



**Society for the
Prevention of Cruelty
to Animals (HK)**
香港愛護動物協會

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Hon. Tanya Chan
Chairperson
Panel on Environmental Affairs
Legislative Council
Hong Kong

Dear Hon. Tanya Chan,

Protection of Endangered Species

The Society for the Prevention of Cruelty to Animals (Hong Kong) strongly supports efforts to strengthen the protection of endangered species and thank the Administration for its efforts so far.

The need to strengthen such protection is especially urgent given that Hong Kong is a global hub for both the consumption and trade of endangered species, as well as home to many endangered species of its own.

The consultation paper highlights Green Turtles, Sharks and Incense Trees and these are emblematic of the current conservation and welfare threats to all endangered species: overharvesting, smuggling, habitat destruction and poaching.

Proposals

We would like to ask for a cohesive approach that extends to all similarly threatened species and habitats in Hong Kong, rather than a piecemeal approach focused on a few endangered species. Strategies developed to protect one species may be easily transferred or adopted to help protect another.

We would like to see measures and greater resources dedicated to stop the endangerment of poaching of all species of wild life.



Specifically we ask that the HK Government

- 1. Recognise that all Hong Kong's wildlife is under threat from increased poaching**
- 2. Improve protection and preservation of wildlife habitats recognising that species are vulnerable to habitat destruction, degradation and encroachment**
- 3. Extend efforts already developed to protect incense trees to poaching in general**
- 4. Conduct targeted investigations of high risk species poached in Hong Kong**
- 5. Implement an outright ban of the sale, possession, import and export of certain hunting appliances and**
- 6. Regulate and control all animal trap use (regardless of stated intended use)**
- 7. Ban the trade of species that have indigenous populations**
- 8. Extend the Theft Ordinance (Cap. 210) to cover all forms of poaching**
- 9. Recognise that current legislation does not have a sufficient deterrent effect**
- 10. Review, update and consolidate all wildlife protection legislation and penalties**

Background

The rate of poaching in Hong Kong's countryside has accelerated in recent years. Due to this increase, the SPCA conducts regular sweeps with the AFCD and has found numerous types of traps of all sizes. We have also rescued many animal victims of such traps. Some have had limbs amputated, some have died because of their injuries. Others are found dead from starvation.

The poaching of Incense Trees^{1,2} shares the same characteristics of other wildlife crime in Hong Kong.³

1. Large number of cross border offenders
2. High volume of illegal cross border trade
3. Increase in volume and seizures over time
4. High value products; low deterrent sentences

¹ Environment Bureau and AFCD. *Enhanced Protection of Incense Tree in Hong Kong*, update for Legislative Council Panel on Environmental Affairs, June 2016. goo.gl/NZxDdv

² AFCD. Status of *Aquilaria sinensis* (Incense Tree) in Hong Kong, prepared for the Advisory Council on the Environment Nature Conservation Subcommittee, December 2013. <https://goo.gl/RffvPV>

³ 2015. ADMCF et al. Wildlife Crime. Is Hong Kong doing enough? goo.gl/k7DZDD



5. Evidence of syndicates
6. Territory wide poaching

Extend efforts already developed to protect incense trees to poaching in general

We would like to see measures previously proposed⁴ to assist with protecting incense trees extended to all forms of wildlife poaching including:

- Identification of poaching black spots
- Stepping up black spot patrols
- Conducting Joint Operations by the Police and AFCD
- Developing Special task forces to carry out targeted patrols
- Conducting criminal investigations into suspected cases; utilising other ordinances such as the Theft Ordinance to issue more deterrent sentences
- Greater education of frontline staff (*identification of not just high risk species but also of possible tools, appliances and materials used to poach these species*)
- Utilisation of novel surveillance methods to monitor high risk species
- Mobilising community involvement to include members of concern groups, hikers and villagers to establish systematic and strategic monitoring
- Raising public awareness of poaching activities
- Continued and enhanced Cross-boundary cooperation

Targeted investigation of high risk species poached in Hong Kong

One of the responses to the illegal trap issue is to step up patrolling activities. However, this has had limited effect. AFCD rangers conduct approximately 1,500 patrols every year. Despite the department's best efforts, only one successful prosecution is made on average annually. The size of the territory, undulating terrain and the numbers of poachers make this very difficult. This is further complicated as poaching activity is often carried on at night.

We would like to call for a systematic investigation into the routes and patterns of wildlife poaching in Hong Kong, with particular attention to high risk species, such as Incense Trees and turtles.

Hong Kong has the world's few remaining wild populations of Golden Coin Turtle (*Cuora trifasciata*) and Big Headed Turtle (*Platysternon megacephalum*). Both are protected under

⁴ Environment Bureau and AFCD. *Enhanced Protection of Incense Tree in Hong Kong*, update for Legislative Council Panel on Environmental Affairs, June 2016. goo.gl/NZxDdv



CITES – the Golden Coin Turtle is listed under CITES Appendix II; the Big Headed Turtle was upgraded from CITES Appendix II to Appendix I in 2013⁵. Unlike Incense Trees and the Golden Coin Turtle, the Big Headed Turtle is not easily bred in captivity.⁶

We would like greater resources dedicated to the investigation of cross border syndicates involved in poaching activity. The patterns of criminal activity for agarwood are known.^{7,8} We would like to call for collaborative investigation by the AFCD, Police and C&ED (together with their Mainland counterparts), extended to species of high conservation value.

Other actions

The SPCA is concerned that poaching activity has increased significantly in Hong Kong. To tackle this issue, we would like to see the following

A Positive List for traded animals, stop sale of any species that have locally indigenous populations

The SPCA continues to ask the Administration to review and limit the numbers and species of animals imported into Hong Kong. With over a million animals imported annually, the SPCA is concerned over the suitability of many species that are permitted for sale in the pet trade. Due to the pet trade's impact on wild populations and the rise in invasive species, countries such as Belgium and Norway have sharply curtailed the number of species permitted for their pet trades. We have discussed this concern in detail elsewhere.⁹

We would like to see trading of any species that occur locally in Hong Kong be stopped. All birds in Hong Kong are protected under Cap. 170; the existence of a legal local market facilitates the laundering of local wildlife.

For example, the Magpie Robin (*Copsychus saularis*) is protected under Cap. 170. However, Hong Kong imports over 2000 of the same species for the pet trade every year. The majority of these popular song birds are trapped from the wild for the pet trade and are seldom bred in captivity.

The illegal trapping of birds continues in Hong Kong and it is impossible to distinguish a locally caught bird from an imported bird.

⁵ CITES Species+ website *Platysternon megacephalum* <https://goo.gl/Y3HYZL>

⁶ 2014. Sung Y. et al. Reproduction of endangered Big-headed Turtle *Platysternon megacephalum* (Reptilia: Testudines: Platysternidae), *Acta Herpetologica* 9(2): 243-247, <https://goo.gl/yw9BTF>

⁷ 2015. Jim, C.Y. *Cross-border itinerant poaching of agarwood in Hong Kong's peri-urban forests*. *Urban Forestry and Urban Greening* 14(2): 420-432. <https://goo.gl/pV5YaU>

⁸ Environment Bureau and AFCD. *Enhanced Protection of Incense Tree in Hong Kong*, update for Legislative Council Panel on Environmental Affairs, June 2016. goo.gl/NZxDdv

⁹ See Pp. 16-18 in 2015. ADMCF et al. *Wildlife Crime. Is Hong Kong doing enough?* goo.gl/k7DZDD



Like with the incense tree, issues with accessibility and availability elsewhere (due to either extirpation or increased protection) can switch the focus of criminals to Hong Kong's previously overlooked valuable but vulnerable populations of endangered species. There will be increasing pressure from poaching.

This is evidenced by the example of the Magpie Robin - wild populations of this species have plummeted in Asian countries due to demand from the pet trade. (In conservation terms it is also questionable whether Hong Kong should continue to import a species from a country that has a diminishing native population because of poaching or harvesting for the pet trade – or both.¹⁰)

The SPCA calls for a Positive List of traded animals, where the species imported and traded in Hong Kong are critically assessed based on suitability, public health, conservation risk and animal welfare. Policy positions (such as a ban on the trade in species present indigenously) should be adopted.

Outright ban on the import, possession, trade and export of certain traps

According to country park rangers, the most damaging traps such as gin traps are not available locally but can be purchased cheaply across the border. Thus, this ban should include their import, trade and export with significant deterrents due to the ecological damage and suffering they cause.

C&ED would have the power to seize such items at the border and prevent their entry and use in Hong Kong.

Regulation of all trap use regardless of intended purpose and location

CAP 170 aims to protect wild animals from being illegally hunted or poached through controlling items (possession of use thereof) that can be used to hunt or poach wild animals. When the legislation was developed it recognised that the existence and possession of such items alone (traps and other hunting devices) significantly increased the risk of poaching and greatly endangered wild animals. Anyone caught in possession of a trap or hunting device without the appropriate permit or licence etc was liable to prosecution.

Previously, the SPCA was required to register with the AFCD and account for all humane cat traps used by registered carers under our successful cat Trap-Neuter-Return programme. However due to a policy decision this requirement for registration was subsequently removed.

Presently, the possession of traps (outside country parks and areas of special interest which are subjected to additional regulation) is permitted by the AFCD and not controlled, as long as wild animals are not the *intended* targets.

¹⁰ Indonesia has historically been a major supply country for this species to Hong Kong. There is some evidence that this species is threatened with extinction in Indonesia due to the bird trade. See Chng S.C.L. et al. 2015. *In the Market for Extinction. An inventory of Jakarta's bird markets*, TRAFFIC, pp10. <https://goo.gl/iGQGwi>



Given that many wildlife areas are adjacent to inhabited areas poachers can claim that they were using such traps to trap dogs and cats rather than wild animals. In addition there is more development in rural areas, there is blurring of the boundaries between human and wildlife habitats (with human encroachment in to wild life habitats and vice –versa). Many traps that illegally target wildlife are found on urban fringes or around rural communities. Appliances that are used to catch fish, mice, cats and dogs can just as easily be used to catch birds, bats, boar, turtles, pangolins, civet cats, leopard cats and deer.

This generous loophole makes enforcement difficult as prosecution cannot be based only on possession, but on *intention* which can be difficult to prove. It also puts animal's lives at risks and facilitates poaching.

In many situations, traps are set by unknown persons with unknown intentions or proper justification and with zero accountability. These traps are dangerous to both humans¹¹ and animals. The SPCA has rescued many animals suffering greatly in unattended traps.

From 2012 to 2016, despite an average of 1,500 patrols undertaken annually, the AFCD has only successfully prosecuted an average of 1 case a year.¹²

Recognition that current legislation does not have a sufficient deterrent effect

Despite the existence of multiple ordinances the AFCD has stated that it has used the Theft Ordinance Cap.210 to prosecute offenders due to the higher penalties and stronger deterrent effect.¹³

This suggests that other ordinances are in need of review as their deterrent effect is inadequate.

Extend Theft Ordinance (Cap. 210) to other poaching offences

Alternatively, if the Administration feels that the Theft Ordinance is a stronger deterrent to poachers, it should be reviewed to see if all poachers (animal, plant or other wildlife) can be consistently prosecuted under this ordinance.

Furthermore, the Theft Ordinance provides for restitution. Rehabilitating and restoring wildlife is extremely resource intensive and present penalties do not reflect the true cost to society and the environment.

¹¹行山漢蹂捕獸器奇輕傷, Apple Daily, 28 March 2018. <https://goo.gl/GUWdV1>

¹² LCQ15: *Combat illegal hunting of animals by animal traps*, HK Government press release, 22 January 2017. <https://goo.gl/6bD9xx>

¹³ Point 10. Environment Bureau and AFCD. *Enhanced Protection of Incense Tree in Hong Kong*, update for Legislative Council Panel on Environmental Affairs, June 2016. goo.gl/NZxDdv



The possibility for restitution makes it possible for such costs to be borne by offenders, making the cost of restitution, rather than the penalty itself, a significant deterrent.

Bringing The Protection of Endangered Species of Animal and Plants (Cap. 586) under the Organised and Serious Crimes Ordinance (Cap. 455)

The growing size and frequency of seizures also means that there greater resources are needed for investigation and enforcement. Large seizures, in particular, suggest that these are coordinated networks run by syndicates.

We would like to see greater police involvement in investigation. The SPCA would like to see Cap. 586 be brought under the Organised and Serious Crimes Ordinance (Cap. 455).

Review all wildlife protection legislation and penalties

We also join others in calling for a review of all wildlife protection legislation and penalties under the various ordinances.

A 2013 review of Hong Kong's wildlife legislation found many areas outdated, lacking and inadequate.¹⁴ A 2015 report on Hong Kong's wildlife trade also found that policy and legislation were in urgent need of review due to the increasing volume of endangered, high value wildlife being smuggled through the territory.¹⁵

The Incense Tree is a good example of how Hong Kong's outdated legislation cannot provide deterrence.

Aquilaria sinensis is internationally protected under CITES and is listed under Appendix II. In Mainland China, it is on the China Species Red List, as well as the List of Wild Plants under State Protection (Category II).¹⁶

However, Hong Kong has no local legislation that protects this species due to its special conservation status.

In essence, the maximum penalty under the Forest Ordinance (Cap. 96) for the illegal felling of *any* tree is HKD 25,000 and a year imprisonment. AFCD has chosen to use Theft Ordinance as means to giving heavier penalties for this reason.^{17, 18}

¹⁴ Whitfort, A. et al. 2013. *A Review of Hong Kong's Wild Animal and Plant Protection Laws*. <https://goo.gl/PSyaLA>

¹⁵ 2015. ADMCF et al. *Wildlife Crime. Is Hong Kong doing enough?* goo.gl/k7DZDD

¹⁶ Point 5. Environment Bureau and AFCD. *Enhanced Protection of Incense Tree in Hong Kong*, update for Legislative Council Panel on Environmental Affairs, June 2016. goo.gl/NZxDdv

¹⁷ Point 10. AFCD. *Status of Aquilaria sinensis (Incense Tree) in Hong Kong*, prepared for the Advisory Council on the Environment Nature Conservation Subcommittee, December 2013. <https://goo.gl/RffvPV>

¹⁸ *Two travellers sentenced for smuggling agarwood*, AFCD Press Release, 2 January 2018. <https://goo.gl/xjoKTu>



By comparison, in December 2017, C&ED intercepted two passengers carrying Incense Tree woodchips. The first man had 2.2kg in his backpack, with an estimated market value of HKD176,000.

A second man was intercepted with 4.4kg of woodchips, with an estimated market value of HKD352,000. In January 2018, they were sentenced to 4 weeks and 6 weeks imprisonment respectively under The Protection of Endangered Species of Plants and Animals Ordinance (Cap. 586).

Given the significant market value of the seizure, the conservation value of the species and the AFCD's goal for deterrent sentences, the penalty seems rather low.

Conclusion

The SPCA believes that Hong Kong has an important duty to protect endangered species locally and internationally.

Legislative, policy and enforcement efforts require cohesion and close inter-departmental collaboration to be truly effective for all endangered and protected species in Hong Kong.

The SPCA HK thanks the Administration for its work thus far and for the Legislative Councillors' support on this matter. We look forward to continued dialogue and positive progress on these issues.

Should you have any enquiries in relation to this submission, please do not hesitate to contact us on [REDACTED] or by email c/o: [REDACTED]

Yours sincerely,

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