ivory products purchased from three local licensed ivory shops in both 2016 and 2017. They were all found to be made with illegal ivory acquired after the international trade ban in 1990. The findings have confirmed that our legal domestic ivory market might have served as a front for illegal ivory trade, which has a direct impact on the survival of elephants. To address the international and public concerns over the survival of elephants, we must decisively impose a total ban on local ivory trade, thereby demonstrating our determination to combat illegal ivory trade and contribute to the global efforts in protecting wild elephants.

6. As proposed under the Bill, save for necessary exemptions and exceptions, a total ban shall be implemented on ivory trade primarily for better conservation of elephants. Further extension of such exemptions and exceptions will merely complicate ivory control and open up potential loopholes, which in turn will impede local law enforcement, confuse the public on the purpose of the ivory trade ban, and arouse suspicion from the international community that we are not determined to combat illegal ivory trade. All these will not only significantly reduce the effectiveness of the ban, but also run contrary to the global efforts on conservation of elephants and severely damage the international image of Hong Kong.

7. Based on the situation of Hong Kong, we have introduced specific exemptions applicable to antique ivory and ivory of personal or household effects (except for tourist souvenirs), as well as ivory used for the purposes of scientific studies, education, and law enforcement. We believe that the Bill has struck a proper balance between addressing in an effective and positive way the international and public concerns over the survival of African elephants, and allowing occasional local activities, which will not result in elephant poaching and illegal ivory trade, to take place.

8. In conclusion, an increasing number of countries and places have implemented control over or even a ban on their domestic ivory trade at a pace suitable to their own situations. Further restricting or banning ivory trade has become a global trend. Both Mainland China and France have announced a ban on domestic trade in ivory and ivory products, while the United Kingdom has also conducted public consultation on such ban. In 2017, the United Nations (UN) General Assembly adopted at its Seventy-first session a resolution on tackling illicit wildlife trafficking, urging Member States to implement the resolution adopted at the Seventeenth Meeting of the Conference of the Parties to CITES held from September to October 2016. The resolution recommends that all Parties and non-Parties in whose jurisdiction a legal domestic market for ivory exists that is contributing to elephant poaching or illegal ivory trade, shall take all necessary legislative, regulatory and enforcement measures to close their domestic markets for commercial trade in raw and worked ivory as a matter of urgency.

9. Hong Kong and the EU share a common goal in protecting elephants. The UN and CITES also allow each jurisdiction to formulate its own provisions on banning ivory trade according to its individual circumstances. As explained in paragraphs 4 to 6 above, we consider it necessary to take forward the proposals in the Bill, so as to prevent Hong Kong from becoming a centre of illegal ivory trade, and to demonstrate our determination in protecting wild elephants.

**(b) under Clause 27 of the Bill which provided for exemption permitting trade in “antique elephant ivory”, the reasons for Hong Kong to adopt a stricter definition for “antique elephant ivory” (i.e. pre-1925 worked ivory) than that adopted in France (i.e. pre-1947 worked ivory)**

10. When formulating the proposed definition of antique ivory, we have made reference to the definitions adopted by other countries or places, and have taken into account that only aged ivory products will have antique value. According to the EU’s definition of antique ivory, whether an ivory product is antique ivory will be determined by its coming into existence before a specified year. By this definition, all worked ivory coming into existence after the specified year will not be regarded as antique ivory. In the EU, the specified year is 50 years before the EU Wildlife Trade Regulations (i.e. Council Regulation (EC) No. 338/97), which give effect to CITES in the EU, came into effect in 1997, i.e. 1947. We are mindful of the practice of the EU, but suggest that the reference date of antique ivory be set at 50 years before CITES entered into force in 1975, i.e. 1 July 1925. Our specified year of about one hundred years ago is similar to those used by the Mainland and the United States in defining antique ivory.

11. When we propose the above reference date of antique ivory, consideration has also been given to the history of ivory carving. As regards ivory products produced in China, craftsmanship in the Qing Dynasty (1644 to 1911) was in

general the most exquisite and the ivory market in Hong Kong was relatively small before 1949. Scientific verification of the age of an ivory product requires sending the product sample to an overseas laboratory for conducting tests, which may lead to damages. It is thus more practicable to set the reference date at 1925 for defining antique ivory, with a view to facilitating enforcement agencies' verification of the age of an ivory product with regard to its craftsmanship in carving, style and level of aging, etc.

**(c) after the implementation of a total ban on ivory trade in Hong Kong on 31 December 2021, whether any pre-Convention ivory from the EU countries could still be imported to Hong Kong**

12. The import of pre-Convention ivory to Hong Kong from EU countries or other places will be prohibited three months after the commencement of the Bill (i.e. the implementation of Step 2 of the plan to phase out local ivory trade), save for antique ivory as defined by the Bill.

**(d) whether and how legislative control to ban all domestic ivory trade should be implemented by relevant Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora as specified in the relevant Council Order(s) issued by the United Nations**

13. As set out in paragraph 8 above, the resolution adopted at the Seventy-first session of the UN General Assembly held in September 2017 not only appeals to Member States to ensure that their legal domestic markets of wild fauna and flora products will not be used to mask the illegal trade of wild fauna and flora products, but also urges Member States to take all necessary legislative, regulatory and enforcement measures to close those markets for ivory that are contributing to poaching and illegal trade as a matter of urgency pursuant to the CITES Resolution adopted at the 17th meeting of the Conference of the Parties. CITES is an international treaty that has been implemented by 183 Parties. It has been implemented in Hong Kong since 1976 and continues to apply to Hong Kong after 1 July 1997 through a diplomatic notification made by the Central People's Government. Hong Kong is obliged to continue the implementation of the CITES Resolution.

**Environment Bureau  
Agriculture, Fisheries and Conservation Department  
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