

Legislative proposal to phase out the local trade in ivory

Submission to the Chairman and Honourable members of
the LegCo Environmental Affairs Panel

TRAFFIC
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TRAFFIC[®]
the wildlife trade monitoring network

Re: Legislative proposal to phase out the local trade in ivory

TRAFFIC is a wildlife trade monitoring organization that manages the Elephant Trade Information System (ETIS), a comprehensive global system tracking the illegal ivory trade for Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

TRAFFIC supports the proposal by the Hong Kong SAR Government to phase out local ivory trade in Hong Kong, but suggest that the proposal could be fast-tracked, particularly in light of recent developments on ivory trade bans in other major markets.

A more timely phase out of Hong Kong's local ivory trade is necessary for the following reasons:

Evidence of pervasive violations of ivory regulations

The commercial trade in ivory is controlled through the licensing of ivory traders, as stipulated in the Protection of Endangered Species of Animals and Plants Ordinance (Cap. 586). However, there is growing evidence showing the frequent and persistent circumvention of the law by many licensed ivory traders, which calls into question the effectiveness of the current legal framework for regulating Hong Kong's commercial ivory trade.

TRAFFIC has recently conducted an assessment of Hong Kong's ivory market¹, which included surveys of 76 ivory outlets across Hong Kong in 2015 and 2016. The findings show that 59% of the outlets did not have (or even claim to possess) ivory retail licences—a violation of the terms of commercial ivory licences, or their Licence to Possess. This makes it impossible for consumers to distinguish those premises trading ivory legally from exclusively black market operations.

A further 36% of ivory traders were found to be willing to sell ivory to buyers intending to take ivory items out of Hong Kong. Under current Hong Kong legislation, registered pre-1990 ivory can be legally sold by licensed dealers although it cannot be taken out of the SAR without a government issued permit, in line with CITES provisions. The neglect of some ivory traders to inform potential customers of the need for CITES permits would suggest that they are actively encouraging the smuggling of ivory across borders, which would constitute an evasion of the law.

A hub for illegal ivory trade

Hong Kong has had a significant role in the international illegal ivory trade for many years, with some of the world's largest ivory seizures interdicted at the city's borders. Between the years 2010 and 2013, ten large-scale seizures totalling more than 16 tonnes of ivory, each more than 500 kg in size, a weight considered indicative of the involvement of organized criminal networks, were interdicted in Hong Kong. These large-scale seizures were mostly composed of raw ivory pieces and tusks. Given that there are no longer any large-scale ivory carving factories that could process such large volumes, it is unlikely that Hong Kong is a final destination for raw ivory but rather plays an important transit role.

The illegal trade of worked ivory in Hong Kong has also multiplied considerably. From 2009 through 2012, Hong Kong authorities reported making only six commercial-scale seizures (over 5 kg) of worked

¹ Lau, W., Xu, L., Guan, J. and Xiao, Y. (2017). *Closing Strategy: Ending ivory trade in Hong Kong*. TRAFFIC, Hong Kong. www.traffic.org/storage/hk-ivory-report-closing_strategy.pdf.

ivory products at its borders, totalling 156 kg. However between 2013 and 2015, the number jumped to 100 seizures at border checkpoints, totalling 1,533 kg of worked ivory products, according to analysis of ETIS data.

Whether the seized worked ivory was intended for the local market in Hong Kong is unclear. If laundering was occurring on such large volumes of illegal worked ivory imports, it would represent insufficient law enforcement in the local market and an inadequate oversight of licensed ivory traders. Indeed, previous NGO investigations have presented video recorded evidence of licensed ivory traders admitting to having access to freshly poached ivory from Africa². A recent court case has also provided confirmation that illegal ivory has been laundered into the local market³. Two men were convicted earlier this year for the illegal possession and commercial trade of a pair of ivory chopsticks acquired after 1990, which was based on forensics evidence gathered through an investigation by the Agriculture, Fisheries and Conservation Department. The trade of ivory acquired after 1990 is prohibited under the Protection of Endangered Species of Animals and Plants Ordinance (Cap. 586).

Both the insufficient compliance by many of the city's licensed traders and considerable influx of illegal ivory into the city highlight major shortcomings with Hong Kong's current regulation of the local ivory trade. The proposal before the LegCo Panel on Environmental Affairs to phase out the city's local ivory market is a vital and urgently needed next step, one that overcomes the weaknesses of current regulations governing the ivory trade. Such decisive action will make clear to the public and visitors to Hong Kong that the commercial trade of ivory is unequivocally illegal.

There is also good reason to fast-track the proposed ivory phase out plan, which with its current 5-year timeframe would leave Hong Kong exposed to more reputational risk, as well as being exploited by unscrupulous criminal elements. Last month, the Chinese Government shut down 12 carving factories and 55 licensed ivory retail outlets in the first phase of its ambitious commitment to cease all commercial trade in ivory by the end of 2017 in mainland China. This development could lead to illegal movement of unsold ivory from mainland China to other active ivory markets in the region, including Hong Kong, if plans to end the city's ivory trade market are not expedited. Indeed, as the Hong Kong Government recently reported,⁴ Customs officers at the Lok Ma Chau Control Point last month seized 75 kg of ivory from a truck entering Hong Kong from mainland China. Parity with the policy with mainland China, in this case, is crucial if the full impact of curbing ivory trafficking is to be realized.

Lack of Deterrence

At present, the penalties imposed for illegal ivory trade in Hong Kong have been inadequate in deterring and preventing ivory smuggling. The highest level of penalties imposed on ivory smugglers thus far was only eight months of imprisonment, which is well short of the current maximum imprisonment of two years for illegal trade in ivory for commercial purposes. The Hong Kong Government has proposed revising the penalties for wildlife crimes—up to HKD10 million in fines and 10 years' imprisonment for indictable offences involving species prohibited from international trade

² Lo, C., Edwards, E. (2015). *The Hard Truth: How Hong Kong's Ivory Trade is Fuelling Africa's Elephant Poaching Crisis*. WWF Hong Kong. http://awsassets.wwfhk.panda.org/downloads/wwf_ivorytrade_eng_eversion.pdf.

³ Agriculture, Fisheries and Conservation Department (2017). AFCD issues summons against proprietor and operator of art and craft shop for illegal possession of post-ban ivory for commercial purposes [Press Release]. 17 February. https://www.afcd.gov.hk/english/publications/publications_press/pr2130.html.

⁴ Information Services Department (2017). Hong Kong Customs seizes suspected ivory (with photo). <http://www.info.gov.hk/gia/general/201704/21/P2017042100927.htm>.

under CITES. TRAFFIC considers that raising maximum penalties is crucial, as it increases the stakes and deterrence for would-be wildlife criminals.

The case for the phase out of Hong Kong's local ivory trade is clear. With its current set of regulations, Hong Kong is ill-equipped to tackle the illegal ivory trade, and in halting its contribution to the elephant crisis. Hong Kong was designated in the ETIS Analysis that was presented at the 17th meeting of the CITES Conference of the Parties in 2016 as a “country/territory of primary concern”, amongst nine countries/territories that were central to the greatest movements of illegal ivory globally in the period 2012–2014.

For Hong Kong to counter its current status as a smuggling hub for illegal ivory effectively, it is critical that Hong Kong's LegCo Panel on Environmental Affairs endorses a rapid phase out of the local ivory trade and also increases its maximum penalties to deter illegal behaviour.