

5th June 2017

To: The Honourable Panel on Environmental Affairs
Legislative Council, Hong Kong Special Administrative Region

Re: Legislative proposal to phase out the local ivory trade

Dear Members of the Panel,

I am writing to express my support for (1) phasing out of the local ivory ban and (2) opposing compensation to the ivory traders. My reasoning as follows:

(1) Phasing out the local ivory trade

Hong Kong is one of the key transit ports for illegal ivory smuggled from Africa. There were 25 reported cases of ivory seizure by Hong Kong Custom between 2010 and 2016. More, Hong Kong Customs burned 32.6 tonnes of confiscated raw ivory tusk, the largest recorded ivory stockpile in 2014. This stockpile was an accumulation of ivory from different seizures at the Hong Kong borders since 2003.

As of today, traders can only legally sell ivory if they were sourced from the pre 1989 convention ban and have registered with AFCD. However, there are great flaws in this as documented by a range of non – governmental reports. Traders have been found to replenish old ivory stocks with newly poached ivory, i.e. illegal for trade. Without expensive scientific analysis it is impossible to distinguish ‘legal’ Pre-Convention ivory from ‘illegal’ ivory from poaching. A total ban is the only viable option to prevent such replenishment.

(2) Opposing compensation to the ivory traders

Compensating ivory traders is an unsound proposal. I am indebted to the report of Global Rights Compliance LLP titled “Feasibility Study on the Ban of Hong Kong’s Ivory Trade” dated June 2016. The report was commissioned by WWF HK. I totally agree with the legal analysis compiled in it and I wish to highlight paragraph 228 of the report:

“Viewed in its proper context, therefore, one may well think it hardly a fair complaint for anyone importing stocks of African elephant ivory into Hong Kong between 1976 and 1990 to say that she had been somehow wrongfooted or caught by surprise. Far from it; the law was always in place before the importation of the ivory, and the importers were simply prepared to take the risk. Consider, further, that such investors have enjoyed a full 26 years to sell off those stocks, by reason only of the administrative discretion exercised by the Director. **To say now that the removal of that administrative grace involves an upsetting of their legitimate or reasonable investment expectations is, we think, to rather strain at credulity.** This is also in tandem with the Administration’s position vis-à-vis the backyard poultry ban –that the owners had to option of slaughtering their poultry for private consumption in anticipation of the commencement of the legislative amendments, the availability of that option meant that the legislative amendments were not inconsistent with BL105.” [emphasis added]

The ban is long overdue and the Hong Kong government should implement the ban with no compensation to the traders **as soon as possible.**

Yours sincerely,

Li On Yin Billy

Barrister, Harcourt Chambers