

漁農自然護理署
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28 July 2016

Dear Sir/Madam,

The Protection of Endangered Species of Animals and Plants Ordinance (Cap. 586)
Ivory Trade

African elephant and Asian elephant are listed in the Appendix I to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). Their import, possession or re-export is strictly regulated under the Protection of Endangered Species of Animals and Plants Ordinance (Cap. 586). This circular aims to remind traders about the latest development in the regulations on ivory trade.

Background

The CITES started to regulate the international trade in elephant ivory in the 1970s, and has banned such trade since 1990 when African elephant was listed in Appendix I. Given the history of Hong Kong as a trade centre of ivory in the Asian region in the 1980s, substantial amount of ivory had been imported legally and in accordance with CITES provisions into Hong Kong before the international trade ban. Such pre-ban ivory was registered by this Department and is allowed to be traded locally under a Licence to Possess. The re-export of such ivory is not allowed.

Regarding “pre-Convention ivory” that was acquired before the CITES provisions started to apply to ivory, its international trade is allowed when the ivory is accompanied by a pre-Convention certificate. The possession of pre-Convention ivory with documentary proof without a licence is permitted. The re-export of pre-Convention ivory requires a Licence to Re-export.

While African elephant has been listed in Appendix I, certain specimens of African

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elephant are allowed to be imported, exported or re-exported as specimens of an Appendix II species under certain specified circumstances, such as hunting trophies from Botswana, Namibia, South Africa and Zimbabwe, individually marked and certified ekipa incorporated in finished jewellery from Namibia and ivory carvings from Zimbabwe for non-commercial purposes.

International, Mainland and Local Development

There have been growing concerns over the poaching of elephants in Africa and the global smuggling of ivory in recent years. Several countries and the People's Republic of China (PRC) have adopted measures stricter than the requirements of the CITES to control the ivory trade. In September 2015, the PRC and the USA committed to enact nearly complete bans on ivory import and re-export, including significant and timely restrictions on the import of ivory as hunting trophies, and to take significant and timely steps to halt the domestic commercial trade of ivory. The Mainland announced the suspension of import of ivory tusks and products in March 2016, and would release the timetable on halting the domestic commercial trade of ivory by the end of 2016.

New Measures on Control of Ivory Trade

In view of the growing concerns over the global ivory smuggling and control of local ivory trade, this Department has reviewed the regulatory regime of ivory trade and devised a suite of new measures to step up enforcement against smuggling of ivory, strengthen the control of local trade in ivory, and raise public awareness on the protection of elephants and the relevant control in cooperation with the Customs and Excise Department (C&ED) and the Hong Kong Police (the Police). We have also discussed with the Interpol and local enforcement agencies on how to step up international collaboration to combat smuggling of endangered species.

Proposed Ivory Phase-Out Plan

To further contribute to the conservation of African elephants, the Chief Executive has announced in the 2016 Policy Address that:-

“The Government is very concerned about the illegal poaching of elephants in Africa. It will kick start legislative procedures as soon as possible to ban the import and export of elephant hunting trophies and actively explore other appropriate measures, such as enacting legislation to further ban the import and export of ivory and phase out the local ivory trade, and imposing heavier penalties on smuggling and illegal trading of endangered species. Meanwhile, the Government will strengthen enforcement and take rigorous action against the smuggling and illegal trade in ivory.”

After detailed study and consideration, we propose to amend the Ordinance to effect a three-step plan (Plan) to phase out the local trade in ivory:

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Step 1: Ban the import and re-export of hunting trophies, individually marked and certified ekipa incorporated in finished jewellery from Namibia and ivory carvings from Zimbabwe which are currently treated as specimens of CITES Appendix II under the “split listing” arrangement of CITES for African elephants; to take effect immediately after the enactment of the Bill;

Step 2: Ban the import and re-export of pre-Convention ivory except a few exceptions such as “antique ivory” and subject pre-Convention ivory in the local market to licensing control; to take effect three months after the enactment of the Bill; and

Step 3: Ban the local sale of pre-ban and pre-Convention ivory after a grace period for the traders / owners to dispose of their commercial stock and/or undergo business transformation.

Grace Period

We propose to give a grace period to allow the ivory trade as a whole to dispose of the ivory in their possession and/or to undergo business transformation. In considering the length of the grace period, we have taken into account various factors such as how much time is considered reasonably sufficient for the relevant traders to transform their businesses, and the validity period of the existing Possession Licences (PLs). Currently, the validity period of a PL is five years, with the expiry date(s) of the recently renewed/issued PLs in the year of 2021. It is our estimate that a period of about 5 years until 2021 should be reasonably sufficient to enable the trade to either transform their businesses or to clear their existing stock, having regard to the result of our trade survey which reveals that the ivory trade is generally inactive. To pave the way for the total ban of local ivory sale, arrangements will have to be made so that no new or renewed PLs would be issued with a validity date beyond the end of 2021.

Compensation

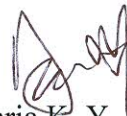
We have considered the compensation issue from various legal, policy and trade perspectives. We consider that the proposed measures of the Plan are justifiable on the grounds that such measures aim to address the public concerns over the survival of African elephants which are under imminent threat of extinction, and are necessary in light of the latest situation of elephant poaching and ivory smuggling trend. The result of the trade survey shows that in general the sale of ivory does not constitute any substantial part of the traders’ business. Moreover, many ivory traders had already undergone business transformation or switched to trade other commodities not under CITES control such as mammoth ivory. As mentioned above, a grace period will be given to the trade. As regards workers (e.g. ivory crafters) that might be affected by the ban, the Government will explore suitable assistance measures for them. Therefore, we are of the view that no compensation should be provided to the ivory trade.

Way Forward

We will further develop the proposed legislative framework and further consult the trade on the proposed ivory phase-out plan described above, in particular, the timing for phasing out the trade. We aim to submit a bill to implement the Plan to the Legislative Council in the first half of 2017. Meanwhile, various departments including this Department, C&ED and the Police will continue to take vigorous enforcement actions before the total ban takes effect.

If you have any enquiries or comments regarding the proposed ivory phase-out plan, please contact us by fax, e-mail or post. We are going to hold a briefing session to brief traders on the above measures and to collect their comments and you are welcome to attend. Please see the enclosure for details.

Yours faithfully,



(Azaria K. Y. WONG)

for Director of Agriculture, Fisheries and Conservation

With enclosure