

Public Hearing on June 6th 2017: Supporting the Hong Kong Government's Ivory Trade Ban

5th June 2017

Hon Tanya Chan
Room 814, Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong

Dear Hon Tanya Chan,

I am writing today to express my unequivocal support for the Government's upcoming legislative proposal concerning the banning of Hong Kong's ivory trade. I totally agree with the proposed three-step plan to eradicate the barbarous ivory trade from the Special Administrative Region as soon as possible. Further, I fully agree with the decision to increase maximum penalties under the Protection of Endangered Species Ordinance Cap 586, as elephants are but the most obvious and majestic victims of both the illicit (and legal) wildlife trade.

COMPENSATION: A PREPOSTEROUS AND INSULTING SUGGESTION

Recent letters, petitions and statements from the ivory trade have indicated that individuals involved in the brutal trade expect compensation. I wish to state categorically that this demand is unacceptable and I do not support any form of compensation or buy-out. The suggestion that a failing industry, built on the blood, bones and tears of a sentient species, should see their appalling behaviour rewarded is beyond the pale. I agree with the words of former President of the Legislative Council Honourable Andrew Wong Wang-Fat, JP, who also did not mince his words on this matter on July 4th 1990:

"As a matter of principle we do not believe that public funds, (whether in the form of outright grants or of interest-free loans) should be made available to industries or trades which are adversely affected by changes in economic or commercial circumstances."

It is simply ridiculous to expect public funds – including my own tax dollars – to be syphoned into the pockets of a greedy few, who failed to heed the warnings that their industry was finished and investments were poor. In fact, the first warning was made by the Hong Kong Government over 40 years ago, when the Acting Secretary for the Environment, the Honourable William Dorward, JP, announced on June 23rd 1976:

*"The African elephant is not, as yet, listed by the Convention as an endangered species, so the question of control on the ivory trade does not arise at present. I must, however, advise honourable Members that **there is a possibility of the African elephant being added to the Convention list at some later stage.**"*

And indeed they were added soon thereafter.

The writing has been on the wall for a very long time, and ignorance is no defence. When, in the 1970s, the international community agreed to regulate the international trade in ivory, traders should have paid attention. Again, when Hong Kong banned the trade of all but "pre-Convention ivory", the traders should have paid attention. When Chief Executive the Honourable Leung Chun-ying, GBM, JP, introduced the plan in January 2016 (over 16 months ago) to wind down the local ivory trade, the traders should have paid attention. No one in possession of ivory can seriously claim unfairness or insufficient warning.

The Government has already been overly-generous. It provided the trade a multi-decadal (27-year) "grace period", petitioned the international community (to the detriment of Hong Kong's reputation) for extensions on behalf of the trade in 1989-1990, and provided willing individuals with pathways, training and financial support to transition out of the ivory trade. What other industry has been favoured with comparable dispensations?

And where has this lenience got us to date? Have traders maintained any integrity? Have they operated above board? Have they complied with fair, common-sense regulations? No. Time and time again, they have been caught red-handed manipulating and outmanoeuvring the system. These unscrupulous flesh-peddlers have been filmed brazenly discussing how they launder freshly poached 'blood ivory' through their old stocks.¹ They have flouted, circumvented and manipulated the existing licensing protocols at every turn.^{2,3,4,5,6}

THE LEGAL AND ILLEGAL TRADE IN IVORY: DUPLICITOUS AND IMPOSSIBLE TO FULLY REGULATE

We know that very little of what is illegally smuggled into Hong Kong (and which is laundered through licensed shops) is ever seized. In 2013, Mr Jesse Tai-Chiu Wong, divisional commander of the Intelligence Coordination Division of the Customs & Excise Department, revealed that Hong Kong “customs officers could inspect less than 1% of all incoming cargo and detect only one out of ten illegal wildlife shipments.”⁷

This is the terrifying reality. The C&ED is expected to prevent the import and export of all manner of goods being transported aboard passenger flights, cargo flights, cruise liners, cargo vessels, fishing vessels, trains, private cars, trucks, private parcels, bulk consignments, and so much more. To provide a sense of scale, the 5,955 staff in the C&ED were responsible for monitoring passengers and cargo alike across⁸:

- 1,100 flights every single day, conveying 63.34 million air passengers in 2014 and 4.38 million tonnes of cargo;
- 30,176 ocean-going vessels and 159,275 river-trading vessels, conveying 22.2 million TEUs (20-ft equivalent tonnes) in 2014, the majority at Kwai Chung and Tsing Yi Container Terminals;
- 11.9 million marine vessel and helicopter passengers from mainland China and Macau, with a processing rate of 3,000 passengers an hour at local cruise terminals;
- 296,800 passengers arriving by land, and 15 million tonnes of cargo arriving at the control points at Man Kam To, Sha Tau Kok, Lok Ma Chau, Shenzhen Bay, Lok Ma Chau Spur Line and Lo Wu.

Due to the enormous complexity of the task – given the volume of goods being imported and exported to and through the SAR, and the connivance of smugglers, traders and their clients – we should be looking at every means that would lessen the burden on the C&ED.

Despite the odds, within the past four years, the C&ED has managed to seize 12,242 kg of ivory as it was smuggled to and through Hong Kong.⁹ This volume alone (a fraction of the illegal market), may have cost the lives of as many as 556 elephants.¹⁰ If Mr Wong's¹¹ statement above is accepted, over 100,000 kg may have entered the SAR undetected, suggesting a more than 5,000 elephants may have been slaughtered to fuel Hong Kong's ivory trade over just the last four years. And for what? A trinket? Can any life be worth so little that it is reduced to the value of a bangle? Can any 'traditional art' be worth killing for?

Today, ivory poaching has reached unprecedented levels, driven by demand throughout Asia, facilitated by traders here in Hong Kong. Scientific research indicates that if nothing is done, the African elephant will become extinct within our lifetime.¹²

TOO STEEP A COST

Cutting the ivory out of the face of a sentient elephant does not just mean that an elephant is violently murdered and its corpse violated. It is often accompanied by the slaughter of humans - usually Park Rangers.¹³ This has dire consequences for entire families, who lose a valiant and selfless mother or father, depriving children of parents, stable and loving homes, educational opportunities, and so much more. Between 2009 and 2016, at least 595 Park Rangers were confirmed killed in the line of duty, protecting wildlife in parks around the world.¹⁴

At the community level, elephants also provide far greater economic opportunities alive than dead. In 2013, the value of a single dead elephant's raw tusks was estimated at ~HK\$163,600 (US\$21,000). Their value to tourism, throughout their lifetime, to local communities (as well as travel companies and airlines) was estimated at ~HK\$12.53 million (US\$1.61 million).¹⁵

What right to Hong Kong's traders have to rob communities in Africa of a chance at a better life? And how can they then turn around and ask for even more, taking from their own communities in Hong Kong?

The money that is being demanded by the traders adds to the growing list of expenses that have been absorbed by the government, and therefore Hongkongers. When the provenance of ivory traded in Hong Kong comes into question, the government has to weigh the options – chiefly, should testing be conducted to determine the age of the ivory? This is important, as expensive radiocarbon dating techniques are presently the only means by which the government can determine, with certainty, the age of ivory, and therefore judge the likelihood of it being 'legal'.

A recent court case, concluded in March 2017, highlighted the issue of blatant laundering and the expense and other challenges differentiating between legal and illegal ivory. Two traders were found to be peddling chopsticks in an 'arts and crafts shop' in Sheung Wan, carved from recently poached (post-1990) ivory.

Four samples were extracted and sent to a foreign testing facility. According to Professor Sam Wasser of the University of

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Washington, USA, a specialist in the field, it costs at least HK\$3,895 (US\$500) per sample (if batches of 10 samples are sent) to test Hong Kong's ivory through radiocarbon analysis. If the sample size is less – say four samples – it can cost as much as HK\$5,843 (US\$750) per sample. When the ivory trade is abolished outright, these expensive tests do not need to be conducted, because all ivory will be irrefutably illegal to possess or trade.

If the ivory traders get their way, and keep the trade in operation, it is difficult to estimate how many more ivory cases will be brought to court, how many millions will need to be spent monitoring and keeping the trade honest and holding criminals to account. Why should the Hong Kong taxpayers be expected to fork out millions to monitor a brutal and dishonest trade built on an elephantine mound of corpses?

LAUGHABLY LOW PENALTIES, WHILST TRADE OFFERS HIGH REWARDS

Adding insult to injury (or outright cold-blooded murder, to be more precise), the judiciary fined the two traders cited in the recent case above just HK\$8,000 and HK\$6,000, respectively. This is less than 0.001% of the existing highest penalty under Cap. 586 (HK\$5 million and two years of imprisonment). Further, based on Professor Wasser's information, as much as HK\$23,375 (US\$3,000) may have been spent to determine the age and legality of just four chopsticks. These traders received a mild slap on the wrist, amounting to less than 60% of the testing cost. This so-called penalty cannot include lawyer's fees, damages, or anything resembling a disincentive. So, how much did the Hong Kong people have to outlay for these convicted criminals?

The Government has proposed that it will increase, as part of this bill, an amendment to the law allowing judges to issue fines of up to HK\$10 million and up to ten years in prison. These are great steps. However, until individuals engaged in the trade are faced with the real threat of punitive penalties, the risks (such as they are) will not outweigh the enormous financial incentives.

The value of the trade is worth considering at this point. Based on the Hong Kong Government's own conservative valuation of ivory – approximately HK\$10,000 per kg – the C&ED has prevented the black market from earning more than HK\$122 million. Again, they should be congratulated for this success. However, due to the reasons discussed above, Hong Kong traders are irrefutably involved in a black market, which (assuming the calculations above are indicative) have provided excess of HK\$1.1 billion in just the last four years. With such mammoth financial incentives on the table, and such limited risk of being penalised, it is not surprising that the illicit trade and laundering continue to thrive.

Part of the challenge is the lack of transparency around the penalties. Very few cases of ivory smuggling are publically aired, and the court details, including sentencing are not widely known. The heaviest sentence I have seen was a HK\$90,000 fine, which was converted to 12 months' imprisonment in default of payment. The convicted individual had smuggled 44.14 kg of worked ivory from Abdijan, Côte d'Ivoire (Ivory Coast) via Dubai, U.A.E. in November 2015. They received their court date and were sentenced in one day. However, the value of the ivory smuggled by this individual was worth HK\$440,000 at the very least, and may have cost the lives of as many as four elephants. Is this sufficient punishment?

And even more questions remain unanswered. Was this one person the sole party responsible for concealing this mass of ivory as it crossed two continents, outmanoeuvring customs in two countries? Where was it destined? Who was to buy the ivory? The current system does not address these issues, and the trade is getting away with murder.

This litany could go on, but I feel that enough has been said to sway even the most stalwart Councillor away from supporting slaughter with taxpayer dollars. There remain many questions for the future, but the current proposal deals a blow to this brutal trade, and should be enacted as soon as possible.

This barbarous trade should be consigned to the annals of history, to serve as a warning - a deplorable reminder of the depths to which people are willing to sink in the name of profits.

Yours sincerely,

Samuel James Inglis

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- ² Knights, P., Hofford, A., Andersson, A. and Cheng, D. (2015) *The Illusion of Control: Hong Kong's 'Legal' Ivory Trade*. WildAid. Available at: <http://wildaid.org/sites/default/files/resources/The%20Illusion%20of%20Control-Full%20Report.pdf> [Accessed 23 May 2017], p. 4.
- ³ WildAid HK (2015). Undercover Footage of Hong Kong Ivory Trade - CHI. [video] Available at: <https://www.youtube.com/watch?v=K3fzYqPERHU> [Accessed 23 May 2017].
- ⁴ WildAid HK (2015). Undercover Footage of Hong Kong Ivory Trade - ENG. [video] Available at: <https://www.youtube.com/watch?v=-ixi2ZT5XhI> [Accessed 23 May 2017].
- ⁵ Lo, C. and Edwards, G. (2015) *The Hard Truth. How Hong Kong's Ivory Trade is Fuelling Africa's Elephant Poaching Crisis*. WWF Hong Kong. Available at: http://awsassets.wfhk.panda.org/downloads/wwf_ivorytrade_eng_eversion.pdf [Accessed 23 May 2017], p. 11.
- ⁶ Knights, P., Hofford, A., Andersson, A. and Cheng, D. (2015) *The Illusion of Control: Hong Kong's 'Legal' Ivory Trade*. WildAid. Available at: <http://wildaid.org/sites/default/files/resources/The%20Illusion%20of%20Control-Full%20Report.pdf> [Accessed 23 May 2017], p.10.
- ⁷ Mulqueeny, K.K. and Cordon, F.J.J., eds. (2014) *Symposium on Combating Wildlife Crime: Securing Enforcement, Ensuring Justice, and Upholding the Rule of Law - The Proceedings*. Asian Development Bank. Available at: <https://www.adb.org/sites/default/files/publication/149395/combating-wildlife-crime-proceedings.pdf> [Accessed 23 May 2017], p.59.
- ⁸ Customs & Excise Department (2015) *Hong Kong: The Facts – Customs and Excise*, pp. 1-3.
- ⁹ Customs & Excise Department (2013-2016) *Annual Summary Data for Seizures of CITES Species*.
- ¹⁰ Assuming the average weight of an elephant tusk equals 11 kg, based on Wasser, S.W. *et al.* (2007) Using DNA to track the origin of the largest ivory seizure since the 1989 trade ban, *Proceedings of the National Academy of Sciences*, 104(10), p. 4428.
- ¹¹ Mulqueeny, K.K. and Cordon, F.J.J., eds. (2014) *Symposium on Combating Wildlife Crime: Securing Enforcement, Ensuring Justice, and Upholding the Rule of Law - The Proceedings*. Asian Development Bank. Available at: <https://www.adb.org/sites/default/files/publication/149395/combating-wildlife-crime-proceedings.pdf> [Accessed 23 May 2017], p.59.
- ¹² Great Elephant Census (2017) *Great Elephant Census*. Available at: <http://www.greatelephantcensus.com/> [Accessed 23 May 2017].
- ¹³ International Ranger Federation & The Thin Green Line Foundation (2016) *2009-2016: Ranger Roll of Honour – In Memoriam*. Available at: <https://www.thingreenline.org.au/wp-content/uploads/2016/07/2009-2016-Honour-Roll-1.pdf> [Accessed 23 May 2017].
- ¹⁴ International Ranger Federation & The Thin Green Line Foundation (2016) *2009-2016: Ranger Roll of Honour – In Memoriam*. Available at: <https://www.thingreenline.org.au/wp-content/uploads/2016/07/2009-2016-Honour-Roll-1.pdf> [Accessed 23 May 2017].
- ¹⁵ iWorry (2013) *Dead or Alive: Valuing an elephant*. Available at: <http://iworry.org/wp-content/uploads/2013/09/Dead-or-Alive-Final-LR.pdf> [Accessed 23 May 2017], p.3.