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Legislative Council

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Panel on Environmental Affairs

Meeting on 27 June 2016

**Background brief on control of local trade in elephant ivory
prepared by the Legislative Council Secretariat**

Purpose

This paper provides background information on the control of local trade in elephant ivory (hereafter referred to as "ivory") 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

2. Hong Kong abides by the Convention on International Trade in Endangered Species of Wild Fauna and Flora ("CITES") and implements CITES through enforcement of the Protection of Endangered Species of Animals and Plants Ordinance (Cap. 586) ("the Ordinance"), which is the local legislation that gives effect to CITES.¹ The Ordinance provides that no person shall import, introduce

¹ CITES is an international treaty that has been ratified by 182 countries (called Parties) since it was first entered into force in 1975. The aim of CITES is to prevent species from becoming endangered or extinct because of international trade. CITES regulates more than 35 000 animal and plant species, including their parts and products, to ensure the international trade in them does not threaten their survival. CITES regulates international trade (both commercial and non-commercial) through a system of permits and certificates in which the required permits/certificates must accompany the species in question when leaving and entering a country.

from the sea, export, re-export or possess any endangered species, whether alive, dead, its parts or derivatives, except under and in accordance with a licence issued in advance by the Agriculture, Fisheries and Conservation Department ("AFCD").

3. The Ordinance is administered by AFCD and enforced by both AFCD and the Customs and Excise Department. The Ordinance provides for fines and imprisonment terms for offenders and mandatory forfeiture of goods upon conviction.² Apart from enforcement efforts, AFCD also conducts education and publicity initiatives to promulgate the message of endangered species protection and their relevant controls in Hong Kong.

Current control on local trade of ivory

4. CITES started to regulate the international trade of ivory in the 1970s and has banned such trade since 1990, except the "pre-Convention ivory" which is allowed to be traded when the ivory is accompanied by a pre-Convention certificate.³ Given the history of Hong Kong as a trade centre of ivory in the Asian region in the 1980s, substantial amount of ivory had been imported legally and in accordance with the CITES provisions into Hong Kong before the international trade ban. The Ordinance provides for the following regulatory regime in respect of the local trade in ivory:

- (a) any person keeping "pre-ban ivory" for commercial purposes must obtain a Licence to Possess for each keeping premises;
- (b) trading in "pre-Convention ivory" that was acquired before the CITES provisions started to apply to ivory is allowed when it is accompanied by a pre-Convention certificate; and
- (c) the requirement of a Licence to Possess for "pre-Convention ivory", no matter for personal or commercial purposes, is exempted under the Ordinance.

In the 2016 Policy Address, the Chief Executive announced that the Government would initiate legislative procedures as soon as possible to ban the import and export of elephant hunting trophies.

² The maximum penalty for illegal import, export, re-export or possession of a scheduled species for commercial purposes is a fine of \$5 million and two years' imprisonment.

³ "Pre-Convention ivory" refers to ivory products which were acquired before 1975 for Asian elephants and 1976 for African elephants.

Major views and concerns expressed by Members

5. Issues relating to control of local trade in ivory were brought up at the meetings of the Panel on Environmental Affairs ("the Panel") on 22 February 2016 when the Panel received an update on the protection of endangered species, and on 29 March 2016 when the Panel received public views on the Biodiversity Strategy and Action Plan of Hong Kong. Related issues were raised by Members during examination of the Estimates of Expenditures in recent years. At the Council meetings on 19 March and 4 June 2014, 11 February and 25 November 2015, Dr Elizabeth QUAT and Dr Kenneth CHAN raised questions respectively on issues relating to ivory. The major views and concerns expressed by Members are summarized in the ensuing paragraphs.

Ivory trade

6. Members noted with concern 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.

7. 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. The Administration would also explore appropriate measures including enacting legislation to further ban the import and export of ivory and phase out local ivory trade in the longer run, and imposing heavier penalties on smuggling and illegal trading of endangered species.

Stocktaking and registration of ivory

8. Members enquired about the stocktaking and registration of ivory in Hong Kong, including whether radiocarbon dating would be used for the purpose. The Administration advised that AFCD had in 2015 inspected 233 licensed keeping premises of "pre-ban ivory" to check the quantity of stock and serial numbers of ivory kept at such premises against AFCD's records, so as to prevent potential laundering of ivory from illegal sources. As regards radiocarbon dating, it was

mainly used to assist in enforcement by revealing the age of ivory and determining its legality.

Motion passed at Council meeting

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

Latest development

10. At the meeting on 27 June 2016, the Administration will brief the Panel on its proposed plan for phasing out the local trade in ivory.

Relevant papers

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

Council Business Division 1
Legislative Council Secretariat
22 June 2016

(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.

Control of local trade in elephant ivory

List of relevant papers

Date of meeting	Event	Paper
30 March 2015	Special meeting of Finance Committee for examination of Estimates of Expenditure 2015-2016	Written questions raised by Members and Administration's replies (Reply serial numbers: ENB011, 012, 214, 302 and 303)
2 December 2015	Council Meeting	Motion moved by Dr Hon Elizabeth QUAT Progress report
22 February 2016	Meeting of the Panel on Environmental Affairs ("the Panel")	Administration's paper on update on the protection of endangered species and biodiversity in Hong Kong (LC Paper No. CB(1)557/15-16(04)) Background brief on protection of endangered species and biodiversity in Hong Kong prepared by the Legislative Council Secretariat (LC Paper No. CB(1)557/15-16(05)) Minutes of meeting (LC Paper No. CB(1)857/15-16)
29 March 2016	Special meeting of the Panel	Administration's paper on update on the protection of endangered species and biodiversity in Hong Kong (LC Paper No. CB(1)557/15-16(04)) Background brief on public consultation on Biodiversity Strategy and Action Plan for Hong Kong prepared by the Legislative Council Secretariat (LC Paper No. CB(1)712/15-16(01))

Date of meeting	Event	Paper
6 April 2016	Special meeting of Finance Committee for examination of Estimates of Expenditure 2016-2017	Written questions raised by Members and Administration's replies (Reply serial numbers: ENB018, 194, 197, 218 and 293)

Letters from Members of the Legislative Council addressed to the Secretary for the Environment / the Chairman of the Panel on the subject

Date of letter	Letters
15 May 2014	Letter from Dr 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))
3 November 2014	Letter from Dr 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))

Hyperlinks to relevant documents:

Government department	Documents
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) Circular Letter - Control on re-export of pre-Convention ivory to China (Chinese Version only) Annex I - Notification of CITES No. 2016/034

Hyperlinks to relevant Council Questions:

Date	Council Questions
19 March 2014	Press release on Council question (written) raised by Dr Elizabeth QUAT
4 June 2014	Press release on Council question (written) raised by Dr Elizabeth QUAT
11 February 2015	Press release on Council question (written) raised by Dr Elizabeth QUAT
25 November 2015	Press release on Council question (written) raised by Dr Kenneth CHAN