



Cabinet Economic Development Committee

Minute of Decision

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Trade in Endangered Species Act 1989: Proposed Amendments

Portfolio Conservation

On 29 July 2020, the Cabinet Economic Development Committee (DEV):

Background

- 1 **noted** that the Trade in Endangered Species Act 1989 (TIES Act) implements New Zealand's obligations as a signatory of the *Convention on International Trade in Endangered Species of Wild Fauna and Flora* (CITES);
- 2 **noted** that on 28 August 2019, DEV agreed to the release of a discussion document on the review of the TIES Act, and invited the Minister of Conservation to report back with proposed amendments to the Act following the consultation [DEV-19-MIN-0232];
- 3 **noted** that the discussion document was released in September 2019 and sought feedback on options in the following policy areas:
 - 3.1 trade in elephant ivory;
 - 3.2 travelling with taonga;
 - 3.3 personal and household effects;
 - 3.4 technical errors on permits;
 - 3.5 cost recovery;

Proposed changes

- 4 **noted** that the proposed changes will enable the efficient and effective implementation of the TIES Act, and enable New Zealand to better meet its obligations under CITES;
- 5 **noted** that there has been increasing international recognition of the role domestic markets in elephant ivory play in the illegal trade and poaching of elephants;
- 6 **agreed** to ban the domestic sale of elephant ivory, with an exemption for items acquired before 1975 (pre-Convention), including musical instruments;

- 7 **agreed** to ban the import and export of elephant ivory, with the following exemptions:
- 7.1 musical instruments acquired before 1975 (pre-Convention);
 - 7.2 items traded between museums;
 - 7.3 items traded for forensic testing;
 - 7.4 scientific specimens by CITES-registered institutions;
- 8 **agreed** to implement the ban on the domestic sale of elephant ivory with exemptions through regulations;
- 9 **noted** that the exemptions that apply at the border are stricter than domestic exemptions as there is greater risk from items being imported being linked to elephant poaching and illegal trade than elephant ivory items already in New Zealand;
- 10 **noted** that additional funding will be required to implement the ban on the domestic sale and import and export of elephant ivory;
- 11 **agreed** to a one-year transitional period from when an amendment Bill is enacted before the elephant ivory ban is implemented;
- 12 **noted** that outreach programmes are being enhanced to support those travelling with taonga to have the correct documentation when moving items across international borders;
- 13 **agreed** to amend the definition of personal and household effects to align it with CITES guidance to ensure all personal and household items are traded for non-commercial purposes and are legally acquired, i.e:
- 13.1 personally owned or possessed for non-commercial purposes;
 - 13.2 legally acquired; and
 - 13.3 at the time of import, export or re-export either:
 - 13.3.1 worn or carried or included in personal baggage; or
 - 13.3.2 part of a household move;
- 14 **agreed** to add a regulation-making power to the TIES Act enabling species-specific exemptions with quantity limits for items that are personal or household effects and do not endanger the survival of populations in the wild;
- 15 **noted** that the three species that make up the majority of seizures at New Zealand's border are crocodile products, hard corals and giant clam shells;
- 16 **agreed**, subject to amendments to the TIES Act being enacted, to implement an exemption for up to four farmed crocodile products from Australia that are personal or household effects;
- 17 **noted** that further information is required to consider implementing species-specific exemptions for hard corals and giant clam shells;
- 18 **agreed** to setting up a process in the TIES Act to return items to individuals where there are errors on permits outside of the importers' control, or where no permit is presented due to permits being lost, stolen, cancelled or destroyed, or where no permit was previously issued;

- 19 **agreed** to the following criteria to be met before an item can be returned or a replacement or retrospective permit can be accepted:
- 19.1 aligns with purpose of the TIES Act;
 - 19.2 does not undermine the administration of the TIES Act;
 - 19.3 the error was outside of the importers' control;
 - 19.4 the specimen is not included on Schedule 1 of the TIES Act (retrospective permits only);
 - 19.5 trade was not for commercial purpose (retrospective permit only);
 - 19.6 circumstances must be exceptional (retrospective permit only);
- 20 **agreed** to amend the regulation-making power for cost recovery in the TIES Act to enable the Department of Conservation to cost recover for services provided to commercial traders;
- 21 **agreed** to the technical amendments outlined in paragraphs 103 to 144 of the paper under DEV-20-SUB-0157 that will improve the implementation and effectiveness of the TIES Act;

Legislative implications

- 22 **agreed** that the TIES Act be re-written due to the extent of the policy changes proposed above and the technical and structural amendments required to ensure it effectively implements the intent of the regulatory regime, and in accordance with modern drafting practices;
- 23 **noted** that the Trade in Endangered Species Amendment Bill has a category 4 priority on the 2020 Legislation Programme (to be referred to a select committee in 2020), but that due to the impacts of COVID-19, it is unlikely that the Bill will be referred to select committee in 2020;
- 24 **authorised** the Minister of Conservation to incorporate further technical changes to the Bill as they arise through the drafting process, consistent with the policy intent of the paper under DEV-20-SUB-0157;
- 25 **invited** the Minister of Conservation to issue drafting instructions to the Parliamentary Counsel Office to give effect to the above paragraphs.

Janine Harvey
Committee Secretary

Present:

Rt Hon Winston Peters
Hon Grant Robertson (Chair)
Hon Phil Twyford
Hon David Parker
Hon Stuart Nash
Hon Damien O'Connor
Hon Shane Jones
Hon Kris Faafoi
Hon James Shaw
Hon Eugenie Sage

Officials present from:

Office of the Prime Minister
Officials Committee for DEV