

LCQ22: Regulation of the sale of rhinoceros horns and products

Following is a question by Dr Hon Elizabeth Quat and a written reply by the Secretary for the Environment, Mr Wong Kam-sing, in the Legislative Council today (December 12):

Question:

The sale of rhinoceros horns and products (which may be in the form of libation cups, boxes, vessels, hairpins, etc) is regulated in Hong Kong under the Protection of Endangered Species of Animals and Plants Ordinance (Cap. 586), through which the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) is implemented in Hong Kong. It is learnt that under Cap. 586, products of those rhinoceros horns which had been acquired before the CITES provisions started to apply to rhinoceros (pre-Convention rhinoceros horns) are allowed to be commercially traded in Hong Kong only if such products are accompanied by a pre-Convention certificate issued by the export country. In this connection, will the Government inform this Council:

- (1) given that antique collectors generally object to the age of their valuable artefacts be ascertained by applying the current dating methods (e.g. radiocarbon-14 dating and DNA-testing) which involve removal of small parts from the artefacts for testing,
 - (i) how the law enforcement agencies can accurately determine the age of a rhinoceros horn product offered for sale in the market to ascertain that the product in question is indeed from a pre-Convention stock, and (ii) whether testimony of experts (from the antique industry and/or Chinese arts and crafts) of their visual identification has so far been admissible in court hearings concerning suspected illegal trading of rhinoceros horn products; if so, of the number of such cases in which the persons concerned have been convicted; if not, the reasons for that, and how the authorities can effectively enforce the ban on illegal trading of rhinoceros horn products;
- (2) as the authorities regularly dispose of seized ivory and pangolin scale specimens by incineration, whether they dispose of seized rhinoceros horn specimens by the same method; if not, of the reasons for that and whether they will do so in future; if they will not, of the reasons for that;
- (3) of the quantity of rhinoceros horn specimens seized in Hong Kong in the past five years and up to October this year, and among them, the respective quantities of rhinoceros (i) whole horns and (ii) horn cut pieces seized;
- (4) of the total number of holders in Hong Kong of pre-Convention certificates for pre-Convention rhinoceros horn products as at the end of 2017; and

(5) of the total quantity of pre-Convention rhinoceros horn products registered in Hong Kong for commercial purposes as at the end of 2017?

Reply:

President,

Our reply to the question raised by Dr Hon Elizabeth Quat is as follows:

(1) The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) started to regulate the international trade of rhinoceroses and their products on July 1, 1975. Rhinoceros horns acquired before this date, known as pre-Convention rhinoceros horns, are exempted under CITES and their international trade is allowed under a permit system. Under the Protection of Endangered Species of Animals and Plants Ordinance (Cap. 586) (the Ordinance), any pre-Convention rhinoceros horn to be imported to Hong Kong shall be accompanied by a pre-Convention certificate issued by a relevant authority of the previous exporting place certifying that the horn has been acquired pre-Convention, and shall be subject to inspection by authorised officers upon its landing in Hong Kong.

Any person possessing a pre-Convention rhinoceros horn is also required to produce the pre-Convention certificate concerned, certifying that the horn has been acquired pre-Convention. Authorised officers will verify the authenticity and validity of the certificate, as well as whether the particulars therein match the horn. Authorised officers may seize the horn for further investigation if they reasonably suspect that the possession of the horn is in contravention of the Ordinance, and may adopt appropriate scientific methods (e.g. radiocarbon-14 dating and DNA-testing) to determine the legality of the horn if necessary.

As to whether an expert's testimony of his/her visual identification, as part of his/her assessment of a rhinoceros horn craft, is admissible in a court hearing as evidence to prove the suspected real age of the rhinoceros horn, there has been no precedent among the prosecutions instituted under the Ordinance. The Government will assess each case on its own merits and seek legal advice before making the most appropriate arrangement.

(2) CITES provides that a law enforcement authority may keep specimens of endangered species confiscated during enforcement actions for scientific, education, enforcement or identification purposes. It also allows destruction of the specimens if the above-mentioned disposal methods are not practicable. The Agriculture, Fisheries and Conservation Department (AFCD) has all along handled confiscated rhinoceros horns and specimens of other endangered species strictly according to the principles laid down in CITES. In the last ten years, the AFCD has all along donated the stockpiled rhinoceros horns for scientific, education, enforcement or identification purposes. There is no need to destroy any confiscated rhinoceros horns.

(3) Between 2013 and the first ten months of 2018, the AFCD seized a total of some 202 kilograms of rhinoceros horns, of which 76 pieces were whole horns.

(4) A pre-Convention certificate is issued by relevant authority of the previous exporting place for each shipment and may cover more than one specimen. Importers holding pre-Convention certificates, or buyers holding pre-Convention certificates provided by previous importers and relevant transaction receipts, may possess pre-Convention rhinoceros horns and need not register with the AFCD. As such, the AFCD has no relevant statistics.

(5) For the possession of rhinoceros horns accompanied by pre-Convention certificates certifying that the horns have been acquired pre-Convention, no registration with the AFCD is required no matter the horns are for commercial purposes or not. As such, the AFCD has no relevant statistics.