

# **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.