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Panel on Environmental Affairs

Meeting on 22 February 2016

**Background brief on
protection of endangered species and biodiversity in Hong Kong
prepared by the Legislative Council Secretariat**

Purpose

This paper provides background information on the protection of endangered species and biodiversity in Hong Kong. It also gives a brief account of the major views and concerns expressed by Members when related issues were discussed by the relevant committees of the Legislative Council in the 2013-2014 to 2015-2016 legislative sessions.

Background

Protection of Endangered Species of Animals and Plants Ordinance

2. The Protection of Endangered Species of Animals and Plants Ordinance (Cap. 586) ("the Ordinance") is the local legislation which gives effect to the Convention on International Trade in Endangered Species of Wild Fauna and Flora ("CITES")¹ in Hong Kong. The Ordinance requires a licence to be issued in advance by the Agriculture, Fisheries and Conservation Department ("AFCD") for

¹ In order to ensure that international trade in specimens of wild animals and plants does not threaten their survival, CITES was first signed by the relevant member states in 1973 and entered into force in 1975 to regulate the import and export of endangered species through a permit system. CITES has been implemented in Hong Kong since 1976 through the enactment of the Animals and Plants (Protection of Endangered Species) Ordinance (Cap. 187). It was repealed and replaced by the Protection of Endangered Species of Animals and Plants Ordinance (Cap. 586) in December 2006. Currently, there are 182 Parties to CITES. Depending on the degree of threat posed by international trade, CITES classifies over 30 000 endangered species of animals and plants into [three Appendices](#).

the import, introduction from the sea, export, re-export or possession of specimens of a specified species, whether alive, dead, its parts or derivatives (including medicines).

Control of trade in elephant ivory

3. In the 1980s, Hong Kong was a trade centre of ivory in the Asian region, and substantial amount of ivory had been legally imported into Hong Kong in accordance with the CITES provisions before the international trade ban ("the ban") in 1990. Thereafter, ivory legally imported before the ban may not be re-exported for commercial purposes, but may be traded locally in Hong Kong if they have been registered with AFCD and are kept under a valid Licence to Possess² ("Possession Licence") under the Ordinance.

Regulatory control to combat illegal felling of *Aquilaria sinensis* (also known as incense tree)

4. Legislation relating to prosecutions against illegal tree-felling includes the Forests and Countryside Ordinance (Cap. 96), the Country Parks Ordinance (Cap. 208) and its regulations, as well as the Theft Ordinance (Cap. 210). According to the Administration, offenders suspected of illegal felling of trees, including incense trees, are mainly prosecuted for criminal offences such as theft, criminal damage and possession of offensive weapon.

5. Incense tree is a common and valuable native species in Hong Kong, mostly found in lowland broadleaf forests or in fung shui woods behind rural villages. In recent years, cases of illegal felling of valuable species including incense trees have occurred time and again. While AFCD has been conducting surveys and studies over the years to gather information on the distribution of local plant species, it has indicated difficulty in conducting a territory-wide survey on incense trees for regulatory purposes due to their widespread distribution and difficulty of access.

Biodiversity Strategy and Action Plan for Hong Kong

6. The Environment Bureau and AFCD have embarked on an exercise to develop a city-level Biodiversity Strategy and Action Plan ("BSAP") under the

² A separate licence is required for each keeping premises.

Convention on Biological Diversity ("the Convention")³. On 8 January 2016, the Government released a public consultation document entitled "Biodiversity Strategy and Action Plan for Hong Kong" seeking public views on the proposed actions for stepping up efforts in conserving biodiversity and supporting the sustainable development of Hong Kong in the next five years. The Government has recommended four areas, i.e. conservation, mainstreaming, knowledge and community involvement, for action over the next five years. The consultation exercise will end on 7 April 2016.

Major views and concerns expressed by Members

7. Questions relating to ivory trade and illegal felling of incense trees were raised by Members during examination of the Estimates of Expenditures 2014-2015 and 2015-2016. At the Council meetings on 19 February, 19 March, 4 and 18 June, 2 July and 26 November 2014, 4 and 11 February and 25 November 2015, Hon LEUNG Che-cheung, Dr Hon Elizabeth QUAT, Hon Claudia MO, Hon CHAN Hak-kan, Hon WONG Kwok-hing and Dr Hon Kenneth CHAN raised questions respectively on related issues. The major views and concerns expressed by Members are summarized in the ensuing paragraphs.

Regulation of ivory possession and trade

Licensing and control system

8. Noting that persons in possession of ivory as personal effect or for non-commercial purposes before the ban were not required to apply for Possession Licences unless they intended to change the use of the ivory in their possession for commercial purposes after the ban, Members enquired about the details of the mechanism adopted by AFCD for vetting and approving applications for such licences, and whether the mechanism could help regulate ivory possession and trade effectively.

³ The Convention is an international treaty on the conservation of biodiversity, the sustainable use of its components, and the fair and equitable sharing of benefits deriving from the use of genetic resources. The Convention is overarching in that it emphasizes the importance of biological diversity to human well-being, and embraces a wide range of issues including climate change, protection of traditional knowledge, gender mainstreaming, food security, human health, provision of clean air and water, local livelihoods, economic development and poverty alleviation, etc. Opened for signature in 1992, the Convention now has 194 Contracting Parties. The People's Republic of China joined the Convention in 1993. The Convention was extended to Hong Kong from 9 May 2011.

9. The Administration explained that applications for Possession Licences for commercial purposes were strictly scrutinized by AFCD in accordance with the relevant provisions of the Ordinance. When vetting the applications, AFCD would require the applicants to prove that the ivory involved had been legally imported into Hong Kong before the ban and that they were registered at that time. The vetting and approval mechanism included inspection of documents and relevant transaction records certifying that the ivory was imported legally and examination of the types, quantities and markings (if applicable) of the ivory against AFCD's records. If the applicant failed to provide relevant documentary proof, AFCD would reject the application. A person with a Possession Licence issued by AFCD would be allowed to conduct commercial transaction of ivory in Hong Kong according to the conditions listed on the Licence.

10. Some Members suggested AFCD make public the current list of holders of Possession Licences in Hong Kong so that the media and wildlife conservation groups could better assist in uncovering illegal activities of ivory traders. There was also a suggestion that AFCD should announce a moratorium on all new Possession Licences and cancel inactive ones. The Administration advised that the current arrangement was in compliance with the CITES provisions and relevant guidelines. The Administration considered it inappropriate to make public the list in question because it would involve disclosure of personal and/or business information pertaining to the licensees. Besides, disclosure of keeping premises of ivory might arouse security concern from the licensees.

Prohibition of ivory trade

11. Members noted that Hong Kong had been highlighted by the media time and again as an important transit and consumption hub for illegal ivory, and the legal ivory trade within Hong Kong appeared to cloak a parallel illegal trade in ivory poached from illegally killed elephants. Some Members enquired whether the Government would consider imposing a comprehensive ban on all ivory sales in Hong Kong.

12. The Administration advised that Hong Kong's control over domestic trading of ivory was comparable to that of other countries. The Administration had reviewed the regulatory regime and devised a suite of new/enhanced measures to step up enforcement against the smuggling and illegal trade in ivory, strengthen the control of local trade in ivory, and raise public awareness on the protection of elephants and the relevant control. These measures included stepping up joint operations and intelligence exchange with the Customs and Excise Department and overseas law enforcement agencies such as the World Customs Organization and

Interpol, deploying sniffer dogs to detect ivory at import and export control points, conducting a comprehensive check of all local ivory stock, using tamper-proof holograms to mark ivory, as well as using hi-tech radiocarbon dating analysis to determine the age and hence the legality of ivory. The Administration would explore appropriate measures including enacting legislation to further ban the import and export of ivory and phase out local ivory trade, and imposing heavier penalties on smuggling and illegal trading of endangered species.

Measures to combat illegal felling of incense trees

13. As the number of prosecution cases had been dropping over the past few years, some Members queried the effectiveness of the Government's enforcement efforts against illegal felling of incense trees. The Administration submitted that it had been difficult for the Police to take immediate enforcement actions against illegal felling of incense trees as these plants were mostly found in the forests of remote areas. Nevertheless, AFCD would continue to work closely with the Police in combating such offences⁴, and prosecution would be taken if there was sufficient evidence.

14. Some Members suggested that the Government should consider introducing legislation to ban the trade in wild incense tree products, or put in place measures to regulate such trade by devising a certification system to identify the origins of incense trees, so as to prevent law-breakers from trading incense trees acquired from illegal felling in the Hong Kong countryside. The Administration responded that the current priority was to combat illegal tree felling in Hong Kong. As past cases revealed that the stolen incense trees were not sold in the local market, the Administration considered that introduction of new legislation to control and regulate trade in incense tree products within Hong Kong was not the foremost task to address the current problem.

15. On some Members' suggestion to adopt a tree guard monitoring system to prevent illegal tree-felling, the Administration advised that as the application of electronic monitoring systems in the countryside was subject to physical constraints, they might not be effective in preventing illegal felling activities. Rather, soliciting the co-operation of citizens to inform the Police and other relevant government departments of such activities would be more useful to facilitate timely enforcement actions.

⁴ Major activities carried out by AFCD in co-operation with the Police included (a) gathering and exchange of intelligence; (b) conducting joint operations at black spots; (c) assisting the Police in the investigations into illegal tree felling cases with expertise in local plants; and (d) enhancing the awareness and vigilance of the public about such offences through the Police Magazine television programme.

Motion passed at Council meeting

16. At the Council Meeting on 2 December 2015, a motion on "Strengthening the combat against the crime of wildlife smuggling" moved by Dr Hon Elizabeth QUAT and as amended by Hon Claudia MO was passed. The wording of the motion is in **Appendix I** and the progress report is hyperlinked in **Appendix II**.

Letters from Members and submissions from various concern groups

17. In the last two legislative sessions, Members including Dr Hon Kenneth CHAN, Dr Hon Elizabeth QUAT and Hon Claudia MO had written to the Secretary for the Environment or the Chairman of the Panel on Environmental Affairs ("the Panel") expressing concerns about illegal trading of ivory and endangered species in Hong Kong. The Panel also received submissions from various concern groups calling for conservation/protection of endangered species. The relevant letters and submissions are hyperlinked in **Appendix II**.

Latest development

18. At the meeting on 22 February 2016, the Administration will update the Panel on its efforts to protect endangered species, initiatives on ivory control as announced in the Policy Address, and the BSAP public consultation.

Relevant papers

19. A list of relevant papers is set out in **Appendix II**.

(Translation)

**Motion on
"Strengthening the combat against the crime of wildlife smuggling"
moved by Dr Hon Elizabeth QUAT
at the Council meeting of 2 December 2015**

Motion as amended by Hon Claudia MO

That, as brown bear is one of the species listed in Appendix II to the Convention on International Trade in Endangered Species of Wild Fauna and Flora ("the Convention") (i.e. species not presently threatened with extinction but trading of which should be controlled to protect them from the risk of extinction), and traders of bear gall bladders mostly extract bear gall bladders with inhumane methods for the production of medicinal products, and there have been products containing ingredients from bear gall bladders illegally imported into Hong Kong, quite a number of animal rights organizations have therefore requested the Government to ban the sale or re-export of the relevant products in Hong Kong; in addition, the Chief Executive LEUNG Chun-ying had promised an animal rights organization before assuming office that he would consider proposing to the Beijing authorities to follow up the issue of bear abuse on the Mainland, but so far the Administration has not taken any action; according to the survey of a wildlife conservation organization and the latest scientific data available, the number of African elephants illegally killed for reason of ivory smuggling exceeds 33 000 a year, causing the number of African elephants to drop to only about 470 000, and the smuggling of bear gall bladders, rhino horns, fish maws and shark fins, etc. has even resulted in the near extinction of some species; the substantial profits from smuggling activities have attracted the participation of a number of transnational crime syndicates and terrorist organizations, thus making the implications arising from wildlife smuggling increasingly complicated, and wildlife smuggling, human trafficking, smuggling of narcotics and firearms, etc., have been recognized as the most serious illegal trading activities by the international community; as Hong Kong is a free port as well as an international aviation and transportation hub, quite a number of wildlife conservation organizations have pointed out that unscrupulous traders exploit the existing legal loopholes in Hong Kong to 'launder ivory', thereby turning Hong Kong into one of the international wildlife smuggling centres in recent years and causing a serious negative impact on Hong Kong's international image; in addition, given the severity of illegal killing of African elephants, the international community has become aware that the killing of elephants can only be stopped by putting an end to such trading, and therefore the

international community, including Mainland China and the United States, has announced a tightening of the existing legislation and undertaken to take timely steps to halt domestic ivory trading in their countries; in this connection, this Council urges the Government to adopt effective measures to strengthen the combat against the crime of wildlife smuggling; the relevant measures should include –

- (1) to step up the monitoring of wildlife smuggling and allocate additional resources to enhance the scale and enforcement capabilities of investigation teams, so as to stop crime syndicates from using Hong Kong as an illegal trading centre;
- (2) to include offences committed for commercial purposes under the Protection of Endangered Species of Animals and Plants Ordinance in the ambit of the Organized and Serious Crimes Ordinance and increase the penalties, so as to reflect the gravity of the offences concerned and combat such crimes more effectively;
- (3) to strictly enforce the Protection of Endangered Species of Animals and Plants Ordinance and improve the Ordinance and enhance enforcement work in a timely manner, so as to plug the loopholes and ensure that Hong Kong effectively fulfills her obligations under the Convention, including prohibiting commercial trade in the species listed in Appendix I of the Convention;
- (4) to explore further restrictions on the trade in ivory, other endangered wild animals and their products in Hong Kong, so as to ultimately achieve a total ban on the domestic trading of ivory, other endangered wild animals and their products;
- (5) to strengthen publicity and education to raise the awareness of consumers, including Hong Kong people and inbound visitors from Mainland China and overseas, about protecting elephants and other endangered species, and encourage them to 'say no' to ivory products as well as products of other endangered species; and
- (6) to expeditiously legislate against the sale or re-export of products containing ingredients extracted from endangered species with inhumane methods, including Chinese herbal medicines and proprietary Chinese medicines containing ingredients from bear gall bladders.

Appendix II

Protection of endangered species and biodiversity in Hong Kong

List of relevant papers

Date of meeting	Event	Paper
1 April 2014	Special meeting of Finance Committee ("FC") for examination of Estimates of Expenditure 2014-2015	Written questions raised by Members and Administration's replies (Reply serial numbers: ENB016, 030 and 044) Minutes (Paragraphs 8.29)
30 March 2015	Special meeting of FC for examination of Estimates of Expenditure 2015-2016	Written questions raised by Members and Administration's replies (Reply serial numbers: ENB005, 007, 214, 219, 228, 269, 302 and 303)
2 December 2015	Council Meeting	Motion moved by Dr Hon Elizabeth QUAT Progress report

Letters from Members of the Legislative Council addressed to the Secretary for the Environment / the Chairman of the Panel on Environmental Affairs ("the Panel") on the subject

Date of letter	Letters
15 May 2014	Letter from Dr Hon Kenneth CHAN to the Secretary for the Environment asking for information on illegal ivory trade in Hong Kong (Chinese version only) (LC Paper No. CB(1)1448/13-14(01))

Date of letter	Letters
3 November 2014	Letter from Dr Hon Elizabeth QUAT requesting the Panel to discuss issues related to the illegal ivory trade in Hong Kong (English version only) (LC Paper No. CB(1)190/14-15(01))
4 March 2015	Letter from Hon Claudia MO requesting the Panel to discuss the illegal trading of endangered species in Hong Kong (Chinese version only) (LC Paper No. CB(1)616/14-15(01))

Submissions from conservation/concern groups on the subject

Issuance Date	Submissions
6 November 2014	Referral memorandum from the Public Complaints Office of the Legislative Council Secretariat regarding the protection of Incense Trees in Hong Kong (Chinese version only) (Restricted to Members) (LC Paper No. CB(1)176/14-15(01))
8 June 2015	Submission on the smuggling of totoaba fish bladders from Greenpeace East Asia (Chinese version only) (LC Paper No. CB(1)965/14-15(01))
23 October 2015	Referral memorandum from the Public Complaints Office of the Legislative Council Secretariat regarding legislating against the sale of and strengthening protection of wild incense trees (Chinese version only) (Restricted to Members) (LC Paper No. CB(1)39/15-16(01))
13 January 2016	Joint submission from 大澳環境及發展關注協會、土沉香生態及文化保育協會、"救救土沉香，瀕危滅絕中"網上群組、一群新界區關注土沉香的居民、一群大嶼山關注土沉香的居民、一群南丫島關注土沉香的居民、一群西貢關注土沉香的居民及一群元朗關注土沉香的居民 regarding legislating against the sale of and strengthening protection of wild incense trees (Chinese version only) (LC Paper No. CB(1)433/15-16(01))

Hyperlinks to relevant documents:

Government bureau/department	Documents
-	Convention on International Trade in Endangered Species of Wild Fauna and Flora
-	Convention on Biological Diversity
Agriculture, Fisheries and Conservation Department	Circular Letter – New Controls on Ivory Trade under the Protection of Endangered Species of Animals and Plants Ordinance (Chinese version only)
The Environment Bureau and the Agriculture, Fisheries and Conservation Department	Public consultation on "Biodiversity Strategy and Action Plan for Hong Kong" Press release Public consultation document

Hyperlinks to relevant Council Questions:

Particular issues	Date	Council Questions
Protection of endangered species	18 June 2014	Council question (written) raised by Dr Hon Elizabeth QUAT http://www.info.gov.hk/gia/general/201406/18/P201406180512.htm
	26 November 2014	Council question (written) raised by Hon CHAN Hak-kan http://www.info.gov.hk/gia/general/201411/26/P201411260657.htm
Ivory possession and trade	19 March 2014	Council question (written) raised by Dr Hon Elizabeth QUAT http://www.info.gov.hk/gia/general/201403/19/P201403190362.htm
	4 June 2014	Council question (written) raised by Dr Hon Elizabeth QUAT http://www.info.gov.hk/gia/general/201406/04/P201406040449.htm

Particular issues	Date	Council Questions
	11 February 2015	Council question (written) raised by Dr Hon Elizabeth QUAT http://www.info.gov.hk/gia/general/201502/11/P201502110477.htm
	25 November 2015	Council question (written) raised by Dr Hon Kenneth CHAN http://www.info.gov.hk/gia/general/201511/25/P201511250448.htm
Illegal felling of incense trees	19 February 2014	Council question (oral) raised by Hon LEUNG Che-cheung http://www.info.gov.hk/gia/general/201402/19/P201402190549.htm
	2 July 2014	Council question (written) raised by Hon Claudia MO http://www.info.gov.hk/gia/general/201407/02/P201407021314.htm
	4 February 2015	Council question (written) raised by Hon WONG Kwok-hing http://www.info.gov.hk/gia/general/201502/04/P201502040388.htm