

本署檔號  
OUR REF:  
來函檔號  
YOUR REF : LS/B/21/16-17  
電話  
TEL. NO. : 3509 8617  
圖文傳真  
FAX NO : 2575 3371  
電子郵件  
E-MAIL: samuel\_hk\_chui@epd.gov.hk  
網址  
HOMEPAGE: <http://www.epd.gov.hk>

**Environmental Protection Department  
Headquarters**

16/F, East Wing,  
Central Government Offices,  
2 Tim Mei Avenue,  
Tamar, Hong Kong



環境保護署總署  
香港添馬添美道2  
政府總部東翼16樓

Ms Vanessa CHENG  
Assistant Legal Advisor  
Legal Service Division  
Legislative Council Secretariat

27 November 2017

Dear Ms. CHENG,

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

I refer to your letter dated 21 November 2017 regarding the captioned. We would like to provide the following responses to your questions.

**Question (a)**

2. Generally speaking, stricter regulation will apply at stage 1 if an item is an elephant hunting trophy *or* post-Convention ivory. The stricter regulation will extend to pre-Convention ivory at stage 2.

3. It should be noted that the "stricter regulation" comes in the form of dis-applying certain existing exemptions available under the Ordinance or its subsidiary legislation (*target exemptions*). In other words, the "stricter regulation" operates by -

- (a) on commencement of stage 1 -
  - (i) dis-applying all target exemptions if an item is an "elephant hunting trophy"; and
  - (ii) dis-applying certain target exemptions (e.g. those originally applicable for post-Convention specimens) if an item is "elephant ivory"; and
- (b) on commencement of stage 2
  - (i) dis-applying the remaining target exemptions (i.e. those originally applicable for pre-Convention specimens) if an item is "elephant ivory".

4. It should be noted that the dis-applications as mentioned in paragraph 3(a)(i) and (ii) and (b)(i) are *cumulative* but not mutually exclusive. In other words, for an item of ivory -

- (a) if it is an "elephant hunting trophy", then all target exemptions will no longer be

available starting from stage 1, whether it is post-Convention or pre-Convention (cf. paragraph 3(a)(i) above); or

- (b) if it is not an "elephant hunting trophy", then although paragraph 3(a)(i) above is not relevant, paragraph 3(a)(ii) and (b)(i) is still relevant, i.e. -
  - (i) if it is post-Convention, then those target exemptions that are originally applicable for post-Convention specimens (e.g. section 18 of Cap. 586) will no longer be available starting from stage 1 (cf. paragraph 3(a)(ii) above); or
  - (ii) if it is pre-Convention, then those target exemptions originally applicable for pre-Convention specimens (e.g. section 17 of Cap. 586) will still be available at stage 1 but no longer be available starting from stage 2 (cf. paragraph 3(b)(i) above).

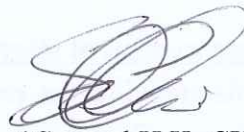
5. With the above understanding explained, we do not see any ambiguity in terms of the applicable regime (i.e. what exemptions are no longer available) for a particular item of ivory. As to your question of what items of ivory would be caught by the definition of *elephant ivory* but not *elephant hunting trophy*, an item of ivory that is not acquired by the person who is importing it through hunting is an example.

**Question (b)**

6. The definition of *antique elephant ivory* excludes an elephant hunting trophy because if an item is "antique elephant ivory", the item will be subject to a lesser control (i.e. import or re-export licence may in general still be issued), and it is the policy that such lesser control should not be available for an "elephant hunting trophy" even if it is also antique elephant ivory.

7. On the other hand, the definition of *elephant hunting trophy* should not exclude elephant ivory because, as explained in paragraphs 3(a)(i) and 4(a) above, the policy is that all target exemptions will no longer be available for an "elephant hunting trophy" even if it is also elephant ivory.

8. The drafting of both definitions reflect the policy and we do not see any issue of reconciliation.



( Samuel H.K. CHUI )

for Director of Environmental Protection

c.c.

DoJ

DAFC