

CHAPTER 3

**Environment Bureau
Agriculture, Fisheries and
Conservation Department**

**Control of trade in endangered species
by the Agriculture, Fisheries and
Conservation Department**

**Audit Commission
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CONTROL OF TRADE IN ENDANGERED SPECIES BY THE AGRICULTURE, FISHERIES AND CONSERVATION DEPARTMENT

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CONTROL OF TRADE IN ENDANGERED SPECIES BY THE AGRICULTURE, FISHERIES AND CONSERVATION DEPARTMENT

Executive Summary

1. Due to high levels of exploitation of some animal and plant species, the trade in them may deplete their populations and bring some species close to extinction. The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) is an international agreement between governments with the aim to ensure that international trade in specimens of wild animals and plants does not threaten their survival. It regulates international trade of species of animals and plants through a system of permits and certificates in which the required permits/certificates must accompany the species in question when leaving and entering a country. As of December 2020, CITES regulated 38,713 species. They are classified into three Appendices according to the degree of threat posed by international trade. Appendix I includes species that are threatened with extinction, Appendix II includes species that are not presently threatened with extinction but may become so unless trade is controlled, and Appendix III includes species identified by any party to CITES as requiring cooperation in controlling their trade.

2. In Hong Kong, the Government protects endangered species of animals and plants set out in the three Appendices to CITES through the implementation of the Protection of Endangered Species of Animals and Plants Ordinance (PESAPO — Cap. 586). Species classified into Appendices I, II and III to CITES are specified in Schedule 1 to PESAPO (hereinafter referred to as scheduled species). The Agriculture, Fisheries and Conservation Department (AFCD) is responsible for administering and enforcing PESAPO, with advice given by the Endangered Species Advisory Committee established under the Ordinance. The control of trade in scheduled species is mainly carried out by the Conservation Branch of AFCD, supported by its Endangered Species Protection Division (ESPD). The Audit Commission (Audit) has recently conducted a review to examine the control of trade in scheduled species by AFCD.

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Licensing and inspections

3. According to PESAPO, the import, introduction from the sea, export, re-export or possession of specimens of scheduled species may require a licence issued in advance by AFCD. Each licence is valid for one shipment at one time and in one lot or for one keeping premises. AFCD uses a computer system (i.e. the Endangered Species Licensing and Enforcement System — ESLES) to facilitate the issue of licences/certificates and related enforcement work (paras. 1.8 and 2.2).

4. ***Import and export control.*** All import, introduction from the sea, export and re-export shipments of scheduled species, irrespective of whether a licence is required, must be inspected by AFCD upon landing in Hong Kong or prior to export. The importer/exporter should make an appointment with AFCD at least two working days in advance for such an inspection (i.e. consignment inspections). AFCD's Import and Export Division and ESPD are responsible for conducting consignment inspections (paras. 1.11(a) and 2.3). Audit noted the following issues:

(a) ***Room for improvement in conducting consignment inspections.*** Audit's analysis of ESLES records of 121,004 consignment inspections conducted from 2016 to 2020 (comprising 17,765 inspections conducted by ESPD and 103,239 inspections conducted by the Import and Export Division) and examination of selected inspection reports (para. 2.6) revealed the following:

(i) ***Inspection ratios not recorded in ESLES.*** The inspection ratio (i.e. the proportion of consignment having been inspected) provides useful management information for assessing the adequacy of the consignment inspections. However, inspection ratios were not recorded in ESLES for 103,691 (86% of 121,004) inspections (paras. 2.4(b) and 2.6(a));

(ii) ***Inadequate guidelines on sampling.*** The operation manual of the Import and Export Division has stipulated the minimum inspection ratio to be adopted in a consignment inspection according to the weight or quantity of the specimen. In contrast, no such detailed guidelines were stipulated in ESPD operation manual (para. 2.6(b));

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- (iii) ***Delays in submitting inspection reports.*** According to ESPD operation manual, the inspection officer should submit a written report to his/her supervisor and update the inspection records in ESLES within three working days following the inspection. However, Audit's examination of 25 inspection reports prepared by ESPD inspection officers found that for 9 (36%) reports, the inspection officers did not submit the reports within three working days (paras. 2.4(c) and 2.6(c)); and
 - (iv) ***Inadequate supervisory inspections.*** According to ESPD operation manual, supervisory inspections should be conducted for 5% of the consignment inspections each year. However, Audit found that supervisory inspections were conducted for 0.1% to 1.4% of ESPD's consignment inspections in each year from 2016 to 2020 (para. 2.6(d)); and
 - (b) ***Need to review follow-up actions on expired licences.*** For import licences (ILs), export licences (ELs) and re-export licences (RLs), one of the licence conditions is that, on expiry, any unused licences should be returned to AFCD for cancellation. According to AFCD, one reminder letter would be sent to the licensee for each expired licence. Audit analysis of ESLES records revealed that, of 79,944 ILs, ELs and RLs issued from 2016 to 2020, 13,394 (17%) had expired as at 31 December 2020 but the relevant licensees had not responded to the reminder letters issued by AFCD as at 31 January 2021 (paras. 2.7 to 2.9).
5. ***Possession control.*** According to PESAPO, the possession of a specimen of an Appendix I species or a live specimen of wild origin of an Appendix II species requires a possession licence (PL) issued in advance by AFCD unless it is exempted. One PL is issued in respect of each keeping premises which may keep specimens of more than one scheduled species. According to ESPD operation manual, inspections to the keeping premises of specimens requiring PLs may be conducted upon new application, renewal or variation of PLs (e.g. amending the maximum quantity of a specimen to be held under a PL) (paras. 2.12 and 2.13). Audit noted the following issues:
- (a) ***Need to follow laid-down procedures in processing PL applications.*** According to ESPD operation manual, in inspecting the keeping premises of a new PL applicant, the inspection officer should check if the keeping

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facilities are suitable and have sufficient space to accommodate the intended licensed quantity of the specimens, in particular if live animals are involved. The inspection report should include photographs and measurement of the keeping facilities. Upon application of PL renewal, the applicant is required to submit along with the application form a photocopy of the previous PL and records of every transaction of the licensed species on a prescribed form. Audit selected 19 PL applications of 10 licensees for examination and found that:

- (i) in four new applications for possession of live specimens (e.g. humphead wrasse and birds), there was no record of measurement of the keeping facilities; and
 - (ii) in one renewal application, AFCD approved the application despite that not every transaction was recorded on the prescribed form (paras. 2.14 and 2.15); and
- (b) ***Need to continue efforts in developing unique markings on specimens of scheduled species.*** From time to time, there are concerns from the public and some Members of the Legislative Council on the identification of scheduled species and possible laundering. Currently, unique markings (i.e. tagging or labelling techniques) are adopted for a limited number of species, including microchips for captive-bred Asian arowana, holograms for elephant ivory and number tags for crocodilian skin. According to AFCD, a facial-recognition programme for identifying individual humphead wrasse was being pursued by a local university. Apart from humphead wrasse, there is merit for AFCD to explore the need and feasibility of labelling or marking individual specimens of other commonly possessed scheduled species in Hong Kong, such as reptiles and amphibians, given that a number of such species have recently been included in CITES Appendix I (paras. 2.18 to 2.21).

6. ***Shop inspections.*** Shop inspections are conducted at retail outlets of various nature, such as wet market, aquarium, pet shop, flower shop, craft shop, and Chinese medicine shop. There are two types of shop inspections, namely routine shop inspections and inspection-cum-education visits. Routine shop inspections mainly aim at detecting possible violations of PESAPO. Inspection-cum-education visits serve an additional purpose to educate the shop owners regarding the provisions of PESAPO, particularly changes to the legislation (para. 2.24). Audit noted the following issues:

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- (a) ***Need to keep under review target number of shop inspections.*** According to ESPD operation manual, shop inspections are conducted on a risk-based approach, with a target number of about 1,500 inspections annually. Audit analysed the number of shop inspections conducted from 2016 to 2020 and found that:
- (i) from 2016 to 2019, the number of shop inspections each year ranged from 1,885 to 3,102 (2,592 on average), i.e. exceeding the annual target of 1,500 inspections by 26% to 107% (73% on average). The number of shop inspections decreased to 1,502 in 2020 due to the COVID-19 epidemic; and
 - (ii) there was a shift in the inspection focus from routine shop inspections to inspection-cum-education visits, as reflected by the decreasing percentage of routine shop inspections from 79% in 2016 to 25% in 2020 and the increasing percentage of inspection-cum-education visits from 21% to 75% in the same period (paras. 2.25 and 2.26);
- (b) ***Need to ensure that shop list is up-to-date.*** According to AFCD, a shop list is maintained in ESLES to facilitate the conduct of shop inspections. The list should be updated when any premises is found to have commenced business or have ceased operation during shop inspections or licence applications. Audit selected some 150 shop inspection reports in 2017 for examination and found that 24 shops inspected were no longer in operation. However, 16 (67%) of the 24 shops were not yet removed from the shop list in ESLES as of December 2020 (para. 2.27); and
- (c) ***Room for improvement in preparing and submitting inspection reports.*** According to ESPD operation manual, an inspection officer is required to use an inspection report template to record his/her findings (including the details of any irregularity found) during an inspection. On or before the next working day of the inspection, the inspection officer should submit to the supervisor the inspection report for premises with irregularities detected and requiring follow-up actions. Audit analysed ESLES records on the shop inspections conducted from 2016 to 2020 and found that:

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- (i) verbal warnings were given to the relevant shopkeepers in 25 shop inspections. However, in 4 (16%) of the 25 inspections, the inspection officers incorrectly indicated in the inspection reports that no irregularity was found; and
- (ii) in 54 (58%) of 93 inspections reported with irregularities, inspection reports were not submitted on or before the next working day of the inspection. The inspection reports were submitted 2 to 11 working days (4 working days on average) after the inspections (paras. 2.30 and 2.31).

Investigation and prosecution

7. AFCD conducts investigation on alleged cases in contravention of PESAPO and takes prosecution actions as appropriate. If prosecution is not instigated or no person is convicted after prosecution, AFCD may apply for court orders for forfeiture of seized specimens to the Government and will take no further action for cases without specimens seized (para. 3.2).

8. ***Monitoring of cases under investigation and prosecution.*** According to ESLES records, 6,126 alleged cases in contravention of PESAPO were opened for investigation from 2010 to 2020 (up to November). Audit noted the following issues:

- (a) ***Need to enhance management information on cases under investigation and prosecution.*** As at 30 November 2020, 327 of the 6,126 cases were remarked as under investigation and prosecution. For these 327 cases, no information was readily available from ESLES showing the breakdown into number of cases under investigation and that under prosecution. Audit selected 20 cases for further examination and found that:
 - (i) in 3 cases, AFCD could not provide the case files for Audit examination. AFCD informed Audit that the investigation of these cases had been completed and no prosecution was instigated;
 - (ii) in 15 cases, investigation and/or prosecution had been completed. However, AFCD was yet to take the required follow-up actions

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(e.g. warning letters not yet issued and/or court order for forfeiture of seized specimens not yet applied for); and

- (iii) in 2 cases, AFCD had completed investigation and/or prosecution and no further action was required. However, ESLES records had not been updated (paras. 3.3 and 3.4); and

- (b) ***Need to closely monitor cases pending application for court orders for forfeiture of specimens to the Government.*** As at 30 November 2020, 601 of the 6,126 cases were remarked as pending application for court orders for forfeiture of the seized specimens. For 566 cases, the time elapsed from the date of offence was more than 1 year. Audit selected 20 cases of these 566 cases for further checking in ESLES and noted that in 9 cases, the specimens had already been disposed of (paras. 3.6 and 3.7).

9. ***Need to continue efforts in exploring technology for quick identification of scheduled species.*** According to AFCD, in view of the rapid cargo and passenger movement in Hong Kong, it often had to determine the identity of the specimens suspected to be of a scheduled species for prompt seizure under PESAPO within half a day. A deoxyribonucleic acid (DNA) test technology, namely real-time polymerase chain reaction has been developed for species identification for a few specific scheduled species where identification based on morphological characteristics (i.e. the form, shape and structure) of the specimens is not possible. If the DNA of a specimen matches with that of the specific scheduled species, the specimen will be seized for further investigation. According to AFCD, it had been working with experts in the field to apply the real-time polymerase chain reaction technology to some other species included in CITES Appendices (paras. 3.12 to 3.15).

10. ***Need to keep under review the number of intelligence reports received.*** From time to time, AFCD receives intelligence reports from various sources on alleged cases in contravention of PESAPO. For the period 2011 to 2020, AFCD received a total of 1,047 intelligence reports. Audit noted that:

- (a) the number of intelligence reports received increased from 67 in 2011 to 183 in 2017, and then decreased to 104 in 2020; and

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- (b) the rate of successful seizure (measured as the number of seizures as a percentage of the number of intelligence reports received) ranged from 6% to 36% from 2011 to 2020.

In the period 2016 to 2020, 13% to 30% of investigation cases were initiated based on intelligence reports. The decreasing number of intelligence reports received in recent years warrants AFCD's attention (paras. 3.18 to 3.20).

11. *Need to consider conducting a review on the reward scheme.* To encourage the public to provide information on illegal import, export and possession of scheduled species, AFCD has set up a reward scheme since 1999. An individual who would like to provide information in respect of scheduled species could register with AFCD as an informer (para. 1.14). Audit noted that:

- (a) from 2011 to 2020, 16 to 54 (averaging 29) intelligence reports were received from registered informers each year, accounting for 20% to 40% of all intelligence reports received; and
- (b) the level of reward for cases leading to conviction was set in 1999 and had not been revised since then. For cases leading to successful seizure, the reward was based on the estimated market value of seized specimens. Audit examined the list of scheduled species commonly traded in the market maintained by AFCD and noted that the last revision to their estimated market values was made in 2002 (para. 3.22).

Other related issues

12. *Need to review record keeping requirements for specimens held and ready for disposal.* Specimens of scheduled species seized during enforcement of PESAPO are kept under AFCD's custody. According to ESPD operation manual:

- (a) for live specimens, the responsible officer should keep a list of specimens held and keep in view the situation until the specimens are forfeited to the Government and prepare a list of specimens ready for disposal monthly, and disposal exercise should be arranged every two months; and

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- (b) for dead specimens, the responsible officer should prepare a summary on the quantities and types of specimens available for dumping, and dumping exercise should be conducted every two months.

Audit noted that no separate list of live specimens ready for disposal was prepared, and disposal/dumping exercises were not regularly conducted for live/dead specimens (paras. 4.2, 4.4 and 4.5).

13. ***Need to maintain proper records on inspections of live specimens held and review stocktaking arrangements.*** Proper care shall be taken in handling specimens of scheduled species to ensure their safe custody. According to ESPD operation manual:

- (a) for live specimens, the responsible staff should arrange inspections of the animals and plants held in the care centres as well as the holding facilities whenever possible to ensure that proper care is provided; and
- (b) for dead specimens, an officer, independent of any procedures of handling seizures, should be appointed to conduct an annual stocktaking of the seized specimens. Results of the stocktaking should be reported to senior staff.

Regarding live specimens, Audit noted that proper records had not been maintained for the inspections to most care centres. Regarding dead specimens, Audit noted that the last stocktaking exercise was conducted in 2013. According to AFCD, the annual stocktaking was suspended due to manpower deployment (paras. 4.6 and 4.7).

14. ***Room for improvement in the placement scheme of pet animals of scheduled species.*** In June 2011, AFCD commenced a placement scheme of pet animals of scheduled species with a non-governmental organisation (NGO). In April 2014, another NGO joined the scheme. Under the scheme, the NGOs are allowed to rehome pet animals of certain scheduled species (i.e. Appendix II species that are already available in the pet market and of comparatively lower conservation value) donated by AFCD to suitable private individuals. According to AFCD, it would monitor the scheme and evaluate its effectiveness, and the number and species of animals donated to the two NGOs under the scheme would be reported to the Endangered Species Advisory Committee regularly. However, Audit noted that AFCD had not: (a) conducted regular visits to the NGOs; (b) reported to the Committee the number and species of live animals donated to the two NGOs since

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January 2015; and (c) conducted any overall evaluation on the scheme (paras. 4.12 to 4.14).

Audit recommendations

15. Audit recommendations are made in the respective sections of this Audit Report. Only the key ones are highlighted in this Executive Summary. Audit has *recommended* that the Director of Agriculture, Fisheries and Conservation should:

Licensing and inspections

- (a) regarding the conduct of consignment inspections:
 - (i) ensure that inspection ratios are recorded in ESLES (para. 2.10(a)(i));
 - (ii) lay down detailed guidelines on inspection sampling in ESPD operation manual (para. 2.10(a)(ii));
 - (iii) review and update as appropriate the time target for submission of inspection reports and ensure compliance (para. 2.10(a)(iii)); and
 - (iv) ensure that adequate supervisory inspections are conducted (para. 2.10(a)(iv));
- (b) review the objectives and effectiveness of the follow-up actions on expired ILs, ELs and RLs (para. 2.10(b));
- (c) ensure that the laid-down procedures are followed in processing PL applications (para. 2.22(a));
- (d) continue the efforts to pursue the facial-recognition programme for humphead wrasse and explore the need and feasibility of labelling or marking individual specimens of other commonly possessed scheduled species in Hong Kong (para. 2.22(c) and (d));

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- (e) **keep under review the target number of routine shop inspections and inspection-cum-education visits, and consider setting separate targets for the two types of inspections (para. 2.33(a));**
- (f) **ensure that the shop list for shop inspection is up-to-date (para. 2.33(b));**
- (g) **remind the inspection officers to accurately record irregularities identified during shop inspections and timely submit inspection reports (para. 2.33(e));**

Investigation and prosecution

- (h) **review the status of all cases remarked as under investigation and prosecution in ESLES and take follow-up actions promptly (para. 3.9(a));**
- (i) **ensure that all case files for cases under investigation and prosecution are kept properly, and consider enhancing ESLES to record cases under investigation and those under prosecution separately (para. 3.9(b) and (c));**
- (j) **review all cases remarked as pending application for court orders in ESLES and take prompt actions to apply for the orders as appropriate (para. 3.9(d));**
- (k) **consider setting a timeframe for applying for court orders for forfeiture of seized specimens to the Government in future (para. 3.9(e));**
- (l) **ensure that case records in ESLES are properly updated (para. 3.9(f));**
- (m) **continue the efforts in exploring technology for quick identification of scheduled species (para. 3.16(a));**
- (n) **keep under review the number of intelligence reports received and explore measures to encourage more intelligence reports (para. 3.24(a));**

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- (o) **consider conducting a review on the reward scheme to evaluate its effectiveness and identify improvement measures (para. 3.24(b));**

Other related issues

- (p) **review AFCD's record keeping requirements for specimens held and ready for disposal to assess whether the current practice effectively meets the requirements and update ESPD operation manual if necessary (para. 4.15(a));**
- (q) **maintain proper records on inspections to care centres (para. 4.15(b));**
- (r) **review whether AFCD's current stocktaking arrangements effectively meet the objective of ensuring proper custody of specimens and update as appropriate the relevant requirements in ESPD operation manual (para. 4.15(c)); and**
- (s) **for the placement scheme of pet animals of scheduled species:**
 - (i) **consider conducting regular visits to the NGOs under the scheme (para. 4.15(e)(i));**
 - (ii) **regularly report more information about the scheme to the Endangered Species Advisory Committee (para. 4.15(e)(ii)); and**
 - (iii) **consider conducting an overall evaluation on the effectiveness and operation of the scheme (para. 4.15(e)(iii)).**

Response from the Government

16. The Director of Agriculture, Fisheries and Conservation generally agrees with the audit recommendations.

PART 1: INTRODUCTION

1.1 This PART describes the background to the audit and outlines the audit objectives and scope.

Background

1.2 International wildlife trade is diverse, ranging from live animals and plants to a vast array of wildlife products derived from them (e.g. food products, exotic leather goods, timber, tourist souvenirs and medicines). Due to high levels of exploitation of some animal and plant species, the trade in them may deplete their populations and bring some species close to extinction. It is therefore important to control the trade in these species to safeguard them from over-exploitations.

1.3 The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) is an international agreement between governments (Note 1) with the aim to ensure that international trade (Note 2) in specimens of wild animals and plants does not threaten their survival. It regulates international trade of species of animals and plants through a system of permits and certificates in which the required permits/certificates must accompany the species in question when leaving and entering a country. Each party to CITES must designate one or more Management Authorities in charge of administering that licensing system (hereinafter referred to as CITES Management Authority).

1.4 Every two to three years, the parties to CITES meet to review the implementation of CITES, including reviewing the list of endangered species to be regulated in accordance with factors such as the conservation status of the concerned species to ensure that the provisions of CITES are up-to-date. As of December 2020, CITES regulated 38,713 species, including 5,945 species of animals and

Note 1: *CITES was entered in force in July 1975 and has been implemented in Hong Kong since 1976. As of December 2020, there were 183 parties to CITES.*

Note 2: *Under CITES, trade means export, re-export, import and introduction from the sea (i.e. transportation into a state of specimens of any species which were taken in the marine environment not under the jurisdiction of any state).*

Introduction

32,768 species of plants. They are classified into three Appendices according to the degree of threat posed by international trade as follows:

- (a) **Appendix I.** Appendix I includes species that are threatened with extinction (1,082 species). Commercial trade in specimens of these species is prohibited except under certain circumstances (e.g. scientific research). Examples of Appendix I species are Chinese pangolin and slipper orchid (see Photographs 1(a) and (b));

Photographs 1(a) and (b)

Examples of Appendix I species

(a) Chinese pangolin



(b) Slipper orchid



Source: Agriculture, Fisheries and Conservation Department records

- (b) **Appendix II.** Appendix II includes species that are not presently threatened with extinction but may become so unless trade is controlled (37,420 species). Commercial trade in specimens of these species is allowed under licensing control. Examples of Appendix II species are Chinese three-striped box turtle and orchid (see Photographs 2(a) and (b)); and

Photographs 2(a) and (b)

Examples of Appendix II species

(a) Chinese three-striped box turtle



(b) Orchid



Source: Agriculture, Fisheries and Conservation Department records

- (c) **Appendix III.** Appendix III includes species identified by any party to CITES as requiring cooperation in controlling their trade (211 species). Their trade is subject to permits or certificates of origin. Examples of Appendix III species are Chinese stripe-necked turtle and sea coconut (see Photographs 3(a) and (b)).

Photographs 3(a) and (b)

Examples of Appendix III species

(a) Chinese stripe-necked turtle



(b) Sea coconut



Source: Agriculture, Fisheries and Conservation Department records

Local legislation for control of trade in endangered species

1.5 In Hong Kong, the Government protects endangered species of animals and plants set out in the three Appendices to CITES through the implementation of the Protection of Endangered Species of Animals and Plants Ordinance (PESAPO — Cap. 586) (Note 3). Species classified into Appendices I, II and III to CITES are specified in Schedule 1 to PESAPO (hereinafter referred to as scheduled species).

1.6 According to PESAPO, unless otherwise specified, no person shall import, introduce from the sea, export, re-export or possess a specimen of a scheduled species, whether alive, dead, its parts or derivatives, except under and in accordance with a licence issued under the Ordinance. Any person contravening the requirements of PESAPO commits an offence and is liable on conviction to a maximum fine of \$10 million and to an imprisonment of 10 years (Note 4). The seized specimens will, without further order, also be forfeited to the Government on conviction.

1.7 The Agriculture, Fisheries and Conservation Department (AFCD) is responsible for administering and enforcing PESAPO (Note 5). AFCD is also the designated CITES Management Authority (see para. 1.3) in Hong Kong. Its work includes the licensing control of international trade in scheduled species and curbing of illegal trade in scheduled species in Hong Kong. An advisory committee, namely the Endangered Species Advisory Committee, was established under PESAPO to

Note 3: *CITES was implemented in Hong Kong through the Animals and Plants (Protection of Endangered Species) Ordinance (Cap. 187) from 1976 to December 2006. The Ordinance was repealed in December 2006 and replaced by PESAPO.*

Note 4: *To enhance deterrent effect against illegal wildlife trade, PESAPO was amended in 2018 to increase the penalties. With effect from 1 May 2018, the maximum penalty for any person contravening the licensing requirements of PESAPO has been raised from a fine of \$5 million and an imprisonment of two years to a fine of \$10 million and an imprisonment of 10 years.*

Note 5: *PESAPO is also enforced by the Customs and Excise Department. The Department conducts checks on passengers, cargoes, postal parcels and cross-boundary conveyances at entry/exit points of Hong Kong, to detect and deter different types of smuggling activities including illegal importation and exportation of scheduled species.*

advise the Director of Agriculture, Fisheries and Conservation on the administration of the Ordinance (Note 6).

Licensing control

1.8 ***Licensing requirements.*** According to PESAPO, depending on the type of scheduled species and purposes, the import, introduction from the sea, export, re-export or possession of specimens of scheduled species may require a licence issued in advance by AFCD (Note 7) and/or production of documents issued by the relevant authority (e.g. CITES Management Authority). Each licence is valid for one shipment at one time and in one lot or for one keeping premises. The licensing requirements under PESAPO for trade and possession of scheduled species are generally summarised as follows (Appendix A sets out in more detail the licensing requirements as at 31 December 2020):

Note 6: *The Endangered Species Advisory Committee comprises 13 non-official members appointed by the Chief Executive of the Hong Kong Special Administrative Region and 4 official members. The 4 official members are the Director of Agriculture, Fisheries and Conservation (with the Deputy Director of Agriculture, Fisheries and Conservation as alternate member), the Commissioner of Customs and Excise (with the Assistant Commissioner of Customs and Excise (Boundary and Ports) as alternate member), the Assistant Director of Environmental Protection (Nature Conservation) (with the Senior Administrative Officer (Nature Conservation) as alternate member), and the Assistant Director (Conservation) of AFCD.*

Note 7: *According to AFCD, a licence issued under PESAPO does not exempt the licensee from the provisions of other ordinances. Permits/certificates may be required under other ordinances for the import, introduction from the sea, export, re-export or possession of specimens of scheduled species, such as:*

- (a) the Public Health (Animals and Birds) Ordinance (Cap. 139);*
- (b) the Prevention of Cruelty to Animals Ordinance (Cap. 169);*
- (c) the Rabies Ordinance (Cap. 421);*
- (d) the Wild Animals Protection Ordinance (Cap. 170); and*
- (e) the Plant (Importation and Pest Control) Ordinance (Cap. 207).*

Introduction

- (a) ***Import or introduction from the sea.*** Import or introduction from the sea of a specimen of an Appendix I species (Note 8) or a live specimen of wild origin of an Appendix II species requires an import licence (IL) or a licence to introduce from the sea;
- (b) ***Export or re-export.*** Export or re-export of a specimen of any scheduled species requires an export licence (EL) or a re-export licence (RL); and
- (c) ***Possession.*** Possession of a specimen of an Appendix I species or a live specimen of wild origin of an Appendix II species requires a possession licence (PL) issued for the keeping premises.

1.9 ***Exemption from licensing requirements.*** The import, introduction from the sea, export, re-export or possession of a specimen of a scheduled species may be exempt from the licensing requirements as set out in PESAPO and its two exemption orders (Note 9). Examples of exemption include:

- (a) ***Import of pre-Convention specimens.*** A specimen is pre-Convention if it is acquired before the provisions of CITES apply to it (i.e. before the species is first included in the Appendices to CITES). The import of a pre-Convention specimen is exempt from the licensing requirement subject to the production of a pre-Convention certificate issued by a relevant authority and inspection by AFCD officers upon its landing in Hong Kong;
- (b) ***Possession and control of specimens for scientific and educational purposes.*** The specimen is possessed or controlled for the purpose of scientific or educational study or for display in any museum or herbarium;

Note 8: *Commercial trade in an Appendix I species of wild origin is not allowed. AFCD will only issue a licence under certain circumstances in accordance with CITES (e.g. for scientific and educational purposes). Appendix I animals bred in captivity for commercial purposes from CITES registered captive-breeding operations and Appendix I plants artificially propagated for commercial purposes are treated as Appendix II specimens and subject to the same control as Appendix II specimens of wild origin.*

Note 9: *The two exemption orders are the Protection of Endangered Species of Animals and Plants (Exemption for Appendix I Species) Order (Cap. 586A) and the Protection of Endangered Species of Animals and Plants (Exemption for Appendices II and III Species) Order (Cap. 586B).*

- (c) ***Personal or household effects.*** The specimen is part of personal or household effects of a person if the specimen is legally acquired, personally owned or possessed for non-commercial purposes only, and worn or carried by the person, included in his personal baggage or forms part of a household move when the specimen is being imported, exported or re-exported. Exemption from licensing requirements is provided for personal or household effects if certain criteria are met (Note 10); and
- (d) ***Tourist souvenirs.*** The specimen is acquired outside the person's usual place of residence as tourist souvenirs, falls within the definition of personal or household effects (see (c) above), is legally acquired, and is an Appendix II species (other than live animals and plants) or Appendix III species (other than live animals) (Note 11).

1.10 ***Other certificates.*** Apart from licences, AFCD also issues various kinds of certificates for the trade or possession of non-scheduled and/or scheduled species exempt from the licensing requirements under PESAPO, including re-export certificates for non-scheduled species to facilitate customs clearance at the importing countries, and exemption certificates for possession of specimens of scheduled species for scientific and educational purposes.

Inspections

1.11 AFCD conducts inspections to ensure that relevant requirements under PESAPO are complied with and to deter illegal trade, including:

- (a) ***Consignment inspections.*** All import, introduction from the sea, export and re-export shipments of scheduled species, irrespective of whether a licence is required, must be inspected by AFCD upon landing in Hong Kong

Note 10: *No exemption under personal or household effects is provided for import, export or re-export of giant panda, rhino and live animals, and for possession of giant panda and rhino.*

Note 11: *Some countries or regions (e.g. the Mainland, European Union and Indonesia) do not give exemption to tourist souvenir items and some species are subject to quantity limits. Hong Kong does not provide exemption to tourist souvenir items taken to and/or from a country or region that does not implement such exemption.*

Introduction

or prior to export. The importer/exporter should make an appointment with AFCD at least two working days in advance for such an inspection; and

- (b) ***Local inspections.*** AFCD conducts inspections to premises that keep or may keep scheduled species, other than those related to consignments, including:
 - (i) shop inspections on retail outlets of various nature, such as wet market, aquarium, pet shop, flower shop, craft shop, and Chinese medicine shop;
 - (ii) inspections to premises relating to new application, renewal or variation of PLs; and
 - (iii) inspections to captive breeding or artificial propagation operations.

Enforcement

1.12 AFCD detects alleged contravention of PESAPO through various sources, including consignment and local inspections, monitoring of on-line trade on the Internet, referral by other government bureaux/departments and reports by the public. Upon detection, AFCD:

- (a) investigates the cases. Investigation work may involve preliminary evidence collection (including identification of species), site inspection and search operation; and
- (b) takes prosecution actions where appropriate.

AFCD also works closely with the Customs and Excise Department (C&ED) (see Note 5 to para. 1.7) in enforcing PESAPO. C&ED will hand over detected cases involving suspected scheduled species to AFCD for identification, follow-up investigation, prosecution and disposal as appropriate.

1.13 ***Inter-departmental Wildlife Crime Task Force.*** To facilitate cooperation and communication for combating wildlife crime under PESAPO, the Government

has since 2016 set up the Inter-departmental Wildlife Crime Task Force. The Task Force is led by AFCD and comprises representatives from the Environment Bureau (Note 12), C&ED and the Hong Kong Police Force. The Task Force:

- (a) develops strategies and protocols for enforcement operations as well as gathers, analyses, exchanges and reviews intelligence for more effective and targeted actions; and
- (b) plans and coordinates major enforcement operations and liaison with other national and international agencies in relation to wildlife crimes.

1.14 **Reward scheme.** To encourage the public to provide information on illegal import, export and possession of scheduled species, AFCD has set up a reward scheme since 1999. An individual who would like to provide information in respect of scheduled species could register with AFCD as an informer. Registered informers of the reward scheme who provide reliable information leading to successful seizure of scheduled species or conviction will be rewarded with cash.

Seizure and confiscation of scheduled species

1.15 According to PESAPO:

- (a) ***Seizure of specimens.*** If an authorised officer reasonably suspects that the import, introduction from the sea, export, re-export or possession of a specimen of scheduled species is in contravention of the Ordinance, the officer may seize, remove or detain the specimen;
- (b) ***Forfeiture of specimens to the Government.*** A seized specimen will be forfeited to the Government:
 - (i) without a court order upon conviction of an offence under PESAPO; and

Note 12: *The Environment Bureau is the policy bureau of AFCD with respect to licensing control of international trade and curbing of illegal trade in scheduled species under PESAPO in Hong Kong.*

Introduction

- (ii) with a court order if no person is convicted of an offence under PESAPO (the seized specimen may also be returned to the person from whom it was seized or its owner under a court order), or the owner of the seized specimen is unknown or cannot be found; and
- (c) ***Disposal of seized/forfeited specimens.*** Any animal or plant, whether live or dead, seized and forfeited to the Government (see (a) and (b) above) may be sold (Note 13), or disposed of in any other way, by the Director of Agriculture, Fisheries and Conservation in such manner as he thinks fit. He may do so immediately after the seizure if the seized specimen is:
 - (i) any live animal that is impracticable for any reason to be kept in captivity or likely to die or be subjected to unnecessary suffering if it is kept in captivity;
 - (ii) any live plant that is impracticable for any reason to detain; or
 - (iii) perishable.

1.16 According to AFCD, specimens of scheduled species commonly seized include live tortoises/turtles, timber, orchids, ivory, dried seahorses, rhino horns and pangolin scales. AFCD disposes of the seized/forfeited specimens of scheduled species in accordance with CITES requirements. It may retain or donate the forfeited specimens to appropriate organisations and explore opportunities for returning live specimens seized to their countries of origin. It may also dispose of the specimens by destruction (incineration or disposal in landfill for non-living specimens) or euthanasia (for live specimens) as appropriate.

Publicity and education programmes

1.17 AFCD conducts publicity and education programmes and activities to raise the awareness of the general public, students and traders on the importance of protection of scheduled species and compliance with relevant legislations. The programmes and activities include operating the Endangered Species Resource Centre

Note 13: *The proceeds of sale of the specimens will be paid into the general revenue.*

(ESRC — see Photograph 4) (Note 14), conducting talks in schools, holding roving exhibitions in public venues, distributing advisory leaflets, mounting displays at entry/exit points of Hong Kong, and broadcasting television and radio announcements in the public interest.

Photograph 4

ESRC



Source: AFCD records

Note 14: *ESRC is located on the sixth floor of AFCD headquarters in Cheung Sha Wan Government Offices. The Centre was opened in May 2001 to help promote public awareness on scheduled species protection. It has some 600 specimens of about 200 scheduled species on display, including various kinds of fur skins, leather products, Chinese medicines, plants and live pets, and is composed of nine theme areas.*

Responsible branch of AFCD

1.18 The Conservation Branch of AFCD is responsible for the control of trade in scheduled species (Note 15). The Branch is headed by an Assistant Director and supported by 48 staff of the Endangered Species Protection Division (ESPD) for the related work (Note 16). An extract of the organisation chart of AFCD (as at 31 December 2020) is at Appendix B. In 2019-20, the expenditure incurred in the control of trade in scheduled species (including curbing of illegal trade) by AFCD amounted to \$50.8 million.

Audit review

1.19 In November 2020, the Audit Commission (Audit) commenced a review to examine the control of trade in scheduled species by AFCD. The audit review has focused on the following areas:

- (a) licensing and inspections (PART 2);
- (b) investigation and prosecution (PART 3); and

Note 15: *The Conservation Branch of AFCD is also responsible for other conservation work, including:*

- (a) *providing conservation advice on local flora, fauna and natural habitats to government bureaux/departments and other organisations;*
- (b) *conducting regular ecological surveys to take inventory and update the status of biodiversity assets and establishing an ecological database for Hong Kong;*
- (c) *monitoring the ecology of the Mai Po Inner Deep Bay Ramsar Site, and developing and managing the Hong Kong Wetland Park; and*
- (d) *promoting public awareness and participation in nature conservation through publicity and educational activities.*

Note 16: *The Import and Export Division under the Inspection and Quarantine Branch of AFCD supports ESPD in conducting consignment inspections of scheduled species at airport and land-based control points along with other inspection and quarantine duties such as import of live animals and birds controlled under the Public Health (Animals and Birds) Ordinance and the Rabies Ordinance, and import of plants controlled under the Plant (Importation and Pest Control) Ordinance.*

- (c) other related issues (PART 4).

Audit has found room for improvement in the above areas and has made a number of recommendations to address the issues.

General response from the Government

1.20 The Director of Agriculture, Fisheries and Conservation thanks Audit for conducting this audit review. He has said that AFCD is following up the recommendations made in this Audit Report and has already implemented some of them.

Acknowledgement

1.21 During the audit review, in light of the outbreak of coronavirus disease (COVID-19), the Government had implemented various special work arrangements and targeted measures for government employees, including working from home. Audit would like to acknowledge with gratitude the full cooperation of the staff of AFCD during the course of the audit review amid the COVID-19 epidemic.

PART 2: LICENSING AND INSPECTIONS

2.1 This PART examines AFCD's efforts in the licensing control of trade in scheduled species and in conducting the related inspections, focusing on the following areas:

- (a) import and export control (paras. 2.2 to 2.11);
- (b) possession control (paras. 2.12 to 2.23); and
- (c) shop inspections (paras. 2.24 to 2.34).

Import and export control

2.2 *Licences and certificates.* According to PESAPO, the import, introduction from the sea, export or re-export of specimens of scheduled species may require a licence issued in advance by AFCD (see para. 1.8). Each licence is valid for up to six months. For non-scheduled species, AFCD may issue certificates to facilitate their re-export (see para. 1.10). AFCD uses a computer system (i.e. the Endangered Species Licensing and Enforcement System — ESLES) to facilitate the issue of licences/certificates and related enforcement work. Table 1 shows the number of licences issued for import, export or re-export of specimens of scheduled species from 2016 to 2020 (Note 17).

Note 17: *No licence to introduce from the sea specimens of scheduled species was issued from 2016 to 2020.*

Table 1

Number of licences issued for import, export or re-export of
specimens of scheduled species
(2016 to 2020)

Licence	2016	2017	2018	2019	2020
	Number				
IL	391	325	382	448	317
EL	20	8	7	12	32
RL	16,907	16,218	16,768	18,135	9,974
Total	17,318	16,551	17,157	18,595	10,323

79,944

Source: Audit analysis of AFCD records

2.3 **Consignment inspections.** According to the guidelines to licence applicants, all import, introduction from the sea, export and re-export shipments of scheduled species, irrespective of whether a licence is required, must be inspected by AFCD upon landing in Hong Kong or prior to export (Note 18). The applicant is required to make an appointment for an inspection with AFCD at least two working days in advance. According to AFCD:

- (a) its Import and Export Division (see Note 16 to para. 1.18) conducts inspections on:
 - (i) all import consignments at the airport and land-based control points;
 - (ii) export consignments involving live animals at the airport and land-based control points; and

Note 18: According to the operation manuals of ESPD (see Note 20 to para. 2.4), due to manpower deployment, some low-risk consignments (e.g. manufactured products of Appendix II or III species) may be released without inspection.

Licensing and inspections

- (iii) transit consignments (Note 19); and
- (b) ESPD (see para. 1.18) conducts inspections on all other consignments not covered by the Import and Export Division (e.g. consignments imported/exported by sea).

Table 2 shows the number of consignment inspections conducted from 2016 to 2020.

Table 2
Number of consignment inspections
(2016 to 2020)

Type of consignment inspections	2016	2017	2018	2019	2020
	Number				
Import with IL	329	279	292	377	261
Import exempt from licensing requirement	24,433	24,470	26,264	24,153	15,426
Export and re-export	1,478	1,515	1,745	2,014	1,157
Transit	1,625	1,635	2,399	1,884	982
Total	27,865	27,899	30,700	28,428	17,826

132,718

Source: *Audit analysis of AFCD records*

Note 19: *According to PESAPO, a specimen is in transit if:*

- (a) *it is brought into Hong Kong from a place outside Hong Kong;*
- (b) *it is in the process of being taken to another place outside Hong Kong; and*
- (c) *it remains under the control of the Director of Agriculture, Fisheries and Conservation or an authorised officer under the Ordinance from the time it is brought into Hong Kong up to the time it is taken outside Hong Kong.*

Room for improvement in conducting consignment inspections

2.4 ***Guidelines on consignment inspections conducted by ESPD.*** The following guidelines on consignment inspections are laid down in the operation manuals of ESPD (hereinafter collectively referred to as ESPD operation manual — Note 20):

- (a) in conducting a consignment inspection, an inspection officer should scrutinise the validity of the original documents (e.g. a valid export permit issued by the relevant authority of the place from which the specimens are imported in the case of an import consignment inspection) and check the specimens against the details of the consignment as laid down in the documents including the species, description of specimens and quantities;
- (b) inspection of specimens should be thorough and complete (i.e. inspecting 100% of the specimens). If for any reason a complete inspection of the consignment is not feasible, prior approval from a supervisor of the inspection officer must be obtained and the proportion of consignment having been inspected (i.e. the inspection ratio) must be stated in the inspection report (see (c) below);
- (c) the inspection officer should submit a written report to his/her supervisor and update the inspection records in ESLES within three working days following the inspection; and
- (d) the supervisor should randomly re-inspect 5% of the consignment inspections conducted by the inspection officer each year (hereinafter referred to as supervisory inspections).

2.5 ***Guidelines on consignment inspections conducted by the Import and Export Division.*** The following guidelines on consignment inspections are laid down in the operation manual of the Import and Export Division:

Note 20: *AFCD has issued three operation manuals to provide guidelines to ESPD officers in carrying out their duties under PESAPO, which cover three main aspects of work, namely: (a) licensing; (b) enforcement; and (c) intelligence.*

Licensing and inspections

- (a) a minimum inspection ratio is adopted according to the weight or quantity of the specimen. Generally, a lower inspection ratio is adopted for specimens of a greater weight or quantity. For import consignments involving live animals, 100% of the specimens must be inspected; and
- (b) the actual inspection ratio should be recorded in the inspection report as far as possible.

Results of consignment inspections (other than inspections on transit consignments — see para. 2.3(a)(iii)) conducted by the Import and Export Division are input into ESLES.

2.6 *Areas for improvement.* AFCD provided Audit with a database of 121,004 consignment inspections conducted from 2016 to 2020 (comprising 17,765 inspections conducted by ESPD and 103,239 inspections conducted by the Import and Export Division) based on ESLES records (Note 21). Based on an analysis of the database and an examination of selected inspection reports, Audit has identified the following issues:

- (a) *Inspection ratios not recorded in ESLES.* The inspection ratio provides useful management information for assessing the adequacy of the consignment inspections. However, inspection ratios were not recorded in ESLES for 103,691 (86% of 121,004) inspections, comprising 103,218 conducted by the Import and Export Division and 473 conducted by ESPD. As a result, it could not be ascertained from ESLES records whether the guidelines on inspection sampling (see paras. 2.4(b) and 2.5(a)) had been followed. Upon enquiry, AFCD in February 2021 informed Audit that:
 - (i) for inspections conducted by the Import and Export Division, inspection ratio was not required to be recorded in ESLES;

Note 21: *The number of consignment inspections conducted from 2016 to 2020 generated from ESLES (i.e. 121,004) was smaller than that reported in AFCD's management reports (i.e. 132,718 — see Table 2 in para. 2.3) mainly because some of the consignment inspections conducted by the Import and Export Division (e.g. inspections on transit consignments) would not be recorded in ESLES (see para. 4.18(a)).*

- (ii) for inspections conducted by ESPD, 3% of the inspections were without the inspection ratios recorded in ESLES; and
- (iii) in 40% of those ESPD inspections without inspection ratios recorded in ESLES, enforcement actions were subsequently taken and hence all the specimens were inspected before seizure (i.e. inspection ratio was 100%).

While noting AFCD's explanations, Audit considers that AFCD needs to take measures to ensure that inspection ratios for all consignment inspections (i.e. conducted by both ESPD and the Import and Export Division) are recorded in ESLES to facilitate management monitoring and review;

- (b) ***Inadequate guidelines on sampling.*** The operation manual of the Import and Export Division has stipulated the minimum inspection ratio to be adopted in a consignment inspection according to the weight or quantity of the specimen (see para. 2.5(a)). In contrast, no such detailed guidelines were stipulated in ESPD operation manual. Audit analysis of the 17,292 (17,765 less 473) consignment inspections (with inspection ratios recorded) conducted by ESPD revealed that the inspection ratios ranged from 0.5% to 100%. In 5,644 (33%) of the 17,292 inspections, the inspection ratios were less than 10%. Upon enquiry, AFCD in February and March 2021 informed Audit that for inspections conducted by ESPD, various inspection ratios were adopted for consignments in response to the different degrees of risk and types of scheduled species which varied with time. For example, a lower inspection ratio was set for low-risk homogeneous consignments (e.g. 5% inspection ratio for consignments of American ginsengs, cosmetics and caviar under normal circumstances) after an internal review conducted in October 2017. In Audit's view, AFCD needs to lay down detailed guidelines on inspection sampling in ESPD operation manual;
- (c) ***Delays in submitting inspection reports.*** As ESLES did not capture the submission dates of inspection reports, Audit selected 25 inspection reports prepared by ESPD inspection officers for examination. Audit found that for 9 (36%) reports, the inspection officers did not submit the reports within three working days following the inspections, contrary to the guidelines set out in ESPD operation manual (see para. 2.4(c)). For 3 of the 9 reports, the inspection officers submitted the inspection reports more than

30 working days after the inspections. Upon enquiry, AFCD in February 2021 informed Audit that more time was required for preparing some inspection reports involving a large quantity of information (e.g. with photographs of a large number of individual specimens). In Audit's view, AFCD should review and update as appropriate the time target in ESPD operation manual for submission of inspection reports and take measures to ensure compliance; and

- (d) ***Inadequate supervisory inspections.*** According to ESPD operation manual, supervisory inspections should be conducted for 5% of the consignment inspections each year (see para. 2.4(d)). As consignments will be released if no irregularity is found during inspections, supervisory inspections are conducted in the form of supervisor-accompanied inspections. According to AFCD records, supervisory inspections were conducted for 0.1% to 1.4% of ESPD's consignment inspections in each year from 2016 to 2020. In Audit's view, AFCD should take measures to ensure that adequate supervisory inspections are conducted in accordance with ESPD operation manual.

Need to review follow-up actions on expired licences

2.7 ***Follow-up actions on expired licences.*** According to PESAPO, on issuing any licence, the Director of Agriculture, Fisheries and Conservation may impose such conditions as he considers appropriate. Any breach of a licence condition is an offence and the licensee is liable on conviction to a maximum fine of \$50,000. For ILs, ELs and RLs, one of the licence conditions is that, on expiry, any unused licences should be returned to AFCD for cancellation. To keep track of the expired licences, ESPD operation manual requires that AFCD staff should:

- (a) at the beginning of each quarter, generate a list of expired ILs, ELs and RLs from ESLES. The list should be put on file;
- (b) issue letters to remind those licensees on the list to:
 - (i) return the unused licences;
 - (ii) provide documents to show that the licences have been used; or

- (iii) report that the licences are lost; and
- (c) update the records in ESLES upon receipt of the licensees' responses to the reminder letters.

2.8 ***Licensees not responding to reminder letters.*** Audit analysis of ESLES records revealed that, of 79,944 ILs, ELs and RLs issued from 2016 to 2020 (see Table 1 in para. 2.2), 13,394 (17%) had expired as at 31 December 2020 but the relevant licensees had not responded to the reminder letters issued by AFCD (see para. 2.7(b)) as at 31 January 2021. Audit analysis further revealed that the 13,394 expired licences were held by 498 licensees. The number of expired licences held by each licensee ranged from 1 to 2,279 (27 on average).

2.9 Upon enquiry, AFCD in December 2020, and January and March 2021 informed Audit that:

- (a) it was not necessary to generate the lists of expired ILs, ELs and RLs for issuing reminder letters as the information had already been recorded in ESLES;
- (b) in practice, only one reminder letter would be sent to the licensee for each expired licence; and
- (c) all issued licences carried effective dates on them and hence the licensees would not be able to use the expired licences.

Not returning an expired licence that had not been used to AFCD for cancellation is a breach of licence conditions. In Audit's view, there is a need for AFCD to review the objectives and effectiveness of the follow-up actions on expired licences, including the procedures for dealing with licensees not responding to AFCD's reminder letters on expired licences.

Audit recommendations

2.10 **Audit has *recommended* that the Director of Agriculture, Fisheries and Conservation should:**

- (a) **regarding the conduct of consignment inspections:**
 - (i) **take measures to ensure that inspection ratios for all consignment inspections are recorded in ESLES;**
 - (ii) **lay down detailed guidelines on inspection sampling in ESPD operation manual;**
 - (iii) **review and update as appropriate the time target in ESPD operation manual for submission of inspection reports and take measures to ensure compliance; and**
 - (iv) **take measures to ensure that adequate supervisory inspections are conducted in accordance with ESPD operation manual; and**
- (b) **review the objectives and effectiveness of the follow-up actions on expired ILs, ELs and RLs, including the procedures for dealing with licensees not responding to AFCD's reminder letters on expired licences.**

Response from the Government

2.11 The Director of Agriculture, Fisheries and Conservation generally agrees with the audit recommendations. He has said that:

- (a) AFCD is conducting a review on its operations in consignment inspections and the follow-up actions with the expired ILs, ELs and RLs. Detailed guidelines will be added or revised, where appropriate, after the review; and
- (b) AFCD has already started to record the inspection ratios of consignment inspections conducted by the Import and Export Division in ESLES.

Possession control

2.12 ***Licensing requirement.*** According to PESAPO, the possession of a specimen of an Appendix I species or a live specimen of wild origin of an Appendix II species (i.e. specimens requiring PLs) requires a PL issued in advance by AFCD (see para. 1.8(c)) unless it is exempted. A PL, which has a validity period of up to five years, is issued under three circumstances:

- (a) import of specimens requiring PLs;
- (b) renewal of existing PLs upon expiry; or
- (c) local transfer of specimens requiring PLs from a PL licensee to an applicant.

One PL is issued in respect of each keeping premises which may keep specimens of more than one scheduled species. On average, AFCD issued 126 PLs in each year from 2016 to 2020.

2.13 ***Inspections.*** According to ESPD operation manual, inspections to the keeping premises of specimens requiring PLs (see para. 1.11(b)(ii)) may be conducted upon new application, renewal or variation of PLs (e.g. amending the maximum quantity of a specimen to be held under a PL). The inspection officer's tasks mainly include checking the quantity of specimens present at the keeping premises against the maximum quantity allowed under the relevant PL. On average, AFCD conducted 148 inspections to keeping premises in each year from 2016 to 2020.

Need to follow laid-down procedures in processing PL applications

2.14 ***Procedures for processing new and renewal applications.*** Procedures for processing PL applications are laid down in ESPD operation manual, including the following requirements:

- (a) ***New applications.*** In inspecting the keeping premises of a new PL applicant, the inspection officer should check if the keeping facilities (e.g. bird cages and fish tanks) are suitable and have sufficient space to accommodate the intended licensed quantity of the specimens, in particular

if live animals are involved. The inspection report should include photographs and measurement of the keeping facilities; and

- (b) ***Renewal applications.*** Upon application of PL renewal, the applicant is required to submit a photocopy of the previous PL and transaction records, along with the application form. In addition, as a PL condition, a licensee should record the details of every transaction (e.g. the date and quantities of acquisition, use, sale or disposal, and the stock balance) of the licensed species on a prescribed form within three days of the completion of the transaction, and attach each and every supporting document with the form.

2.15 ***Areas for improvement.*** Audit selected 19 PL applications of 10 licensees for examination and identified the following areas for improvement:

- (a) in four new applications for possession of live specimens (e.g. humphead wrasse and birds), there was no record of measurement of the keeping facilities, contrary to the requirements in ESPD operation manual (see para. 2.14(a)); and
- (b) in one renewal application, AFCD approved the application despite that not every transaction was recorded on the prescribed form, contrary to the PL condition (see para. 2.14(b)).

In Audit's view, AFCD needs to take measures to ensure that the laid-down procedures in ESPD operation manual are followed in processing PL applications.

Need to review the procedures for inspecting premises with expired and un-renewed PLs

2.16 ***Guidelines for handling expired PLs.*** As a PL condition, a licensee may apply to renew the PL before it expires. If the licensee is still in possession of the specimens for commercial purpose, it is important to renew the PL because the specimens will be considered illegally possessed after the expiry of the PL. According to ESPD operation manual:

- (a) licensing officers should issue two reminder letters to the licensees before the expiry of the PLs. The first reminder letter is issued around two months before the expiry date. The second reminder letter is issued after one month if the licensee does not respond to the first reminder letter;
- (b) if the licensee does not respond to the second reminder letter, AFCD will assume that the licensee no longer possesses the specimens; and
- (c) inspection officers responsible for routine shop inspections (see paras. 1.11(b)(i) and 2.24) should generate a list of expired and un-renewed PLs from ESLES and give priority to the commercial premises on the list. If specimens requiring PLs are still found in the premises during inspections, the specimens will be seized and prosecution actions will be taken against the owner where appropriate.

2.17 ***Guidelines on inspections of commercial premises with expired and un-renewed PLs not followed.*** To ascertain whether the guidelines in paragraph 2.16(c) are complied with, Audit requested AFCD to provide the list of routine shop inspections conducted to commercial premises with expired and un-renewed PLs from 2016 to 2020. Upon enquiry, AFCD in February 2021 informed Audit that:

- (a) the inspection officers were no longer required to generate a list of premises with expired and un-renewed PLs for routine shop inspections as such inspections were conducted on a risk-based approach (i.e. irrespective of whether a shop had no PL, had a valid PL, or had an expired PL, it might be selected in the routine shop inspection); and
- (b) there were various reasons for a licensee not to renew the PL (e.g. closing of business or a shop ceasing to offer scheduled species for sale). Having an “expired PL” was not a high risk factor in illegal trade in scheduled species.

Audit considers that AFCD should review whether the current procedures for inspecting commercial premises with expired and un-renewed PLs effectively meet its licensing control objectives, and update ESPD operation manual if necessary.

Need to continue efforts in developing unique markings on specimens of scheduled species

2.18 *Requirements on unique markings on specimens.* Under the current licensing regime, except for elephant ivory (other than antique ivory), there is no mandatory requirement imposed by AFCD on unique markings on specimens subject to or exempt from the licensing requirement. From time to time, there are concerns from the public and some Members of the Legislative Council on the identification of scheduled species and possible laundering, i.e. laundering of illegal specimens into the market as licensed specimens or specimens exempt from licensing requirement (e.g. pre-Convention specimens — see para. 1.9(a)).

2.19 *Application of unique markings on specimens.* Currently, unique markings are adopted for a limited number of species. The tagging or labelling techniques currently adopted in Hong Kong include:

- (a) microchips for captive-bred Asian arowana as required by CITES;
- (b) holograms for elephant ivory other than antique ivory imposed by AFCD;
and
- (c) number tags for crocodilian skin as required by CITES.

2.20 *AFCD's efforts in pursuing new techniques for species identification.* In a meeting of the Inter-departmental Wildlife Crime Task Force (see para. 1.13) held in June 2019, AFCD reported that a facial-recognition programme was being pursued in collaboration with a local university for identifying individual humphead wrasse. According to AFCD, since individual humphead wrasse's facial pattern is unique (see Photographs 5 and 6 for two examples), such facial-recognition technique would be useful in monitoring local humphead wrasse trade to check if there is any laundering of the species from doubtful sources. An automatic comparison tool was being developed.

Photographs 5 and 6

Unique faces of two humphead wrasses

Photograph 5



Photograph 6



Source: AFCD records

2.21 In February 2021, AFCD informed Audit that:

- (a) the facial-recognition programme was a scientific research project solely funded by the local university. AFCD had been providing comments and technical inputs as a potential user; and
- (b) the facial-recognition programme comprised two main phases of development, with the first phase completed in 2020. The second phase of development was underway.

In Audit's view, apart from continuing the efforts to pursue the facial-recognition programme for humphead wrasse in collaboration with the local university, there is merit for AFCD to explore the need and feasibility of labelling or marking individual specimens of other commonly possessed scheduled species in Hong Kong, such as reptiles and amphibians, given that a number of such species (e.g. lizards and tortoises) have recently been included in CITES Appendix I after the meeting of the parties to CITES held in August 2019 (see para.1.4).

Audit recommendations

2.22 **Audit has *recommended* that the Director of Agriculture, Fisheries and Conservation should:**

- (a) **take measures to ensure that the laid-down procedures in ESPD operation manual are followed in processing PL applications;**
- (b) **review whether the current procedures for inspecting commercial premises with expired and un-renewed PLs effectively meet AFCD's licensing control objectives, and update ESPD operation manual if necessary;**
- (c) **continue the efforts to pursue the facial-recognition programme for humphead wrasse in collaboration with the local university; and**
- (d) **explore the need and feasibility of labelling or marking individual specimens of other commonly possessed scheduled species in Hong Kong.**

Response from the Government

2.23 The Director of Agriculture, Fisheries and Conservation generally agrees with the audit recommendations. He has said that:

- (a) apart from reminding AFCD staff of the operation procedures regarding possession control of scheduled species, AFCD is conducting a review on the existing practices with a view to updating ESPD operation manual; and
- (b) the efforts in applying the facial recognition technique to the control of trade in humphead wrasse are underway. AFCD will keep a close eye on possible labelling or marking methods to enhance the traceability of individual specimens of other commonly possessed scheduled species.

Shop inspections

2.24 According to AFCD, shop inspections are an important area of work to detect and deter possible violations of PESAPO. Shop inspections are conducted at retail outlets of various nature, such as wet market, aquarium, pet shop, flower shop, craft shop, and Chinese medicine shop (see para.1.11(b)(i)). In practice, there are two types of shop inspections, namely routine shop inspections and inspection-cum-education visits. Routine shop inspections mainly aim at detecting possible violations of PESAPO (e.g. possessing scheduled species for sale without the required licences). Inspection-cum-education visits serve an additional purpose to educate the shop owners regarding the provisions of PESAPO, particularly changes to the legislation. After a shop inspection, the inspection officer is required to submit an inspection report to his/her supervisor and update the records in ESLES.

Need to keep under review target number of shop inspections

2.25 *Number of shop inspections.* According to ESPD operation manual, in view of the large number of shops involved, shop inspections are conducted on a risk-based approach, with a target number of about 1,500 inspections annually. Table 3 shows the number of shop inspections conducted from 2016 to 2020.

Table 3
Number of shop inspections
(2016 to 2020)

Type of shop inspections	2016	2017	2018	2019	2020
	Number				
Routine shop inspection	1,483 (79%)	1,503 (53%)	1,684 (54%)	1,132 (44%)	376 (25%)
Inspection-cum-education visit	402 (21%)	1,319 (47%)	1,418 (46%)	1,426 (56%)	1,126 (75%)
Total	1,885 (100%)	2,822 (100%)	3,102 (100%)	2,558 (100%)	1,502 (100%)

Source: Audit analysis of AFCD records

Licensing and inspections

2.26 *Need to keep under review the target number for shop inspections.* Audit analysed the number of shop inspections conducted from 2016 to 2020 and found that:

- (a) from 2016 to 2019, the number of shop inspections each year ranged from 1,885 to 3,102 (2,592 on average), i.e. exceeding the annual target of 1,500 inspections by 26% to 107% (73% on average);
- (b) there was a decrease of 41% in the number of shop inspections from 2,558 in 2019 to 1,502 in 2020 due to the COVID-19 epidemic; and
- (c) there was a shift in the inspection focus from routine shop inspections to inspection-cum-education visits, as reflected by the decreasing percentage of routine shop inspections from 79% in 2016 to 25% in 2020 and the increasing percentage of inspection-cum-education visits from 21% to 75% in the same period.

While the actual number of inspections in each year from 2016 to 2020 had exceeded the annual target of 1,500, there was no documentary evidence showing that AFCD had reviewed the target number of shop inspections. In Audit's view, AFCD needs to keep under review the target number of routine shop inspections and inspection-cum-education visits laid down in ESPD operation manual to ensure that it is effective in enhancing performance. AFCD should also consider setting separate targets for the two types of inspections given their different nature and the shift in inspection focus.

Need to ensure that shop list is up-to-date

2.27 According to AFCD, a shop list is maintained in ESLES to facilitate the conduct of shop inspections. The shop list has been compiled by consolidating the shop information collected by AFCD staff and in licence applications. All premises, which keep or may keep scheduled species, encountered during shop inspections would be included in the list. The list should be updated when any premises is found to have commenced business or have ceased operation during shop inspections or licence applications. Audit selected some 150 shop inspection reports in 2017 for examination and found that 24 shops inspected were no longer in operation. However, 16 (67%) of the 24 shops were not yet removed from the shop list in ESLES as of December 2020. In Audit's view, AFCD needs to take measures to ensure that the shop list for shop inspection is up-to-date.

Need to conduct inspections to shops on the watch list of shops with irregularities

2.28 According to ESPD operation manual, a watch list of shops with irregularities identified in any inspection conducted in the past two years should be maintained. The shops on the watch list are considered high-risk and should be inspected twice a year. Upon enquiry, AFCD in December 2020 informed Audit that it had not maintained the watch list of shops with irregularities prior to October 2020. After an internal review in October 2020, AFCD decided to reinstate the requirement of maintaining the watch list. In Audit's view, AFCD should continue to conduct inspections to the shops on the watch list of shops with irregularities in accordance with ESPD operation manual.

Need to lay down guidelines on follow-up actions for shops found closed at the time of inspection

2.29 Audit examined ESPD operation manual and found that there were no laid-down guidelines on the follow-up actions that should be taken in case a shop was found closed at the time of inspection (e.g. conducting a re-inspection subsequently). Audit analysis of ESLES records on the shop inspections conducted from 2016 to 2020 revealed that 663 shops were found closed at the time of inspection. Among the 663 shops, re-inspections were conducted to 493 (74%) shops subsequently but not the other 170 (26%) shops. In Audit's view, AFCD should lay down guidelines on the follow-up actions that should be taken when a shop is found closed at the time of inspection (e.g. conducting a re-inspection within a specific timeframe).

Room for improvement in preparing and submitting inspection reports

2.30 ***Guidelines in ESPD operation manual.*** According to ESPD operation manual:

- (a) an inspection officer is required to use an inspection report template to record his/her findings during an inspection. Among other information, the inspection officer should record whether any irregularity is found and provide details of the irregularity found during an inspection; and

- (b) on or before the next working day of the inspection, the inspection officer should submit to the supervisor the inspection report for premises with irregularities detected and requiring follow-up actions.

2.31 ***Areas for improvement.*** Audit examination has revealed the following areas for improvement:

- (a) ***Irregularities not accurately recorded.*** In Audit's view, it is important to accurately record in the inspection report whether or not an irregularity is found during a shop inspection because such information would be updated in ESLES for the compilation of management information (e.g. for preparation of the watch list of shops with irregularities (see para. 2.28)). Audit analysed ESLES records on the shop inspections conducted from 2016 to 2020 and noted that verbal warnings were given to the relevant shopkeepers in 25 shop inspections. However, in 4 (16%) of the 25 inspections, the inspection officers incorrectly indicated in the inspection reports that no irregularity was found; and
- (b) ***Delays in submitting inspection reports.*** Audit analysed ESLES records on the shop inspections conducted from 2016 to 2020 and noted that irregularities were reported to have been detected in 93 inspections. Audit found that in 54 (58%) of the 93 inspections, inspection reports were not submitted on or before the next working day of the inspection, contrary to the guidelines in ESPD operation manual (see para. 2.30(b)). The inspection reports were submitted 2 to 11 working days (4 working days on average) after the inspections.

In Audit's view, AFCD needs to remind its inspection officers to accurately record irregularities identified during shop inspections in inspection reports and timely submit inspection reports in accordance with ESPD operation manual.

Need to conduct supervisory checks as required

2.32 According to ESPD operation manual, supervisory check should be conducted for 5% of the shop inspections conducted each year. Supervisory checks are conducted in the form of supervisory re-inspections on the shops inspected. Upon enquiry, AFCD in December 2020 and February 2021 informed Audit that:

- (a) due to manpower deployment, supervisory re-inspections had not been conducted previously; and
- (b) after an internal review in October 2020, supervisory re-inspections resumed in December 2020.

In Audit's view, AFCD needs to take measures to ensure that supervisory re-inspections are conducted in accordance with ESPD operation manual.

Audit recommendations

2.33 Audit has *recommended* that the Director of Agriculture, Fisheries and Conservation should:

- (a) **keep under review the target number of routine shop inspections and inspection-cum-education visits laid down in ESPD operation manual, and consider setting separate targets for the two types of inspections;**
- (b) **take measures to ensure that the shop list for shop inspection is up-to-date;**
- (c) **continue to conduct inspections to the shops on the watch list of shops with irregularities in accordance with ESPD operation manual;**
- (d) **lay down guidelines on the follow-up actions that should be taken when a shop is found closed at the time of inspection;**
- (e) **remind the inspection officers to:**
 - (i) **accurately record irregularities identified during shop inspections in inspection reports; and**
 - (ii) **timely submit inspection reports in accordance with ESPD operation manual; and**

- (f) **take measures to ensure that supervisory re-inspections are conducted in accordance with ESPD operation manual.**

Response from the Government

2.34 The Director of Agriculture, Fisheries and Conservation generally agrees with the audit recommendations. He has said that:

- (a) AFCD has set separate targets for routine shop inspections and inspection-cum-education visits. Such targets will not be set out in ESPD operation manual but will be reviewed annually when formulating the annual inspection plan at the beginning of each year;
- (b) AFCD is reviewing the overall practice of shop inspections and the guidelines in ESPD operation manual to ensure that there is sufficient guidance; and
- (c) supervisory checks regarding shop inspections have been enhanced to ensure compliance with laid-down procedures and AFCD is exploring the possibility of enhancing ESLES to assist supervisory checks.

PART 3: INVESTIGATION AND PROSECUTION

3.1 This PART examines AFCD's work in investigation and prosecution of alleged contravention of PESAPO, focusing on the following areas:

- (a) monitoring of cases under investigation and prosecution (paras. 3.2 to 3.10);
- (b) identification of scheduled species (paras. 3.11 to 3.17); and
- (c) receiving intelligence reports (paras. 3.18 to 3.25).

Monitoring of cases under investigation and prosecution

3.2 AFCD conducts investigation on alleged cases in contravention of PESAPO and takes prosecution actions as appropriate. Investigation work may involve preliminary evidence collection (including identification of species), site inspection, search operation, interview, taking caution statement, arrest and seizure of specimens. Upon completion of an investigation:

- (a) if there is sufficient evidence, AFCD will instigate prosecution as appropriate; and
- (b) if prosecution is not instigated or no person is convicted after prosecution, AFCD:
 - (i) may apply for court orders for forfeiture of seized specimens to the Government (see para. 1.15(b)(ii)); and
 - (ii) will take no further action for cases without specimens seized.

In 2020, AFCD commenced investigation in 410 cases and instigated prosecution in 25 cases. There were 359 cases with seizure of scheduled species and 45 cases of conviction in the same year.

Need to enhance management information on cases under investigation and prosecution

3.3 In January 2021, AFCD provided Audit with a database of alleged cases in contravention of PESAPO opened for investigation from 2010 to 2020 (up to November) based on ESLES (see para. 2.2) records. According to the database, 6,126 cases were opened for investigation in the period and as at 30 November 2020, 327 of the 6,126 cases were remarked as under investigation and prosecution (Note 22). Of these 327 cases:

- (a) the date of offence was not recorded in 4 cases (Note 23); and
- (b) the dates of offence of the remaining 323 cases were between November 2010 and November 2020. Table 4 shows the ageing analysis of these cases as at 30 November 2020.

Note 22: *For these 327 cases, no information was readily available from ESLES showing the breakdown into number of cases under investigation and that under prosecution.*

Note 23: *In February 2021, AFCD informed Audit that regarding these 4 cases:*

- (a) *for 2 cases, the dates of offence were not available when the database was provided to Audit as they involved offences in October 2020. AFCD had subsequently updated the records in ESLES;*
- (b) *1 case involved abandoned specimens found with no information on the date of offence. AFCD would apply for a court order for forfeiture of the specimens to the Government (see para. 1.15(b)(ii)); and*
- (c) *1 case involved no seizure of specimens and no further action was required.*

Table 4

**Ageing analysis of 323 cases under investigation and prosecution
(30 November 2020)**

Time elapsed from date of offence	Number of cases under investigation and prosecution
6 months or less	79 (24%)
More than 6 months to 1 year	29 (9%)
More than 1 year to 5 years	184 (57%)
More than 5 years	31 (10%)
Total	323 (100%)

Source: Audit analysis of AFCD records

3.4 Audit selected 20 of the 323 cases for further examination and found that:

- (a) in 3 cases, the dates of offence were between January 2012 and August 2016, and AFCD could not provide the case files for Audit examination. In February 2021, AFCD informed Audit that it had checked the available information that the investigation of the 3 cases had been completed and no prosecution was instigated;
- (b) in 15 cases, investigation and/or prosecution had been completed. However, AFCD was yet to take the required follow-up actions (e.g. warning letter not yet issued and/or court order for forfeiture of seized specimens not yet applied for). Case 1 is an example; and
- (c) in 2 cases, AFCD had completed investigation and/or prosecution and no further action was required. However, ESLES records had not been updated.

Case 1

Follow-up actions not taken after investigation and/or prosecution (February 2014 to November 2020)

1. In February 2014, an alleged case of illegal import of specimens of scheduled species in contravention of PESAPO was referred to AFCD. The case involved the import of 0.9 kilogram of specimens of an Appendix II species in a parcel. The specimen was seized in accordance with PESAPO.

2. Due to inadequate evidence showing that the recipient had caused the import, in March 2014, AFCD decided not to instigate prosecution, but to:

- (a) issue a warning letter to the parcel recipient reminding him of the need to comply with the requirements under PESAPO for trade in scheduled species;
- (b) request the recipient to sign a surrender form to surrender the specimens to the Government; and
- (c) apply for a court order for forfeiture of the specimens to the Government if the recipient did not surrender the specimens as requested in (b) above.

3. In June 2014, due to perishable nature of the specimens, with the approval of the Director of Agriculture, Fisheries and Conservation, the specimens were disposed of by dumping (see para. 1.15(c)) and the follow-up actions mentioned in paragraph 2(b) and (c) above were no longer necessary. However, up to 30 November 2020, the required follow-up action mentioned in paragraph 2(a) above (i.e. issuing a warning letter to the parcel recipient) had not yet been taken.

Audit comments

4. According to ESLES records as at 30 November 2020 (see para. 3.3), the case was still under investigation and prosecution. In fact, AFCD had already completed investigation on the case and decided not to instigate any prosecution in 2014 but had not taken the required follow-up action (i.e. issuing a warning letter) and had not updated ESLES records after a lapse of six years.

Source: Audit analysis of AFCD records

3.5 According to the Magistrates Ordinance (Cap. 227), prosecution action should be taken within six months from the date of offence (i.e. time-barred after six months — Note 24). Since separate information on the number of cases under investigation and that under prosecution were not readily available from ESLES (see Note 22 to para. 3.3), the number of time-barred cases, if any, could not be readily ascertained from ESLES. Audit considers that AFCD needs to review the status of all cases remarked as under investigation and prosecution in ESLES (see para. 3.3) and where appropriate, instigate prompt prosecution before the cases are time-barred and take prompt follow-up actions (e.g. applying for court orders for forfeiture of specimens and issuing warning letters) on cases with no prosecution instigated. AFCD also needs to take measures to ensure that all case files for cases under investigation and prosecution are kept properly and case records in ESLES are properly updated to facilitate monitoring of outstanding cases and taking follow-up actions (e.g. prosecution) promptly. Furthermore, AFCD needs to consider enhancing ESLES to record cases under investigation and those under prosecution separately for better case monitoring.

Need to closely monitor cases pending application for court orders for forfeiture of specimens to the Government

3.6 If a specimen of scheduled species is seized and no person is convicted of an offence under PESAPO or the owner of the seized specimen is unknown or cannot be found, AFCD may apply for a court order to forfeit the seized specimen to the Government (see para. 1.15(b)(ii)). Audit analysis of the database provided by AFCD on the 6,126 cases opened for investigation from 2010 to 2020 (up to November) (see para. 3.3) revealed that as at 30 November 2020:

- (a) 601 cases were remarked as pending application for court orders for forfeiture of the seized specimens;
- (b) the date of offence was not recorded in 2 of the 601 cases. In February 2021, AFCD informed Audit that as only abandoned specimens

Note 24: *According to the Magistrates Ordinance, in any case of an offence, other than an indictable offence, where no time is limited by any enactment for making any complaint or laying any information in respect of such offence, such complaint shall be made or such information laid within six months from the time when the matter of such complaint or information respectively arose.*

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were involved in the cases, there was no information on the date of offence;
and

- (c) the time elapsed from the date of offence was more than 1 year for 566 (94%) of the remaining 599 (601 less 2) cases (see Table 5).

Table 5

**Time elapsed from the date of offence of the 599 cases
pending application for court orders
(30 November 2020)**

Time elapsed from date of offence	Number of cases pending application for court orders	
6 months or less	10 (2%)	
More than 6 months to 1 year	23 (4%)	
More than 1 year to 5 years	354 (59%)	566 (94%)
More than 5 years	212 (35%)	
Total	599 (100%)	

Source: Audit analysis of AFCD records

3.7 AFCD has not laid down guidelines on the timeframe for applying for court orders for forfeiture of seized specimens to the Government. As shown in Table 5 in paragraph 3.6, in 566 (94%) cases, while the time elapsed from the date of offence was more than 1 year, AFCD was yet to apply for the court orders. Audit selected 20 cases of these 566 cases for further checking in ESLES and noted that in 9 cases, the specimens had already been disposed of by exercising the Director of Agriculture, Fisheries and Conservation's authority in disposal of specimens under PESAPO (see para. 1.15(c)).

3.8 Audit considers that AFCD needs to review all cases remarked as pending application for court orders in ESLES to ascertain whether a court order is required for the disposal of the seized specimens in each case and take prompt actions to apply for the orders as appropriate. AFCD also needs to consider setting a timeframe for applying for court orders for forfeiture of seized specimens to the Government in future and take measures to ensure that case records in ESLES are properly updated to facilitate monitoring of outstanding cases and taking follow-up actions (e.g. court order application) promptly.

Audit recommendations

3.9 Audit has *recommended* that the Director of Agriculture, Fisheries and Conservation should:

- (a) **review the status of all cases remarked as under investigation and prosecution in ESLES, and:**
 - (i) **where appropriate instigate prompt prosecution before the cases are time-barred; and**
 - (ii) **take prompt follow-up actions (e.g. applying for court orders for forfeiture of specimens and issuing warning letters) on cases with no prosecution instigated;**
- (b) **take measures to ensure that all case files for cases under investigation and prosecution are kept properly;**
- (c) **consider enhancing ESLES to record cases under investigation and those under prosecution separately for better case monitoring;**
- (d) **review all cases remarked as pending application for court orders in ESLES to ascertain whether a court order is required for the disposal of the seized specimens in each case and take prompt actions to apply for the orders as appropriate;**
- (e) **consider setting a timeframe for applying for court orders for forfeiture of seized specimens to the Government in future; and**

Investigation and prosecution

- (f) take measures to ensure that case records in ESLES are properly updated to facilitate monitoring of outstanding cases and taking follow-up actions (e.g. prosecution and court order application) promptly.

Response from the Government

3.10 The Director of Agriculture, Fisheries and Conservation generally agrees with the audit recommendations. He has said that:

- (a) AFCD is conducting a review on all cases remarked as under investigation and prosecution, and pending application for court orders; and
- (b) while AFCD is currently making use of a register to monitor the progress of enforcement cases, it is also exploring the possibility of enhancing the relevant computer systems to assist the monitoring and updating of the progress of the cases.

Identification of scheduled species

3.11 An enforcement officer can only seize a specimen under PESAPO if the officer reasonably suspects that it is a specimen of a scheduled species, and its import, introduction from the sea, export, re-export or possession is in contravention of PESAPO (see para. 1.15(a)). Effective identification of scheduled species is essential for taking prompt enforcement actions.

Need to continue efforts in exploring technology for quick identification of scheduled species

3.12 *Current species identification practice.* According to AFCD, frontline enforcement officers will conduct preliminary identification on suspected specimens of scheduled species based on the morphological characteristics (i.e. the form, shape and structure) of the specimens. Upon preliminary identification, the specimens will be sent to a suitable place (e.g. AFCD headquarters) for confirmation of identity by designated officers of ESPD. Where necessary and applicable, specimens that could not be identified readily by the designated ESPD officers will be sent to a laboratory

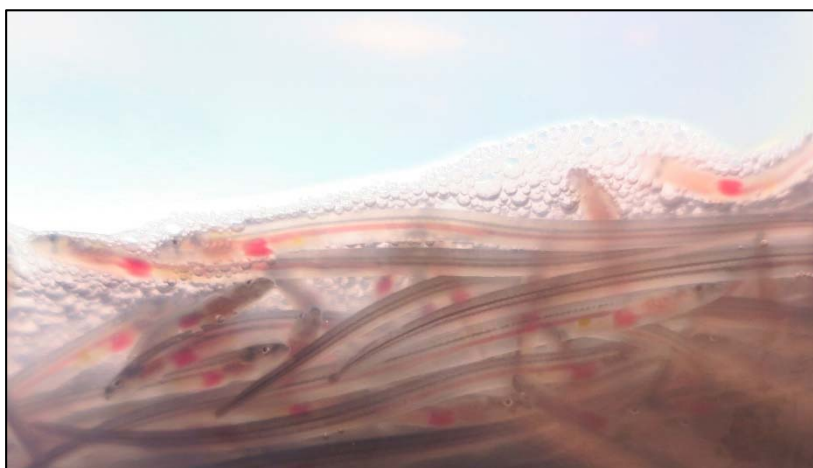
for further tests on deoxyribonucleic acid (DNA). However, the results of laboratory tests are usually available only after one to two weeks.

3.13 ***Use of DNA test technology.*** A DNA test technology, namely real-time polymerase chain reaction has been developed for species identification for a few specific scheduled species where identification based on morphological characteristics of the specimens is not possible. If the DNA of a specimen matches with that of the specific scheduled species, the specimen will be seized for further investigation (Note 25). According to AFCD, real-time polymerase chain reaction technology is applicable to:

- (a) ***European eel (Appendix II species).*** Live European eel is usually intercepted while in glass eel stage (see Photograph 7), in which case no specific morphological features could be relied on for identification; and

Photograph 7

European eel in glass eel stage (Appendix II species)



Source: AFCD records

Note 25: *According to AFCD, real-time polymerase chain reaction is a quick DNA test. The test result will be available in four to five hours. AFCD could rely on the result to seize the specimen. However, the test result from real-time polymerase chain reaction is not an admissible evidence by the court. Conventional DNA test at laboratory will still be required for prosecution.*

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- (b) *Fins of some sharks (Appendix II species).* Fins of some sharks in Appendix II (see Photograph 8 for an example) look similar to those of other non-scheduled shark species. Real-time polymerase chain reaction technology has been deployed to assist identification.

Photograph 8

Shark fins (shark of an Appendix II species)



Source: AFCD records

3.14 In February 2021, AFCD informed Audit that:

- (a) it had been working with experts in the field to apply the real-time polymerase chain reaction technology to shark species newly included in CITES Appendix II in 2019. The testing of two newly listed shark species was almost ready for use; and
- (b) it was also working with the experts on applying the technology to CITES-listed rays (a group of cartilaginous fishes).

3.15 According to AFCD, while there was no time limit set for identification of scheduled species, in view of the rapid cargo and passenger movement in Hong Kong, it often had to determine the identity of the specimens suspected to be of a scheduled species for prompt seizure under PESAPO within half a day. In view of this, AFCD should continue the efforts in exploring technology for quick identification of scheduled species that cannot be readily identified by morphology and keep in view

the development of new technologies in identification of scheduled species with a view to further enhancing its enforcement work.

Audit recommendations

3.16 Audit has *recommended* that the Director of Agriculture, Fisheries and Conservation should:

- (a) continue the efforts in exploring technology for quick identification of scheduled species that cannot be readily identified by morphology; and**
- (b) keep in view the development of new technologies in identification of scheduled species with a view to further enhancing AFCD's enforcement work.**

Response from the Government

3.17 The Director of Agriculture, Fisheries and Conservation generally agrees with the audit recommendations. He has said that AFCD has all along been keeping in view the development of new technologies in identification of scheduled species that could not be readily identified by morphology. Some of the examples are the use of novel technology for quick identification of scheduled species of European eel in glass eel stage and shark fins which are the first applications of their kind in the world.

Receiving intelligence reports

3.18 From time to time, AFCD receives intelligence reports from various sources on alleged cases in contravention of PESAPO. Sources of the reports include the general public, registered informers under the reward scheme (see para. 1.14), government bureaux/departments, non-governmental organisations (NGOs) and overseas agencies (e.g. CITES Management Authorities).

Need to keep under review the number of intelligence reports received

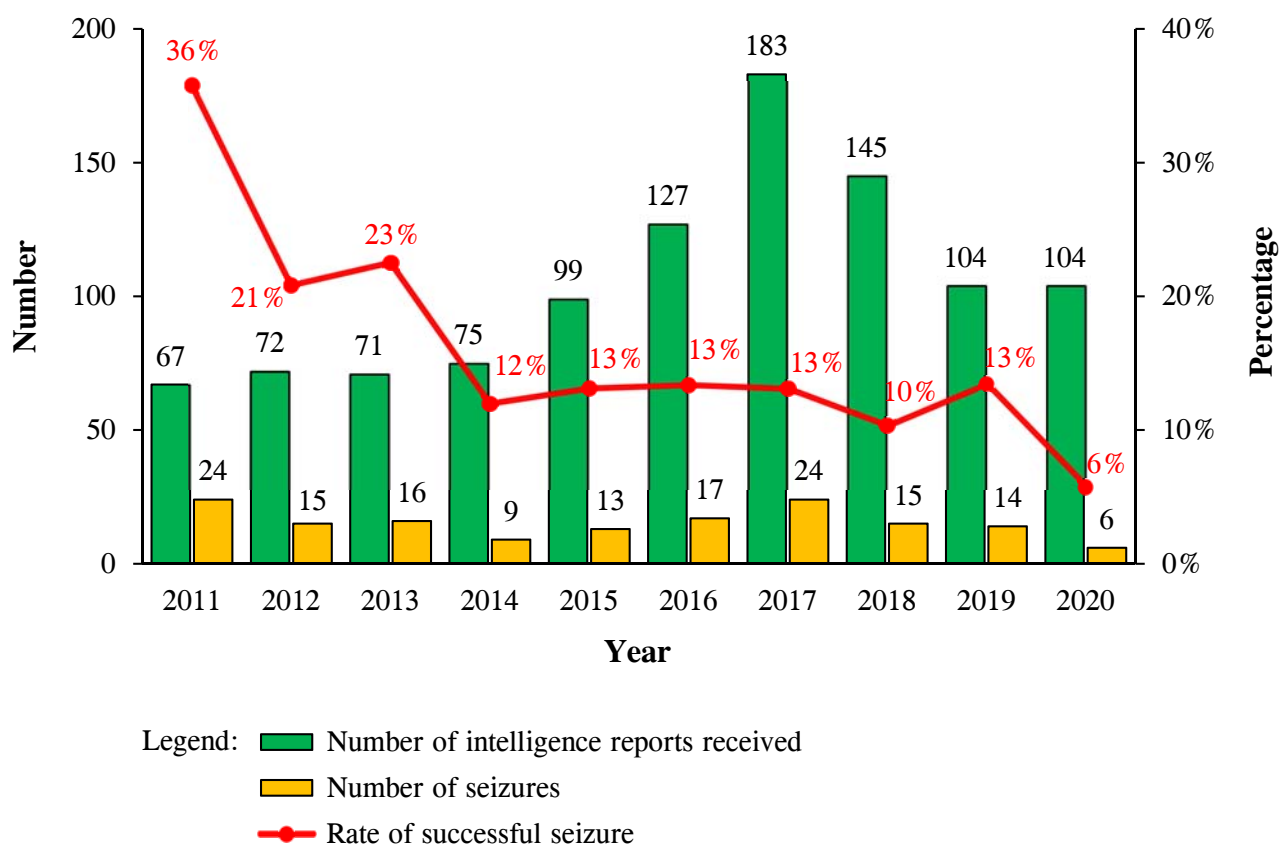
3.19 For the period 2011 to 2020, AFCD received a total of 1,047 intelligence reports. The majority of the intelligence reports (91%) were from the general public (63%) and registered informers under the reward scheme (28%). Audit noted that:

- (a) the number of intelligence reports received increased from 67 in 2011 to 183 in 2017, and then decreased to 104 in 2020; and
- (b) the rate of successful seizure (measured as the number of seizures as a percentage of the number of intelligence reports received) ranged from 6% to 36% from 2011 to 2020.

Figure 1 shows the number of intelligence reports received, number of seizures and the rate of successful seizure from 2011 to 2020.

Figure 1

**Number of intelligence reports received, number of seizures
and rate of successful seizure
(2011 to 2020)**



Source: Audit analysis of AFCD records

3.20 Audit analysis of AFCD records revealed that from 2016 to 2020, 13% to 30% of investigation cases were initiated based on intelligence reports. In light of the decreasing number of intelligence reports received in recent years, Audit considers that there is merit for AFCD to keep under review the number of intelligence reports received and explore measures to encourage more intelligence reports.

Need to consider conducting a review on the reward scheme

3.21 An individual (Note 26) who would like to provide information in respect of scheduled species could register with AFCD as an informer under the reward scheme (see para. 1.14). An interested person is required to register with AFCD his/her background information for vetting. Upon approval by AFCD, a code name and number will be assigned to the registered informer. The background of the registered informer and the information provided by the informer are kept in strict confidence.

3.22 Audit examined the records of the reward scheme for the period 2011 to 2020 and noted the following:

- (a) ***Small number of intelligence reports from registered informers.*** From 2011 to 2020, 16 to 54 (averaging 29) intelligence reports were received from registered informers each year, accounting for 20% to 40% of all intelligence reports received;
- (b) ***Reward levels not revised for more than 20 years.*** The level of reward for cases leading to conviction was set in 1999 and had not been revised since then. For cases leading to successful seizure, the reward was based on the estimated market value of seized specimens. Audit examined the list of scheduled species commonly traded in the market maintained by AFCD and noted that the last revision to their estimated market values was made in 2002; and
- (c) ***Areas for improvement in reward calculation.*** According to the list of estimated market values of scheduled species, different market values have been set for different stages of life cycle of some species (e.g. adult or juvenile stage) and different forms of some specimens (e.g. whole piece, scrap or carved). Audit examined 10 cases with rewards calculated based on the list of estimated market values and noted that in 7 cases the rewards had been calculated based on the stage of life cycle of the seized specimen. However, in each of the 7 cases, the responsible officer did not document the bases for supporting the assessment on the stage of life cycle of the

Note 26: *According to AFCD, officials and paid staff of the Government and conservation-related NGOs are not entitled to any reward under the reward scheme.*

seized specimens (e.g. determining a specimen was in adult/juvenile stage according to its length, size or other biological characteristics).

3.23 The reward scheme was established in 1999 and AFCD has not conducted any review on the scheme since its establishment. In view of the Audit findings in paragraph 3.22, Audit considers that there is merit for AFCD to conduct a review on the reward scheme to evaluate its effectiveness and identify measures to improve the operation and attractiveness of the scheme.

Audit recommendations

3.24 Audit has *recommended* that the Director of Agriculture, Fisheries and Conservation should:

- (a) **keep under review the number of intelligence reports received and explore measures to encourage more intelligence reports; and**
- (b) **consider conducting a review on the reward scheme to evaluate its effectiveness and identify measures to improve the operation and attractiveness of the scheme.**

Response from the Government

3.25 The Director of Agriculture, Fisheries and Conservation generally agrees with the audit recommendations. He has said that AFCD is conducting a review on the reward scheme to enhance its operation.

PART 4: OTHER RELATED ISSUES

4.1 This PART examines other issues relating to the control of trade in scheduled species by AFCD, focusing on the following areas:

- (a) custody and disposal of specimens (paras. 4.2 to 4.16);
- (b) Endangered Species Licensing and Enforcement System (paras. 4.17 to 4.20);
- (c) provision of training to frontline enforcement officers (paras. 4.21 to 4.24);
and
- (d) publicity and education programmes (paras. 4.25 to 4.29).

Custody and disposal of specimens

4.2 *Custody of specimens.* Specimens of scheduled species seized during enforcement of PESAPO are kept under AFCD's custody. Specimens of scheduled species may also come under the custody of AFCD for other reasons (e.g. animals abandoned by owners and stray animals). According to ESPD operation manual:

- (a) live specimens are sent to appropriate care centres for temporary holding and care, as follows:
 - (i) live animals are sent to AFCD Animal Management Centres (Note 27);
 - (ii) live plants are sent to AFCD plant nursery; and

Note 27: *There are four Animal Management Centres located in different regions: one on the Hong Kong Island, and three in Kowloon, New Territories South and New Territories North respectively. Apart from live animals of scheduled species seized under PESAPO, the Animal Management Centres also handle stray animals, animals abandoned by owners, animals seized during enforcement of other ordinances, animals which have bitten a person and need to be observed in accordance with relevant ordinances, and animals under import quarantine.*

- (iii) under some circumstances, live specimens may also be sent to other appropriate NGOs with more suitable facilities.

Photograph 9 shows an example of a seized live animal kept in an AFCD Animal Management Centre; and

Photograph 9

**Example of a seized live animal kept in
an AFCD Animal Management Centre**



Source: AFCD records

- (b) dead specimens (including parts and derivatives) are kept in AFCD stores in office or off-site stores. For example, perishable dead specimens are kept in freezers in AFCD office or appropriate cold stores. Non-perishable dead specimens are kept in storerooms in AFCD office or off-site stores (depending on size and amount). Photograph 10 shows an example of seized timber kept in an off-site store.

Photograph 10

**Example of seized timber
kept in an off-site store**



Source: AFCD records

4.3 ***Disposal of specimens.*** AFCD may dispose of specimens of scheduled species seized and forfeited to the Government under PESAPO (see para. 1.15(c)) or surrendered by the owner to the Government (Note 28). According to ESPD operation manual (Note 29):

- (a) for live specimens, AFCD may:
 - (i) release the live animal locally to a suitable habitat subject to advice of veterinary officer that the animal is disease-free and fit for release;

Note 28: *Under some circumstances, owners of specimens of scheduled species may surrender the specimens to the Government (e.g. the recipient of parcel/consignment who did not cause the posting/shipment of the specimens, and the owner of live pet animals of scheduled species).*

Note 29: *According to AFCD, the guidelines for disposal of specimens of scheduled species in ESPD operation manual were prepared in accordance with CITES requirements.*

- (ii) return the live plant/animal to its country of export/origin or range state (Note 30) after consulting the relevant CITES Management Authority, and in case of live animals, subject to advice of veterinary officer that the animal is fit to travel;
 - (iii) keep the live plant/animal in captivity or send the plant/animal to a local or overseas captive facility (e.g. zoo, rescue centre and botanic garden) with suitable holding and caring facilities and personnel to keep the specimens for non-commercial purposes; and
 - (iv) euthanise the live animal if it is likely to die or be subject to unnecessary suffering for keeping it in captivity;
- (b) for dead specimens, AFCD may:
- (i) retain the specimens for education, publicity or training purposes;
 - (ii) donate the specimens to suitable organisations (including overseas organisations) for education or training purposes; and
 - (iii) dispose of the specimens in landfills or by other methods of destruction (e.g. incineration) as appropriate; and
- (c) every effort should be made in providing an acceptable holding facility and caring to any live specimens of Appendix I species, taking a balance between the potential conservation value of the species if kept alive in captivity and the level of care that can be provided.

***Need to review record keeping requirements
for specimens held and ready for disposal***

4.4 ***Records relating to specimens held.*** According to AFCD, information on specimens under AFCD's custody including the quantity, type, location and status

Note 30: *Under CITES, a range state is a state whose territory is within the natural range of distribution of a species.*

Other related issues

(e.g. whether it is forfeited to the Government) of specimens is kept in ESLES under individual cases. According to ESPD operation manual:

- (a) for live specimens:
 - (i) the responsible officer should keep a list of specimens held and keep in view the situation until the specimens are forfeited to the Government and prepare a list of specimens ready for disposal monthly; and
 - (ii) disposal exercise should be arranged every two months. The list of specimens ready for disposal should be forwarded to all potential recipients for expression of interest in receiving the specimens; and
- (b) for dead specimens:
 - (i) the responsible officer should prepare a summary on the quantities and types of specimens available for dumping; and
 - (ii) dumping exercise should be conducted every two months to remove those surplus specimens which are not suitable for donation or unlikely to find any recipients.

4.5 In February 2021, AFCD informed Audit that:

- (a) for live specimens, the responsible officer prepared the list of specimens held according to monthly returns submitted by care centres (see para. 4.6(a)(ii)). The list also served as a list of specimens ready for disposal (i.e. no separate list of specimens ready for disposal was prepared). Disposal exercises were conducted as needed (i.e. not regularly) and potential recipients were contacted as appropriate; and
- (b) for dead specimens, the responsible officer kept a summary on the quantities and types of specimens held. The summary was updated when an investigation and/or prosecution was completed and the seized specimens were ready for disposal. Dumping exercises were conducted as needed (i.e. not regularly).

Audit noted AFCD's current practice in keeping records of specimens held and ready for disposal. Audit considers that AFCD needs to review its record keeping requirements for specimens held and ready for disposal to assess whether the current practice effectively meets the requirements and update ESPD operation manual if necessary.

Need to maintain proper records on inspections of live specimens held and review stocktaking arrangements

4.6 ***Requirements on proper care of specimens held.*** Proper care shall be taken in handling specimens of scheduled species to ensure their safe custody. According to ESPD operation manual:

- (a) for live specimens:
 - (i) the responsible staff should arrange inspections of the animals and plants held in the care centres as well as the holding facilities whenever possible to ensure that proper care is provided; and
 - (ii) the care centres should provide monthly returns on the overall conditions (i.e. including the quantity) of the animals and plants under their custody; and
- (b) for dead specimens, an officer, independent of any procedures of handling seizures, should be appointed to conduct an annual stocktaking of the seized specimens. Results of the stocktaking should be reported to senior staff.

4.7 In February 2021, AFCD informed Audit that:

- (a) it conducted inspections to one of the care centres from time to time (as the care centre was also a keeping premises under PLs and exemption certificates). For other centres, whenever AFCD visited the centres for handling/taking over of specimens, it would take the opportunity to observe the animals and facilities;
- (b) the care centres submitted monthly returns to AFCD on the overall conditions of the animals and plants under their custody; and

- (c) the last stocktaking exercise on dead specimens was conducted in 2013. The exercise involved a random check on dead specimens in the storeroom in AFCD office. The annual stocktaking as required in ESPD operation manual was suspended due to manpower deployment.

Regarding live specimens, Audit noted that proper records had not been maintained for the inspections to most care centres (other than the inspections conducted under PLs and exemption certificates to one care centre). Regarding dead specimens, while noting the difficulties encountered by AFCD in conducting the annual stocktaking due to manpower deployment, Audit considers that AFCD should review whether its current stocktaking arrangements effectively meet the objective of ensuring proper custody of specimens and update as appropriate the relevant requirements in ESPD operation manual.

Need to continue to explore ways to dispose of forfeited timber

4.8 *Consultation with the Endangered Species Advisory Committee.* In December 2017, AFCD consulted the Endangered Species Advisory Committee (see para. 1.7) on various options to dispose of some 1,200 tonnes of timber seized and forfeited under PESAPO. According to a discussion paper of the Committee of November 2017, the possible disposal options included:

- (a) *Return to the state of export.* Return to the state of export was only feasible if the government of the state of export was strictly managed to avoid the returned specimens from re-entering the illegal market (Note 31). However, this option was often not feasible;
- (b) *Sale by auction.* Sale by auction of the forfeited timber might not fully comply with CITES provisions that the trade in the timber would not be detrimental to the survival of the species in the wild. There were also concerns that the timber stock might re-enter the commercial market and illegal trade might be further stimulated;

Note 31: *According to CITES guidelines, the disposal of dead specimens of Appendix I species is restricted for scientific, educational, enforcement or identification purposes. The disposal of dead specimens of Appendix II and Appendix III species should be in the best manner possible to achieve the purposes of CITES, and such disposal should not stimulate further illegal trade.*

- (c) ***Non-commercial uses.*** Possible non-commercial uses of the timber had been explored. Such uses might include using them as building materials for country park facilities, restoration of historical buildings, and production of musical instruments. However, the uses were highly selective depending on the properties and conditions of the timber specimens and whether there was a chance for the products re-entering the illegal market. It was estimated that about 4% of the total forfeited timber could be disposed of through this option; and
- (d) ***Destruction.*** Destruction was the last resort of disposal when other options were considered not feasible. This option avoided further illegal activities of the forfeited timber and could ensure that no financial or other gains would be received by the person responsible for the offence. It would also deliver a clear message to the local and international community that Hong Kong would not tolerate smuggling and illegal trading of scheduled species. Considering the large quantity of carbon dioxide emission if the timber was incinerated, dumping in landfills would be the only feasible destruction method.

4.9 ***Disposal options reported in 2019.*** In February and November 2019 (Note 32), AFCD informed the Endangered Species Advisory Committee that:

- (a) given the considerable cost of storage and likelihood of further accumulation of forfeited timber, AFCD took the view that the timber should be disposed of quickly; and
- (b) AFCD had been actively exploring ways of disposal in accordance with CITES disposal guidelines. Some of the forfeited timber had been donated for non-commercial uses such as construction, facilities enhancement, education and scientific research. AFCD would continue to identify suitable government departments and organisations for donating the timber.

4.10 ***Latest progress on disposal of forfeited timber.*** Upon enquiry, AFCD in January and February 2021 informed Audit that:

Note 32: *According to AFCD, no meeting had been held for the Endangered Species Advisory Committee since December 2019 due to the COVID-19 epidemic.*

Other related issues

- (a) as at 31 December 2020, AFCD was keeping some 913 tonnes of forfeited timber in storage containers;
- (b) from 2017 to 2020, 258 tonnes of forfeited timber were donated to various parties for non-commercial purposes, such as production of public facilities, restoration of historic buildings, education, scientific research and enforcement (Note 33);
- (c) since members of the Endangered Species Advisory Committee expressed concern on the destruction of the forfeited timber, AFCD did not have any destruction plan; and
- (d) the storage cost of the forfeited timber was \$1.85 million in 2020.

4.11 *Need to continue to explore disposal options.* In view of the size of the forfeited timber and the considerable cost of storage involved (see paras. 4.9(a) and 4.10(d)), Audit considers that AFCD needs to, in consultation with the Endangered Species Advisory Committee, continue to explore ways to dispose of the forfeited timber.

Room for improvement in the placement scheme of pet animals of scheduled species

4.12 *Placement scheme.* In June 2011, AFCD commenced a placement scheme of pet animals of scheduled species (hereinafter referred to as the placement scheme) with an NGO (NGO A). Under the placement scheme, NGO A is allowed to rehome pet animals of certain scheduled species donated by AFCD to suitable private individuals. In April 2014, another NGO (NGO B) joined the scheme.

4.13 *Operation and monitoring of the scheme.* In seeking support from the Endangered Species Advisory Committee for the placement scheme, AFCD informed the Committee in 2011 and 2014 that:

Note 33: *The receiving parties included government departments, NGOs, academic institutes and museums.*

- (a) the placement scheme helped shorten the time for disposal of the live animals and alleviate the burden of AFCD in accommodating them in limited local keeping facilities;
- (b) the rehomed animals would be restricted to Appendix II species that were already available in the pet market and of comparatively lower conservation value;
- (c) the NGOs would microchip (Note 34) the rehomed animals as far as practicable and provide regular reports to AFCD for monitoring. Transfer of the rehomed animals between individuals was not allowed; and
- (d) AFCD would monitor the scheme and evaluate its effectiveness, and the number and species of animals donated to the two NGOs under the scheme would be reported to the Committee regularly.

4.14 ***Room for improvement.*** The two NGOs reported the status of the animals transferred from AFCD for rehoming under the placement scheme and for temporary holding (Note 35) regularly. According to AFCD, it maintained close communication with the two NGOs to ensure that they were capable of accommodating the concerned animals. When there were suitable animals for donation, AFCD would check if the NGOs see any rehoming potential, conduct internal vetting and seek appropriate approval before each donation. Audit noted room for improvement in the placement scheme as follows:

- (a) ***Need to conduct regular visits to NGOs under the placement scheme.*** AFCD had not conducted regular visits to the NGOs under the placement scheme. According to AFCD, the risk of NGO A contravening PESAPO was low as it was a long-established organisation and pet adoption was one of the NGO's major programmes. Regular visits to NGO A were considered not necessary. Regarding NGO B:

Note 34: *A microchip is inserted under the skin of an animal's body. It carries a numeric code which can be read by a scanner. With the code, information about the animal and the keeper could be traced.*

Note 35: *AFCD has also transferred animals of scheduled species to the two NGOs for temporary holding (see para. 4.2(a)) before the animals are ready for donation.*

- (i) AFCD inspected from time to time the specimens of scheduled species held by NGO B under PLs and exemption certificates. Audit noted that in July 2017, AFCD inspected NGO B's facilities, and animals donated to and temporarily held by it. However, no regular inspections on the animals transferred to NGO B under the placement scheme or for temporary holding had been conducted; and
- (ii) in January 2018, 21 animals of common pet species (see para. 4.13(b)) transferred to NGO B were found missing. Remedial actions and security measures, including installation of security cameras and taking photographic records of each animal received, were taken by NGO B (Note 36).

In Audit's view, regular visits to an NGO under the placement scheme provide useful information for assessing whether the NGO continues to be suitable for receiving animals under the scheme and the animals transferred or under its custody are safe. In view of the incident mentioned in (ii) above, there is merit for AFCD to consider conducting regular visits to NGOs under the placement scheme;

- (b) *Need to report more information about the placement scheme to the Endangered Species Advisory Committee.* AFCD has agreed to report regularly information about the placement scheme to the Endangered Species Advisory Committee (see para. 4.13(d)). However, Audit noted that since January 2015, AFCD had not reported the number and species of live animals donated to each of the two NGOs under the placement scheme in the summary progress reports submitted to the Committee. Moreover, AFCD did not report the incident relating to NGO B as mentioned in (a)(ii) above to the Committee. In Audit's view, AFCD

Note 36: *According to AFCD, the missing animals were suspected to have been taken or swapped by one volunteer of NGO B and the case was reported to the Hong Kong Police Force for investigation. In January and March 2018, AFCD conducted inspections on the keeping and security facilities and a stock check on the animals transferred to NGO B for donation under the placement scheme and for temporary holding. AFCD reviewed the operation of the scheme and agreed with NGO B to implement certain remedial measures, including enhanced security measures, to prevent the recurrence of similar incidents. No similar incident had occurred since the implementation of the enhanced security measures.*

should regularly report more information about the placement scheme to the Committee for information and advice; and

- (c) ***Need to conduct an evaluation on the placement scheme.*** In January and March 2018, after some animals were found missing from NGO B's premises, AFCD conducted inspections and stock checks, reviewed the operation of the scheme with NGO B, and requested NGO B to implement measures to prevent the recurrence of similar incidents (see (a)(ii) above). Nevertheless, Audit noted that since the implementation of the placement scheme in June 2011 with NGO A and April 2014 with NGO B, AFCD had not conducted any overall evaluation on the scheme's effectiveness. Audit considers that AFCD needs to consider conducting an overall evaluation on the effectiveness and operation of the placement scheme.

Audit recommendations

4.15 **Audit has *recommended* that the Director of Agriculture, Fisheries and Conservation should:**

- (a) **review AFCD's record keeping requirements for specimens held and ready for disposal to assess whether the current practice effectively meets the requirements and update ESPD operation manual if necessary;**
- (b) **maintain proper records on inspections to care centres;**
- (c) **review whether AFCD's current stocktaking arrangements effectively meet the objective of ensuring proper custody of specimens and update as appropriate the relevant requirements in ESPD operation manual;**
- (d) **in consultation with the Endangered Species Advisory Committee, continue to explore ways to dispose of the forfeited timber; and**
- (e) **for the placement scheme of pet animals of scheduled species:**
 - (i) **consider conducting regular visits to the NGOs under the scheme;**

Other related issues

- (ii) regularly report more information about the scheme to the Endangered Species Advisory Committee; and
- (iii) consider conducting an overall evaluation on the effectiveness and operation of the scheme.

Response from the Government

4.16 The Director of Agriculture, Fisheries and Conservation generally agrees with the audit recommendations. He has said that:

- (a) AFCD is conducting a review on its practices on keeping stock records of specimens under its custody;
- (b) inspections to care centres and NGOs under the placement scheme will be enhanced and some inspections have already been scheduled; and
- (c) an overall evaluation of the placement scheme will be conducted and reported to the Endangered Species Advisory Committee in its next meeting.

Endangered Species Licensing and Enforcement System

4.17 *Functions of ESLES.* According to AFCD, ESLES supports ESPD's operations in handling applications and issuance of licences/certificates, recording inspection results, tracking enforcement records, and maintaining intelligence information. It can also generate management reports, statistics and summaries on licensing, inspection and enforcement work based on different criteria specified (e.g. number of licences issued, and inspection and prosecution statistics). The system was launched in 2003 and revamped in 2015 (Note 37).

Note 37: *The revamp in 2015 involved software update, and enhancement to the licensing and reporting modules to improve efficiency of the licence processing and reporting capability. The total expenditure of the revamp project was \$7.7 million.*

4.18 ***Deficiencies in ESLES.*** Audit noted that in certain circumstances, the management reports generated from ESLES were inadequate and AFCD officers needed to keep operation statistics separately for reporting purposes. Examples include:

- (a) the report on the number of consignment inspections conducted generated from ESLES could not be used directly for management reporting. Upon enquiry, AFCD in December 2020 informed Audit that the number of inspections conducted by the Import and Export Division had to be counted manually for inclusion in the management report;
- (b) the report on information provided by registered informers under the reward scheme generated from ESLES was incorrect. Upon enquiry, AFCD in January 2021 informed Audit that there were system bugs in ESLES leading to the generation of incorrect reports; and
- (c) the report on specimens seized generated from ESLES did not include a summary on the quantity and types of specimens seized. For instance, the report showed several entries of the quantity of a particular species and AFCD officers needed to group and re-calculate the actual quantity of that species manually.

Audit recommendation

4.19 **Audit has *recommended* that the Director of Agriculture, Fisheries and Conservation should consider conducting a review on the effectiveness of ESLES, in particular the report generating functions, with a view to enhancing its effectiveness in supporting AFCD's work relating to control of trade in scheduled species.**

Response from the Government

4.20 The Director of Agriculture, Fisheries and Conservation generally agrees with the audit recommendation. He has said that AFCD is working with its information technology team to enhance the functions of ESLES in supporting the work in control of trade in scheduled species.

Provision of training to frontline enforcement officers

Need to ensure that adequate training is provided to frontline enforcement officers

4.21 AFCD has been providing various training courses to its frontline enforcement officers (including ESPD officers and officers of the Import and Export Division) in relation to enforcement of PESAPO, including identification of scheduled species and updates of CITES requirements resulting from CITES meetings (see para. 1.4). Audit noted that:

- (a) AFCD did not set any training target for officers involved in frontline enforcement of PESAPO;
- (b) as at 31 December 2020, 30 of the 48 ESPD staff (see para. 1.18) were involved in frontline enforcement of PESAPO (Note 38):
 - (i) while 24 of the 30 frontline officers had attended relevant training courses in the last five years from 2016 to 2020, 15 (63%) of them attended 0.5 to 1 day of training each year on average and 2 of them had not attended any relevant training courses since 2019; and
 - (ii) 6 of the 30 frontline officers were posted to ESPD between June and December 2020 and had not attended any relevant training courses due to the COVID-19 epidemic; and
- (c) as at 31 December 2020, of the 27 officers from the Import and Export Division involved in frontline enforcement of PESAPO:
 - (i) 19 had attended relevant training courses in the last five years from 2016 to 2020;
 - (ii) 3 attended relevant training courses in 1999, 2001 and 2006 respectively; and

Note 38: *According to AFCD, the remaining 18 (48 less 30) staff are either officers with the necessary knowledge in implementation of CITES requirements and species identification or administrative staff who do not require the knowledge.*

- (iii) 5 were posted to the Division between September 2013 and October 2020 and had not attended any relevant training courses.

4.22 According to AFCD, training courses are provided to frontline enforcement officers based on operational needs. Since CITES requirements and the list of CITES species may be updated every two to three years as a result of CITES meetings (see para. 1.4), in Audit's view, regular training to frontline enforcement officers in relation to updated CITES requirements (including identification of scheduled species) would help enhance and refresh the officers' knowledge in enforcing PESAPO. Audit considers that AFCD needs to consider setting appropriate training targets for frontline enforcement officers and take measures to ensure that adequate training is provided to frontline enforcement officers to enhance and refresh their knowledge in relation to PESAPO.

Audit recommendations

4.23 **Audit has *recommended* that the Director of Agriculture, Fisheries and Conservation should:**

- (a) **consider setting appropriate training targets for frontline enforcement officers; and**
- (b) **take measures to ensure that adequate training is provided to frontline enforcement officers to enhance and refresh their knowledge in relation to PESAPO.**

Response from the Government

4.24 The Director of Agriculture, Fisheries and Conservation generally agrees with the audit recommendations. He has said that AFCD is conducting a review on the relevant training programme to its frontline enforcement officers.

Publicity and education programmes

4.25 AFCD conducts various publicity and education programmes to:

Other related issues

- (a) raise public awareness about scheduled species protection and promote sustainable use of natural resources;
- (b) publicise the measures that govern the import, export and possession of scheduled species and the rationale behind;
- (c) keep traders and the general public informed of the current scope of legislative control to remind them to comply with the law; and
- (d) collect direct feedbacks and views from traders and the public which enable a timely response to their needs.

Table 6 shows the key publicity and education programmes conducted from 2016 to 2020.

Table 6

**Key publicity and education programmes
(2016 to 2020)**

Key programme	2016	2017	2018	2019	2020
	Number				
ESRC guided tours	383	423	397	380	21
School talks	76	56	54	46	16
Public seminars	2	4	3	6	0
Traders consultation sessions	2	1	4	7	0
Training courses to professional bodies	0	0	2	3	1
Training courses to local/non-local government officers	1	10	6	6	3
Exhibitions	32	22	24	24	6

Source: AFCD records

***Need to continue to explore the use of electronic means
in delivering publicity and education programmes***

4.26 As shown in Table 6 in paragraph 4.25, the number of publicity and education programmes decreased significantly in 2020. Besides, Audit also noted increases in the cancellation rate:

- (a) for ESRC guided tours, from 10% in 2019 to 93% in 2020; and
- (b) for school talks and public seminars, from 2% in 2019 to 79% in 2020.

According to AFCD, the decreases in number of publicity and education programmes and the increases in cancellation rates were due to the COVID-19 epidemic in 2020. To cope with the high cancellation rate in 2020, 3 online talks were conducted by AFCD for students (2 for students in tertiary institutions and 1 for students in a primary school) in April and December 2020.

4.27 Upon enquiry on the merit of organising virtual tours to ESRC and more online talks/seminars, AFCD in February 2021 informed Audit that:

- (a) ESRC was unique with its collection of large number of rare exhibits. From the perspective of educational effectiveness, the interactive experience with real specimens was not replaceable by electronic means (e.g. virtual tours to ESRC);
- (b) it was important for AFCD to interact with visitors to ESRC and participants of school talks and public seminars to arouse their interest, gauge what they had learned and collect feedbacks; and
- (c) in view of the imminent resumption of public services and availability of vaccines, AFCD would resume ESRC guided tours soon.

As there may continue to be a need to maintain social distancing amid the COVID-19 epidemic, the use of electronic means to convey messages on scheduled species protection should continue to be explored.

Audit recommendation

4.28 **Audit has *recommended* that the Director of Agriculture, Fisheries and Conservation should continue to explore the use of electronic means in delivering the publicity and education programmes on scheduled species protection.**

Response from the Government

4.29 The Director of Agriculture, Fisheries and Conservation generally agrees with the audit recommendation. He has said that AFCD will continue to explore appropriate electronic means in delivering the publicity and education programmes on scheduled species protection apart from conducting guided tours.

**Licensing requirements under
the Protection of Endangered Species of Animals and Plants Ordinance
(31 December 2020)**

Species	Type of specimen	Requirement for a licence		
		Import or introduce from the sea	Export or re-export	Possess
Appendix I (Note 1)	All (Note 2)	✓ (Note 3)	✓	✓
Appendix II	Live specimen of wild origin	✓ (Note 3)	✓	✓
	Live specimen not of wild origin	✗ (Note 3 or 4)	✓ (Note 6)	✗ (Note 7)
	Parts or derivatives	✗ (Note 3 or 4)	✓ (Note 6)	✗
Appendix III	All	✗ (Note 3, 4 or 5)	✓	✗

Source: Audit analysis of AFCD records

Note 1: According to AFCD, it generally does not issue a licence for specimens of Appendix I species of wild origin for commercial purposes. A licence may only be issued under certain circumstances in accordance with CITES (e.g. for scientific and educational purposes).

Note 2: Appendix I animals bred in captivity for commercial purposes from CITES registered captive-breeding operations and Appendix I plants artificially propagated for commercial purposes are treated as Appendix II specimens and subject to the same control as Appendix II specimens of wild origin.

Note 3: Production of a valid export permit issued by the relevant authority of the place from which the specimen is imported is required.

Note 4: Production of a valid certificate of captive breeding (for animals) or of artificial propagation (for plants) issued by the relevant authority of the place from which the specimen is imported is required.

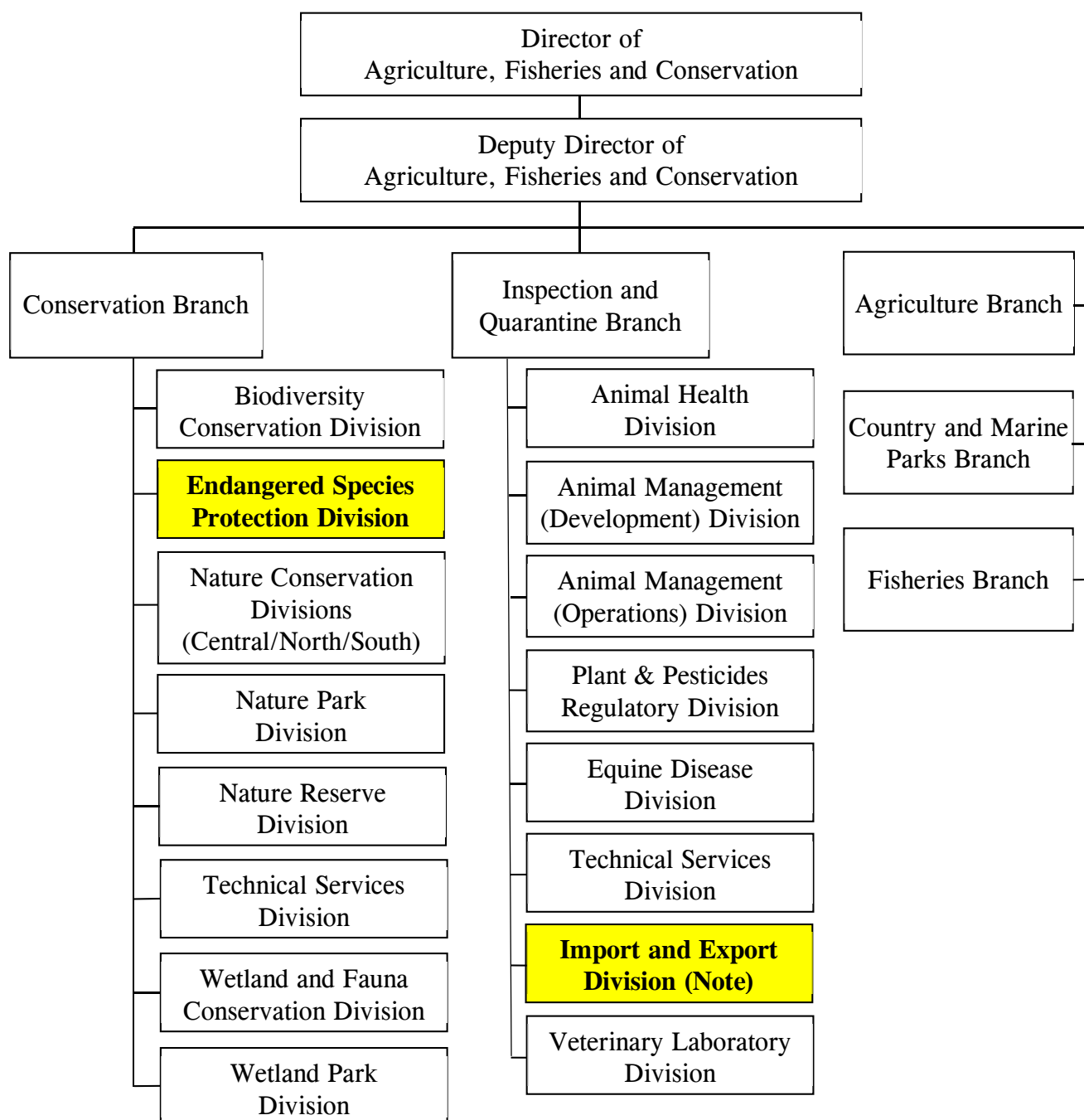
Note 5: Production of a valid certificate of origin issued by the relevant authority of the place from which the specimen is imported is required.

Note 6: In lieu of an export licence issued under PESAPO, a phytosanitary certificate issued under the Plant (Importation and Pest Control) Ordinance (Cap.207) may be used for the export of specimens of artificially propagated plants.

Note 7: This is subject to the production of documentary evidence or otherwise that the specimen is not of wild origin.

Remarks: Hong Kong has adopted stricter measures banning the import and re-export of elephant hunting trophies and all elephant ivory and its products (except antique ivory), except in certain circumstances in accordance with PESAPO.

**Agriculture, Fisheries and Conservation Department:
Organisation chart (extract)
(31 December 2020)**



Legend: Divisions with staff involved in control of trade in scheduled species

Source: AFCD records

Note: The Import and Export Division under the Inspection and Quarantine Branch of AFCD handles, along with other inspection and quarantine duties, consignment inspections of scheduled species at airport and land-based control points.

Acronyms and abbreviations

AFCD	Agriculture, Fisheries and Conservation Department
Audit	Audit Commission
C&ED	Customs and Excise Department
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora
DNA	Deoxyribonucleic acid
EL	Export licence
ESLES	Endangered Species Licensing and Enforcement System
ESPD	Endangered Species Protection Division
ESRC	Endangered Species Resource Centre
IL	Import licence
NGOs	Non-governmental organisations
PESAPO	Protection of Endangered Species of Animals and Plants Ordinance
PL	Possession licence
RL	Re-export licence