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9 March 2018

Dear Sir/ Madam,

**The Protection of Endangered Species of Animals and Plants
(Amendment) Ordinance 2018**

Phasing Out the Local Trade in Ivory

Further to our circular letter no. ES 01/18 informing traders of endangered species about the Protection of Endangered Species of Animals and Plants (Amendment) Ordinance 2018 (“the Amendment Ordinance”), this circular aims to inform ivory traders and the parties concerned about the new control measures for elephant ivory and elephant hunting trophies after the Amendment Ordinance takes effect. For the relevant statutory requirements, the provisions of the Amendment Ordinance shall prevail over this circular.

New Control Measures for Elephant Ivory and Elephant Hunting Trophies

The Amendment Ordinance will take forward a three-step plan to enhance regulation on import and re-export of elephant¹ ivory and elephant hunting trophies², and to phase out the local ivory trade. The details are as follows:

Step 1: Ban the import and re-export of all elephant hunting trophies and those remaining post-Convention ivory³ items, the import, export and re-export of which are currently permissible under CITES⁴. Commence on 1 May 2018.

¹ Refers to Asian elephants and African elephants

² An “elephant hunting trophy” is defined as a whole elephant, or a part or derivative of an elephant, (*item*) that—

- (a) is raw or processed;
- (b) was acquired by a person through hunting; and
- (c) is being imported, exported or re-exported by or on behalf of the person as part of the transfer of the item from its place of origin to the person’s usual place of residence.

³ The ivory that was acquired after the CITES provisions started to apply on elephants (1 July 1975 for Asian elephant and 26 February 1976 for African elephant) is referred to as “post-Convention ivory”.

⁴ The Convention on International Trade in Endangered Species of Wild Fauna and Flora

Step 2: Ban the import and re-export of pre-Convention ivory⁵ (save for antique ivory) and subject the commercial possession of pre-Convention ivory (save for antique ivory) in the local market to licensing control similar to the existing control on post-Convention ivory. Commence on 1 August 2018.

Step 3: Ban the possession for commercial purposes⁶ of all ivory (save for antique ivory) including pre-Convention ivory and post-Convention ivory from 31 December 2021.

Post-Convention Ivory

Arrangement for Licence to Possess

Possession of any ivory for non-commercial purposes is currently exempted from the licensing requirement. An owner who wishes to possess post-Convention ivory for commercial purposes has to apply for a Licence to Possess (PL). To pave the way for a total ban on the local ivory trade on 31 December 2021, any application for a PL (thereby switching the use of ivory from non-commercial to commercial purposes) will generally not be approved for post-Convention ivory after Step 1 takes effect on 1 May 2018, unless the ivory is covered by a valid PL issued before the commencement of the step.

Therefore, if an owner of post-Convention ivory wishes to possess such ivory for commercial purposes after Step 1 takes effects on 1 May 2018, please check whether or not a valid PL has been obtained for each keeping premises. If an owner of post-Convention ivory has no valid PL, please submit an application to this Department as soon as possible. Please refer to Annex I for the application method. The applicant is advised to submit the application before 1 April 2018 in order to reserve sufficient time for inspection arrangement. Please note that ***after Step 1 takes effects on 1 May 2018, any PL application for post-Convention ivory must be submitted within the validity period of the original PL; otherwise the application will not be accepted*** and the concerned ivory cannot be used for commercial purposes.

Pre-Convention Ivory

Arrangement for Licence to Possess

Possession of pre-Convention ivory for commercial purposes is currently exempted from the licensing requirement provided that the ivory can be proven pre-Convention. After Step 2 takes effect on 1 August 2018, commercial possession of

⁵ The ivory that was acquired before the CITES provisions started to apply on elephants (1 July 1975 for Asian elephant and 26 February 1976 for African elephant) is referred to as "pre-Convention ivory".

⁶ "Commercial purposes" means—

(a) a purpose relating to trade or business; or

(b) a purpose of obtaining profit or other economic benefit (whether in cash or in kind) and directed towards sale, resale, exchange, provision of a service or other form of economic use or benefit, whether direct or indirect,

and "non-commercial purposes" shall be construed accordingly.

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pre-Convention ivory (save for antique ivory) will require a Licence to Possess (PL). To pave the way for a total ban on the local ivory trade on 31 December 2021, any application for a PL will generally not be approved for pre-Convention ivory after Step 2 takes effect on 1 August 2018, unless the ivory is covered by a valid PL issued before the commencement of the step.

Therefore, if an owner of pre-Convention ivory (save for antique ivory) wishes to possess such ivory for commercial purposes after Step 2 takes effects on 1 August 2018, please submit an application to this department as soon as possible. Please refer to Annex I for the application method. The applicant is advised to submit the application before 1 May 2018 in order to reserve sufficient time for inspection arrangement. Please note that ***after Step 2 takes effects on 1 August 2018, any PL application for pre-Convention ivory must be submitted within the validity period of the original PL; otherwise the application will not be accepted*** and the concerned ivory cannot be used for commercial purposes.

Arrangement for Licence to Re-export

Re-export of pre-Convention ivory currently requires a Licence to Re-export (RL) which is valid for three months. To prepare for the ban on re-export of pre-Convention ivory (save for antique ivory) after Step 2 takes effect on 1 August 2018, all RLs for pre-Convention ivory to be issued / varied on or after 1 May 2018 will expire before on or before 31 July 2018 (save for antique ivory). The applicant is advised to submit the application as soon as possible in order to reserve sufficient time for inspection arrangement.

Antique Ivory

Antique ivory means as a piece of elephant ivory that was, before 1 July 1925—

- (i) removed from the wild;
 - (ii) significantly altered from its natural state for jewellery, adornment, art, utility or musical instruments; and
 - (iii) acquired by a person after the alteration in such altered state that required no further carving, crafting or processing to effect its purpose; and
- does not include an elephant hunting trophy.

As a measure to protect cultural relics, the trade in antique ivory will continue to be allowed under a strengthened control regime. Import of antique ivory will require a Licence to Import (IL), and a Pre-Convention Certificate issued by the previous exporting place, while re-export will require a RL. The application method for IL/ RL for antique ivory is at Annex II.

Possession of antique ivory for commercial purposes will not require a PL provided that the ivory can be proven to meet the requirements for antique exception. Examples of acceptable proof of antique may include a qualified appraisal or other method that documents the age of the ivory by establishing the provenance of the article. Results of tests using scientifically approved aging methods carried out by an accredited laboratory or facility, local or overseas, are also acceptable.

Personal or Household Effects Exemption

The Amendment Ordinance aims at phasing out the local trade in ivory. Possession of ivory of personal or household effects for non-commercial purposes, as well as import and re-export of ivory of personal or household effects (except for tourist souvenirs) for non-commercial purposes, will not be affected by the Amendment Ordinance and can continue to be exempted.

For enquiry, please contact Mr. Horace IU (Tel: 2150 6969) or Ms. Azaria WONG (Tel: 2150 6982) of this Department.

Yours faithfully,



(Boris S. P. KWAN)

For Director of Agriculture, Fisheries and Conservation

With enclosures:

- I. Application Method for Licence to Possess for Ivory
- II. Application Method for Licence to Import/ Re-export for Antique Ivory