

RESPONSE TO GOVERNMENT CONSULTATION ON BANNING UK IVORY SALES, OPENED ON 6 OCTOBER 2017

DATE OF RESPONSE: 24 DECEMBER 2017

Submitted on behalf of:

THE ENVIRONMENTAL INVESTIGATION AGENCY UK (EIA)

STOP IVORY

THE DAVID SHEPHERD WILDLIFE FOUNDATION (DSWF)

THE WILDLIFE CONSERVATION SOCIETY (WCS)

THE ZOOLOGICAL SOCIETY OF LONDON (ZSL)

The following organisations have submitted their own individual responses to the consultation but also endorse the contents of this document:

BORN FREE FOUNDATION

NATURAL RESOURCES DEFENSE COUNCIL

TUSK TRUST

GLOSSARY

BADA:	British Antiques Dealers Association
Consultation Document:	The consultation document accompanying this consultation, issued by DEFRA in October 2017
CEMA:	Customs and Excise Management Act 1979
CITES:	Convention on International Trade in Endangered Species of Wild Fauna and Flora
COTES Regulations:	Control of Trade in Endangered Species (Enforcement) Regulations 1997
Evidence Document:	The document setting out further detail to support this response.
Export:	Includes what are often referred to as '(re)exports', which are the export out of the UK (or any other country) of ivory that had been previously been imported into the country
IFAW:	International Fund for Animal Welfare
Impact Assessment:	The impact assessment accompanying this consultation, issued by DEFRA dated 05/09/2017
IUCN:	International Union for Conservation of Nature
LAPADA:	Association of Art & Antiques Dealers
NAVA:	National Association of Valuers and Auctioneers
Netsuke:	Miniature sculptures, often carved in ivory and used as toggles for attaching containers by cord to a person's robe, invented in 17 th century Japan
Pre-Convention:	Ivory products that were acquired before 1975 for Asian elephants and 1976 for African elephants
SOFAA:	Society of Fine Art Auctioneers and Valuers
TRAFFIC:	Wildlife Trade Monitoring Network
UKBF:	UK Border Force
UNODC:	United Nations Office on Drugs and Crime
USFWS:	US Fish & Wildlife Service

1. Do you agree with the proposed ban?

- 1.1 Yes, we support the proposed ban, which would have significant positive impacts on global efforts to combat ivory trafficking as well as reduce demand for ivory, ultimately reducing the scale of the elephant poaching crisis.
- 1.2 While our preference would be no exemptions, to prevent creating any loopholes and difficulties for enforcement, we believe there should be only three rather than the proposed four exemptions (for the reasons we explain below).

2. Do you have any evidence to present on how our proposed ban will affect elephant conservation and the natural environment including wider species conservation?

- 2.1 Yes

If yes, please provide evidence.

Contribution of the ban to overall measures to combat poaching and conserve elephants

- 2.2 Various studies show that a legal domestic ivory market provides opportunities for laundering of illegal ivory, further fuelling the elephant poaching crisis¹. It is very difficult to differentiate illegal ivory from legal ivory and traffickers use various techniques to launder illegal/new ivory by making it look legal/old/antique². Therefore, the proposed UK ban on ivory trade would reduce opportunities for laundering illegal ivory and so have positive impacts on combating poaching and conserving elephants.
- 2.3 It is widely acknowledged, including by the Government, that demand reduction campaigns are critical in the fight to reduce poaching and illegal trade. Trade bans are an essential part of demand reduction campaigns. It is, at best, confusing for consumers to be encouraged not to buy ivory if it is still legally for sale in their country. Allowing the sale of ivory reinforces its social acceptability and makes it a desirable product to own, further fuelling the illegal market and stimulating trafficking. A report published by the United Nations Office on Drugs and Crime (UNODC) in 2010 concluded that *“the trade in illicit ivory is only lucrative because there is a parallel licit supply, and ivory can be sold and used openly. Ivory would lose much of its marketability if buying it were unequivocally an illegal act, or if ownership of these status goods had to be concealed.”*³
- 2.4 The Government has committed significant amounts to demand reduction campaigns particularly in Asia. That money is most effectively spent when it supports demand reduction campaigns in countries with significant domestic ivory markets (such as China). It is likely that demand reduction campaigns in China have contributed to the important decision by the Chinese government to close their domestic ivory market.
- 2.5 When funding demand reduction campaigns and encouraging other countries to close their markets, it is of course crucial that the UK is not open to the charge of hypocrisy. That charge could be made against us if our market were to remain largely open. So we need to ensure that ivory sales are largely banned in the UK to maximise the effectiveness of all our other efforts to end the poaching crisis.
- 2.6 The proposed ban on trade in ivory within the UK, and an associated ban on exports from and imports to the UK, would have a direct impact on the level of demand for ivory both here and in other countries, especially in Asia. That reduction in demand will in turn directly affect the level of poaching and the illegal trade in ivory in Africa. (See further in Section 27 of the Evidence Document for details of how the high level of the UK’s exports of legal ivory are fuelling demand in Asia.)

Benefits of elephants to the natural environment

- 2.7 Elephants are a keystone species affecting the natural environment in a variety of ways that benefit other species. See Section 2 of the Evidence Document for further detail.

¹ Bennett, E. L. (2015). Legal ivory trade in a corrupt world and its impact on African elephant populations. *Conservation Biology*, 29(1), 54-60. Available at <http://onlinelibrary.wiley.com/doi/10.1111/cobi.12377/full> ; Harvey, R. (2015). Preserving the African elephant for future generations. *South African Institute of International Affairs*, July, available at <http://www.saiia.org.za/occasional-papers/862-preserving-the-african-elephant-for-future-generations/file> ; Lemieux, A. M., & Clarke, R. V. (2009). The international ban on ivory sales and its effects on elephant poaching in Africa. *The British Journal of Criminology*, 49(4), 451-471, available at <http://bjc.oxfordjournals.org/content/49/4/451.full.pdf+html?sid=e62953ae-e11d-468f-b909-c3d818429660>.

² According to WWF’s UK chief adviser on wildlife, Heather Sohl *“We have evidence that ivory, which dates from after 1947 is being sold in the UK as antique ivory. It is not always easy to identify modern, post 1947 ivory, and ivory that has been poached on elephants before 1947. Some pieces of ivory are tea-stained to make it look older. They are literally dipped in tea to stain the piece”*. A report by the UK House of Commons published on January 30, 2017, states that *“illegal ivory items seized by police and the Border Force in the UK have been falsely antiqued, using artificial stains or ageing techniques, clearly destined for the legal antique market”*. Available at <http://researchbriefings.files.parliament.uk/documents/CDP-2017-0034/CDP-2017-0034.pdf> (page 18).

³ UNODC (2010). The globalization of crime: A transnational organized crime threat assessment. *Vienna, Austria: United Nations Office on Drugs and Crime*. Available at <http://www.unodc.org/unodc/en/data-and-analysis/tocta-2010.html>.

3. Do you have any evidence to present on the impact bans in other countries or jurisdictions have had on elephant conservation and the natural environment including wider species conservation?

3.1 Yes

If yes, please provide evidence.

International

3.2 During the poaching crisis in the 1980s, populations of African elephants plummeted from c1.2million in 1980 to c600,000 in 1989. That decline resulted in the long-overdue decision to ban the international trade in African elephant ivory, taken at the CITES Conference of the Parties in 1989. The direct consequence of that decision was a dramatic fall in the level of poaching and a consequential increase in African elephant numbers in some regions of Africa: *"It is generally accepted that the ban led to an increase in the overall number of elephants in Africa by around 140,000 between 1989 and 2007. Eighteen countries saw increased elephant populations after the ban."*⁴

3.3 It is probably the clearest example of a trade ban benefiting elephant populations. Bans in individual countries can have similar albeit smaller effects, depending on the size of the market for ivory in that country.

China

3.4 At the CITES Conference of the Parties in 2002, China stated that a main reason for China's growing ivory-smuggling problem was the first 'one off' experimental stockpile sale in 1999. The Chinese public had misunderstood the decision and thought that the international trade in ivory had been resumed and that it was acceptable to buy ivory again. This is evidence of how relaxation of trade rules can result in increased consumer demand, which needs to be satisfied in large part by poaching and the illegal trade. It illustrates the point that tightening the rules on the ivory trade reduces demand, whereas relaxing them fuels demand.

3.5 An ivory ban can only work if the largest ivory markets close their markets simultaneously. With the USA and China (including Hong Kong) having already closed or being in the process of closing their domestic ivory markets, it is crucial that the UK, the largest supplier of legal ivory to the world's ivory markets⁵, follows suit to ensure consistent enforcement and prevent undermining these global efforts.

3.6 Closing the UK's domestic ivory market would lead to a strong reputational benefit to the UK and enable it to show international leadership, increasing the likelihood of other countries closing their own domestic ivory markets and stepping up to fight the elephant poaching crisis.

3.7 One of the most important developments in recent times, and one of the best hopes for a reduction in poaching, has been the dramatic reduction in the price of ivory in China – down from US\$2,100 per kg in early 2014 to cUS\$750 per kg in February 2017 (according to a press release by Save the Elephants on 29 March 2017 publicising a new report by L. Vigne and E. Martin entitled "Decline in the Legal Ivory Trade in China in Anticipation of a Ban"). The press release summarised several reasons for the decline in the price: *"An economic slowdown has resulted in fewer people able to afford luxury goods; a crack-down on corruption is dissuading business people from buying expensive ivory items as 'favours' for government officials, and the Chinese government has made strong commitments to close down the nation's legal ivory trade. Meanwhile public awareness campaigns have exposed many potential buyers to the impact that buying ivory has on Africa's elephants."* The title of the report highlights the clear connection between the proposed ban by the Chinese government and the reduction in price by around two thirds in only 3 years.

USA

3.8 The impact of greater restrictions in the USA has been a dramatic fall in the amount of ivory imported into the USA. Having been the principal destination for UK exports of worked ivory pieces up to 2012, the introduction of greater restrictions on the ivory trade into and within the USA resulted in the USA dropping to 10th in 2015 in the list of countries to which the UK exports worked ivory (2010: 3,526 pieces; 2015: 17 pieces). In 2013, China and Hong Kong replaced the USA as the principal (combined) destination for UK exports.

3.9 Evidence from antiques dealers also makes clear that customers from the USA have become far less common, being replaced by customers from Europe and Asia.

3.10 A study in 2016 by IFAW, WWF and TRAFFIC showed a significant reduction in the ivory trade in those US states that have introduced state bans on the trade, in particular New York and California (see Section 3 of the Evidence Document for further detail).

⁴ "The international ban on ivory sales and its effects on elephant poaching in Africa", Andrew M. Lemieux and Ronald V. Clarke, BRIT. J. CRIMINOL. (2009) 49, 451 – 471

⁵ <https://eia-international.org/uk-largest-supplier-worlds-ivory-markets> and details set out in Section 27 of the Evidence Document.

- 3.11 The clear evidence is that greater restrictions on trade do work, both to reduce prices and demand. As buying and selling ivory becomes unequivocally an illegal act, the appetite among consumers for ivory as a socially-acceptable product declines, as do the opportunities to launder illegal ivory.
- 4. Do you have any evidence to present on how protecting elephants through the proposed ban would be economically beneficial?**
- 4.1 Yes
- If yes, please provide evidence.*
- Economic benefits for UK and Africa-based tourism
- 4.2 Reducing elephant populations (up to and including local or regional extinction) would have a significant impact on tourism in Africa, as well as tourism organised by UK-based companies.
- 4.3 In the Consultation Document, the Government notes the conclusions by R. Naidoo et al in their report "Estimating the economic losses to tourism in Africa from the illegal killing of elephants (Nature Communications, 2016)" that such losses amount to around £25 million each year. Their Report also finds that "*Furthermore, elephant conservation in savannah protected areas has net positive returns comparable to investments in sectors such as education and infrastructure. Even from a tourism perspective alone, increased elephant conservation is therefore a wise investment by governments in those regions.*"
- 4.4 In the recent United Nations General Assembly resolution on tackling illicit trafficking in wildlife (adopted on 11 September 2017), it was recognised that "*illicit trafficking in wildlife contributes to damage to ecosystems and rural livelihoods, including those based on ecotourism.*"
- 4.5 In evidence provided by Dominic Grammaticas, Managing Director of The Governors' Camp Collection in Kenya and Rwanda "*There is absolutely no question that the chance to see elephant in their natural environment is one of the key motivators behind tourism demand for Kenya and no question in my mind that elephant poaching if left unchecked would be an existential threat to this industry. It goes without saying that tourism is the key source of funding for conservation efforts in National Parks and Reserves, is a key and irreplaceable employer in rural and urban Kenya, and is a key source of foreign exchange for the country. This holds true for most countries in Southern Africa as well. In my mind a total ban on the trading of ivory should be a legal imperative in all countries in the world - there seems to be a pretty compelling and overwhelming argument for it.*" (Email from Dominic Grammaticas to EIA dated 25 November 2017)
- 4.6 UK-based tourism companies also benefit from thriving elephant populations (and are damaged when populations are hit by poaching): "*Most visitors have elephants in their minds when they think of a safari: they are emblematic of Africa's big game. Seeing elephants in the wild is a big draw for people from across the globe; without the elephants, safaris lose their standard-bearer. When on the ground, good elephant densities in a park guarantee a 'big game' experience for visitors, so they are often a crucial part of the experience as well as the appeal. We are already seeing a real drop in global demand for safaris to parks where elephant populations have been hard hit. If the elephants were to disappear, so would many of our visitors - with appalling economic consequences for the communities around the parks, and the countries involved.*" (Email dated 19 December 2017 from Chris McIntyre, Managing Director, Expert Africa, Author: Bradt travel guides to Namibia, Botswana & Zambia, Co-author: Bradt travel guides to Zanzibar, Tanzania and Northern Tanzania)
- 4.7 See Section 4 of the Evidence Document for further information about the economic benefits of elephant conservation to tourism.
- Economic benefits for enforcement agencies in the UK
- 4.8 There are likely to be economic benefits for the enforcement agencies, Defra and APHA as a result of largely banning UK ivory sales.
- 4.9 The system of processing Article 10 certificates would no longer apply, saving money and personnel resources at the APHA.
- 4.10 Most purchasers of ivory will be law-abiding and therefore banning ivory sales with narrow exemptions should significantly reduce the quantity of ivory traded in the UK. Making it clear that the onus will be on the seller to demonstrate adequate proof that the item he/she wishes to sell falls within one of the exemptions should similarly reduce the number of unlawful transactions. If in doubt, many people would opt not to run the risk of committing a criminal offence by going ahead with the sale/purchase. Therefore, the number of potentially unlawful transactions should drop dramatically. This should enable the responsible authorities to focus their efforts more directly on those who are breaking the law, deliberately or inadvertently.
- 4.11 Changing the law to make it easier to understand for all those involved in the trade (both professionally and occasionally) should also assist compliance and reduce the number of illegal transactions, again reducing the burden on the enforcement agencies. Public awareness and education campaigns should also make a significant impact on the level of knowledge of and compliance with the new legislation (see further in Section 26 of the Evidence Document).

- 4.12 We believe that if the specific measures we have suggested for online trade are adopted, they would help to reduce the number of unlawful online transactions, which are notoriously difficult to ‘police’ (see Section 27 of the Evidence Document). This would benefit UKBF in particular.
- 4.13 Banning all commercial imports and exports of ivory (as we suggest in our response to Question 27) would be a significant economic benefit to UKBF. Distinguishing between legal and illegal ivory (for example, because it is from before or after 1947) is often extremely difficult for UKBF agents. If they knew that no ivory (even a de minimis piece) could lawfully be imported into or exported from the UK (for commercial purposes), that would make their work far simpler and therefore less resource-intensive.
- 4.14 For all these reasons, either the overall cost of enforcement would reduce or at the very least, the money spent would be more focused on the smaller number of people breaking the law. Both would represent an economic benefit.

5. Do you have any evidence to present on how protecting elephants through the proposed ivory ban would be culturally beneficial?

5.1 Yes

If yes, please provide evidence.

Cultural benefit to people in range states

- 5.2 *“Across Africa [elephants] have inspired respect from the people that share the landscape with them, giving them a strong cultural significance.”*⁶ The African elephant is seen as the wise chief who settles disputes among the animals of the forest⁷ and the Ashanti tradition maintains that they are human chiefs from the past.⁸ They are also an integral part of modern-day culture with their image being used commercially for products such as Tusker Beer and Amarula.
- 5.3 As well as being easily recognisable, the image of an African elephant often has a deeper meaning. *“In Africa, the use of animals in artwork isn’t merely for show. Each animal has a specific meaning to the artist, and certain animals signify certain character qualities. This is why you will see so many carvings of animals, or even animals embroidered onto African clothing. [...] The elephant signifies strength, royalty, dignity, patience, wisdom, longevity, and happiness. A large symbol of good luck, especially when its trunk is pointed up. The elephant represents status and power since royalty used to ride on elephants. For Christians in Africa, the elephant is a symbol of clarity and temperance...”*⁹
- 5.4 The Asian is similarly a very important part of many cultures in Asia, perhaps even more so than in Africa. One of the most important gods in the Hindu religion, Ganesh, has a human form with the head of an elephant, representing wisdom. In Buddhism, the elephant is associated with Queen Maya of Sakya, the mother of Gautama Buddha – a white elephant appeared to her in a dream, signifying that her child was destined for greatness as a universal monarch or Buddha.¹⁰ Elephants remain an integral part of many cultural and religious festivals in South Asia.

Cultural benefit within the UK

- 5.5 As noted in the Consultation Document, there would be a cultural benefit within the UK from knowing that we were playing our full part in saving an iconic species, particularly given the level of interest in, and support for, wildlife and conservation issues among the British public evidenced by the figures quoted in the Consultation Document. Those figures are reinforced by the high level of support for closing the UK’s ivory market displayed in public polling: in a very recent poll by TNS from 30 November to 4 December 2017, 85% of the public thought the selling of ivory in the UK should be banned.¹¹ In addition, 57% thought that there should not be any exemptions to a ban. Whilst we do support three exemptions (for the reasons explained later in this response), we would urge the Government to take notice of the level of public support for a total ban with no exemptions and frame the number, and scope, of any exemptions as narrowly as possible.

⁶ <http://www.savetheelephants.org/about-elephants-2-3-2/importance-of-elephants/>

⁷ “Animal Ways”. Nature’s Ways Lore, Legend, Fact and Fiction. Newton Abbot: F+W Media. 2006

⁸ “Elephant”. Myths, legends, beliefs and traditional stories from Africa. A-gallery.

⁹ Africa Imports: The Symbolism of Animals in Africa - blogafricaimports.com

¹⁰ “Buddhism: The illustrated guide” Kevin Trainor (2004)

¹¹ TNS survey, weighted sample of 1,265 adults in the UK aged 16+

5.6 The TNS poll results were:

1. Do you agree or disagree with the buying and selling of ivory around the world?

Agree 10%

Disagree 81%

Don't know 9%

2. Do you think it is legal or illegal to sell ivory in your country?

Legal 9%

Illegal 77%

Don't know 14%

3. Do you think the buying or selling of ivory in your country should be banned?

Yes 85%

No 15%

4. Do you think there should be any exemptions to a ban (like pianos or furniture containing small pieces of ivory)?

Yes 27%

No 57%

Don't know 16%

5.7 The cultural benefit to be gained from conserving elephants extends beyond those who are interested in wildlife and the natural world to those who recognise and appreciate the elephant's place in wider culture (architecture, art, novels, plays, films, nursery rhymes and idioms – "elephants never forget"). It is truly one of the world's iconic species – possibly the most easily-recognised animal on the planet. It is unthinkable that our generation might be the one that fails to take all necessary steps to save it from extinction. The elephant's place in popular culture would then be merely historical, denied the opportunity to make its further contribution to our stock of cultural and other images, memories and stories.

5.8 Closing our market and ending exports to Asia should result in a specific benefit to our relationship with China that could be considered a cultural benefit – in the sense of working together in a shared endeavour based on similar values.

6. Do you have any evidence to present on how our proposed ban would affect the arts and antiques sectors, or individuals who own ivory items?

6.1 Yes

If yes, please provide evidence.

Impact on the arts sector

6.2 We consider that the impact on the arts sector will be minimal. In particular, businesses that specialise in selling paintings, such as commercial art galleries, will see very little impact on their trade since it largely does not involve ivory at all. Only a handful of dealers for whom miniatures painted on ivory are a significant part of their business could claim any greater impact (even then, any that are of particular artistic or historic value could be bought by an accredited museum under the museums exemption).

6.3 See further detail in our answer to Question 8 about businesses that specialise in ivory items.

Impact on the antiques sector

6.4 The antiques trade argue that a ban on antique ivory sales would cause substantial economic damage to their business. We believe that is wrong. There is clear evidence that the trade has consistently over-stated the importance of ivory to the vast majority of antiques dealers and auction houses in the UK. Research published on 19 October 2017 by the group Two Million Tusks demonstrated that ivory sales represent a very small percentage – less than 1% – of the annual sales of many auction houses in the UK. Out of 232 auction houses surveyed by Two Million Tusks in late 2016/early 2017, ivory lots formed only 0.70% of the total number of lots for sale. Out of a further 301 auction houses surveyed in April, May and June 2017, the figure was 0.76%.

- 6.5 Importantly, Two Million Tusks' research is based on hard data, rather than relying on the opinions of the auction houses themselves. Their report can be viewed at www.twomilliontusks.org.
- 6.6 There is no reason to believe that antiques dealers are significantly different from auction houses, in terms of the amount of ivory items that they sell. The evidence in Caroline Cox's report "The Elephant in the Sale Room" published in 2017 shows that antiques dealers tend to have smaller businesses than auction houses. Often they are set up by retired or semi-retired individuals out of an interest in the objects they find and sell, rather than out of a desire to make money. Auction houses, however, are clearly commercial enterprises, albeit usually with relatively low numbers of staff.
- 6.7 The differences in size of business between antiques dealers and auctioneers is reflected in Caroline Cox's Report. Based on the responses to questions about levels of annual turnover, Caroline Cox found that 7% of antiques dealers had an annual turnover in excess of £1 million, compared with 71% of the auctioneers. For businesses with an annual turnover of less than £50,000, the figures were 46% for antiques dealers and only around 6% for auctioneers.
- 6.8 In terms of the number of ivory items sold each year, 9% of the antiques dealers who responded said they were selling more than 100 ivory pieces a year, compared with 65% of respondent auction houses. The figures make sense given the smaller size of most antiques dealers' businesses.
- 6.9 Both auctioneers and antiques dealers as a group were asked to estimate the percentage of their turnover that was attributable to the sale of ivory pieces. As Caroline Cox summarises "*The key message learnt from this question is that most respondents (almost half) admitted that less than 10% of their annual turnover could be attributable to the sales of ivory. This is important because it suggests that many businesses are not dependent on the ivory market.*"
- 6.10 We believe this is in fact the "high watermark" of the antiques trade assessment of the importance of ivory to their business. It is based on subjective estimates by the antiques trade respondents to Caroline Cox's survey (they were not asked to provide any supporting documentation to support their estimates). By contrast, the Two Million Tusks data is based on hard evidence of online sales.
- 6.11 Since the evidence from Two Million Tusks shows that ivory represents less than 1% of the auction house antiques trade, and no auction house had ivory sales representing more than 13% of their annual sales, it is very difficult to believe the comments by some members of the antiques trade to Ms Cox that their businesses would be "*substantially affected*" by a ban on the domestic ivory trade. 67% of auctioneers and 53% of antiques dealers who responded said that their business would be "*substantially affected*". Bearing in mind the very low numbers of ivory pieces being sold, even on the information provided to Caroline Cox, these assessments seem overly-pessimistic, to a significant degree. More than half of the auctioneers who feared the significant impact of a ban were, by their own admission, selling fewer than 80 ivory pieces a year – and most auctioneers sell thousands of auction lots each year, often containing multiple pieces within a lot. There are often well over 500 lots in each auction and many auction houses hold monthly or even weekly auctions, as shown by the Two Million Tusks report.
- 6.12 The research by Two Million Tusks into the sales of the 301 auction houses over a 3 month period shows an average of 513 lots in each auction. The auction houses were holding an average of 0.4 auctions a week, meaning that they were holding around 21 auctions each year. Many of those lots will have had multiple items within each lot but for simplicity, 21 auctions a year with an average of 513 lots in each means an annual total of 10,773 lots each year.
- 6.13 So when an auction house that is selling fewer than 80 ivory items a year maintains that an ivory sales ban would "*substantially affect*" its business, it is making that claim based on ivory items representing less 0.75% of its annual sales. (That figure is supported by the Two Million Tusks research, showing ivory items representing 0.70% to 0.76% of overall annual sales.)
- 6.14 It is also not the case that the antiques trade can advance a "quality not quantity" argument. The same research by Two Million Tusks showed that out of a sample of 133 lots, 91% were sold for £400 or less and 61.7% were sold for £120 or less. Most ivory pieces sold in this country are not particularly expensive items.
- 6.15 Furthermore, we are not advocating a total ban on sales of all antique ivory. We are proposing that sales of antiques containing a small amount of ivory should be allowed, along with musical instruments, so the impact would be even less. Sales to museums would also be allowed, providing an avenue for owners of ivory to sell items that are of interest to museums. So the impact of the proposed ban, with the three exemptions we support, would be on less than 0.7% of most auctioneers' business.
- 6.16 Consequently, banning most sales of ivory in the UK, including antiques, will cause negligible, if any, economic harm to the vast majority of antiques dealers and auction houses in the UK. Claims by the antiques industry that banning ivory sales will result in significant damage to their business simply cannot be supported by the evidence.
- 6.17 Most of the representations to the Government and the publicity around the importance of the antiques trade come, understandably, from the antiques trade associations. Yet those organisations represent only a small fraction of the antiques

dealers in the UK. As Caroline Cox points out, “only a small percentage of UK dealers and auctioneers are members of any trade association”. The Consultation Document mentions an estimate of around 20,000 antiques dealers in the UK. The British Art Market Federation (BAMF) reports that the UK art and antiques market comprises 7,850 businesses.¹² Irrespective of whichever overall figure is right, only around 900 are members of the two leading antiques associations: BADA with around 350 members and LAPADA with around 550 members. Even most of the BADA and LAPADA members will not have specific expertise in ivory.

- 6.18 In the Consultation Document, the Government notes a figure of around 1,000 auction houses in the UK. Since Two Million Tusks studied sales over a 3 month period for 301 auction houses, their research covers a significant part of the market and can easily be extrapolated with some certainty to produce figures for all 1,000 auction houses in the UK.
- 6.19 According to BADA’s submission to the US government in relation to its proposed ivory rule changes in 2016, BADA members’ annual sales are estimated at c£1.2 billion but the entire UK art and antiques market, including auction sales and sales by non-BADA members, is estimated at c£12 billion annually. The problem of relying on the antiques industry to assess the importance of ivory to their business is obvious from the replies that Caroline Cox received in her research. In addition, the members of the trade associations are likely to represent the higher end of the antiques trade and individuals and organisations who are more likely to take their responsibilities seriously.

The adaptability of the antiques trade

- 6.20 The antiques trade are used to responding to change. The Antiques Trade Gazette contains many articles on how the trade adapts to a variety of circumstances: changing tastes and fashions, amendments to regulation and legislation, social change, the altering economic climate, demographics and developments in international markets such as the rise of the Chinese middle class and super-rich.
- 6.21 Along with the fashion world, the art and antiques trade may well be the sector that is most used to dealing with changing tastes. The ATG focuses specifically on the issue of changing fashions in the following article on its website page (accessed under Guides/Information Guides):

“Fashion

Tastes for art and antiques change just as they do in everything else. The art market is littered with once-popular artists whose star has dimmed or whose work was largely unappreciated until it was reassessed by future generations.

The market is in a permanent state of flux, reacting to social change (that has seen a much-reported fall in demand for formal dining furniture and silver for example), demographics (that sees each new generation reassess the design movements of the past and present), or global economics (that has seen markets soar in rapidly expanding economies).

In the case of the burgeoning market for Chinese works of art, taste dictates that the highest prices are no longer reserved for the early blue and white porcelain long valued by Western collectors but by the decorative exuberance of wares from the Qing dynasty loved by the Chinese.”

- 6.22 Extracts from further articles in the ATG are set out in Section 6 of the Evidence Document, demonstrating the antiques trade’s adaptability.
- 6.23 An example relevant to the increasing demand from Chinese consumers in recent years was the decision by one of the leading regional auction houses, Woolley & Wallis, to launch a Chinese version of their website “in keeping with market trends” (ATG article, 30 October 2013).
- 6.24 As one specific and relevant example of the antiques trade coping with changing regulation, the rules on the sale and export of rhino horn products have changed several times in recent years (see further detail in the articles from the Antiques Trade Gazette set out in Section 6 of the Evidence Document). New restrictions on exports to Asia had a particular impact on the market, significantly affecting prices. “...the decision to stop the trade moving overseas will impact 'open market' prices significantly. Taiwanese, Korean and mainland Chinese are the primary buyers in this field and they have been willing to pay increasingly high sums for old horns that can be legitimately traded.” (ATG 20 September 2010)
- 6.25 When a new ban on the sale of rhino horn trophies was introduced, the ATG noted in an article dated 21 February 2011 that “Specimens such as that sold by Tennants of Leyburn last year for a record £155,000 now have no legal commercial value in the UK.” and that “The sudden ban came after the WLRS decided to act immediately on European Commission guidance changing the definition of what constitutes a work of art in relation to rhinoceros horn. It brings to an end the lucrative legitimate trade that saw some specimens sell at auction for over £100,000.”

- 6.26 No claims were brought as a result of these changes, so far as we are aware.

¹² British Art Market Federation, <http://tbamf.org.uk/>, accessed 21 February 2017.

- 6.27 So prices can drop and the trade in particular items can even come to an end, yet the antiques trade copes and moves on.
- 6.28 In any event, because ivory is a small proportion of the business of most antiques dealers and auction houses, no significant adaptation will be needed. If any business fails to adapt at all, the only consequence would be a small reduction in turnover/profit for the vast majority of businesses in the sector, including small businesses.

Impact on individuals who own ivory items

- 6.29 The impact would be that many of the items could no longer be sold and, of those that could be sold, there might be a reduction in value. This would be most acute for those who own items that would not fall under one of the exemptions. The higher value items of greatest historic or other importance may well be of interest to museums and so could be sold to them (albeit perhaps for a lower price than if wealthy private owners were in the market to purchase them, particularly in Asia).
- 6.30 As we have mentioned, the evidence is that the vast majority of ivory items that are sold in the UK (certainly in auction houses) are not worth a great deal of money – a matter of a few hundred pounds at most. The point is supported by the findings of the USFWS in relation to the US market: “We agree that the majority of ivory antiques are small in value as stated by some commenters (less than \$500 per item or \$240 per item)”.¹³
- 6.31 Two Million Tusks’ figures also showed that only 6% of the 133 lots analysed sold for more than £900. Only 0.7% sold for over £4,000.
- 6.32 Clearly some ivory lots of great value are traded each year in the UK but it is an extremely small percentage of the market. As such, we consider the evidence shows that the impact on the vast majority of individuals who own ivory items will be insignificant. It would only be those who own the rare and expensive items, or those who have accumulated large collections of lower value ivory items, who would be affected to any great extent.

7. Do you have evidence about the value, or number, of sales of items containing ivory in the UK?

- 7.1 Yes

Value

- 7.2 A potential range of £28 million to £42 million for annual sales of items containing ivory by auction houses and antiques dealers.

Volume

- 7.3 In the region of 78,000 items annually, by auction houses and antiques dealers.

If yes, please provide evidence.

- 7.4 The estimate of value is consistent with the order-of-magnitude estimate presented in the House of Commons Library Debate Pack (2016), which stated that “sales of items containing ivory may be worth in the order of several tens of millions of pounds per annum”.¹⁴
- 7.5 In an economic analysis prepared for the British Art Market Federation in 2017,¹⁵ the overall value of sales in the British art and antiques market in 2016 was £9.2 billion. Of this, 64% was fine art sales (paintings, drawings, prints and sculpture), leaving 36% for sales of antiques - £5.89 billion.
- 7.6 A range of £28 million to £42 million for sales of ivory items, as a percentage of £5.89 billion, would be 0.48% to 0.71%.
- 7.7 Such a range is consistent with the findings of Two Million Tusks that ivory sales represent 0.7% to 0.76% by volume of online auction house sales.
- 7.8 Please see Section 7 of the Evidence Document for an explanation of the calculation (including the assumptions involved).

8. Do you have any evidence about how many UK-based businesses, e.g. those in the fine art, antique or auction sectors, specialise in ivory products?

- 8.1 Yes

¹³ USFWS 50 CFR Part 17 Revision of the Section 4(d) Rule for the African Elephant Response to Comment 49, Page 63

¹⁴ The House of Commons Library (2016), ‘Debate Pack: The UK Ivory Trade’, <http://researchbriefings.parliament.uk/ResearchBriefing/Summary/CDP-2016-0234>, accessed 7 December 2016.

¹⁵ <http://tbamf.org.uk/wp-content/uploads/2014/08/The-British-Art-Market-2017.pdf>

If yes, please provide evidence.

- 8.2 From our research, it appears that there are very few UK-based businesses that specialise in ivory products (we take ‘specialising’ to mean focusing wholly or mainly on ivory items). The few examples we have found are netsuke dealers and auctioneers of old pianos. There is also a handful of people who are known for their expertise in miniatures painted on ivory, but so far as we can find, no-one has a business that deals wholly or mainly in miniatures.

Netsuke

- 8.3 According to the International Netsuke Society website, there are only 5 dealers advertising as selling netsuke in the UK and 3 auction houses (as at 19 December 2017). None of the auction houses specialises wholly (or even mainly) in netsuke. It also appears that none of the 5 dealers trades wholly in netsuke.
- 8.4 According to the website of one, Sydney Moss, he deals in the full range of Chinese and Japanese art – painting, calligraphy, netsuke, lacquer, inro and other sagemono, tea ceremony utensils and sword furniture. The materials in which he deals include bamboo, lacquer, ivory, wood, rhino horn, jade and soapstone. Of the 4 netsuke advertised on his website on 19 December 2017, 2 were made out of wood and 2 out of ivory.
- 8.5 Max Rutherford is probably the dealer with the greatest emphasis on netsuke, with his website describing his business as offering Japanese art in many forms, with the emphasis on netsuke. Of 17 netsuke identified on his website, 13 were made of ivory and 4 of wood or walrus ivory. Even he is not wholly dependent on the trade in elephant ivory netsuke, offering netsuke of different materials and other forms of Japanese art.

Piano auctioneers

- 8.6 We understand that there is a specialist auctioneer of antique pianos, but the Music Industries Association will be best placed to provide information about them.

Miniatures

- 8.7 Philip Mould is probably the person who is best known for dealing in miniatures but even he does not appear to specialise wholly or mainly in selling miniatures. From his website, it appears that paintings other than miniatures make up the majority of his stock.
- 8.8 We understand that whilst many miniatures painted on ivory were produced in the Victorian era, there were miniatures produced well before Queen Victoria came to the throne in 1837. Some of these earlier miniatures were on ivory but others were on materials such as vellum, card or paper. Looking at Philip Mould’s website, it appears that most of the more valuable miniatures were not in fact painted on ivory (only 3 out of the top ten by value were painted on ivory, as at 9 November 2017). Overall, 80 miniatures were listed on the website, of which 49 were on ivory (61%). Clearly the proposed ivory sales ban would not have any impact on the sale of miniatures painted on vellum, card or paper, which represent a sizeable minority of the miniatures trade.

9. Do you agree that the Government should include an exemption to allow the continued sale of musical instruments containing ivory?

- 9.1 Yes

Please provide evidence to support your view.

- 9.2 This potential exemption has been discussed at length among the NGO community. Ultimately, the NGOs supporting this response concluded that it would be appropriate to support a musical instrument exemption. The arguments by the British Musicians Union and the Music Industries Association were persuasive: 1) the principal purpose of musical instruments is to be used for performances rather than being traded for profit; 2) professional musicians tend to buy only one or a small number of instruments during their careers; 3) instruments are often expensive (sometimes very expensive) and as such represent a considerable investment by professional musicians that they need to be able to recoup at the end of their careers; and 4) the proportion of ivory used in most musical instruments is small.
- 9.3 We have also been influenced by the fact that most of the US states that have taken the toughest line on banning ivory sales have decided to allow a musical instrument exemption with appropriate volume and date limitations (California, New York and Hawaii).

10. Do you have a view on what the scope of the musical instruments exemption should be? Should it be qualified, or refined, further than proposed in the consultation document?

- 10.1 Yes

Please provide evidence to support your view.

- 10.2 We consider the exemption should be for musical instruments that:
- a) were made before 1975 (i.e. from ivory that was pre-Convention);
 - b) contain less than 20% ivory by volume; and
 - c) contain ivory that weighs less than 300gms.
- 10.3 We understand that an exemption of this kind would allow continued trade in the vast majority of musical instruments commonly used by musicians and traded in the UK, based on information from the British Musicians Union and the Music Industries Association. We understand that these limits are supported by those organisations. We had originally proposed a 200gms limit which is the one used in the US Federal de minimis exemption (based on their research, the USFWS believed that the 200gms limit would be sufficient to cover the ivory used in most musical instruments). However, in the light of evidence from the British Musicians Union and the Music Industries Association, we have decided to revise our proposed limit to 300gms to accommodate certain pianos and bagpipes in the UK that contain higher levels of ivory (c270gms).
- 10.4 The 20% volume and 1975 date are the same as those used in the musical instrument exemptions in California, New York and Hawaii. We believe that including the additional 300gms requirement would be useful to prevent trade in any large musical instruments that contain a significant amount of ivory (but which is still less than 20% of the entire instrument).
- 10.5 We understand that the limits we have proposed would allow for continued trade in pianos, bagpipes and string instruments (where the bow contains a very small amount of ivory weighing a few grams). There may be a few musical instruments that would not fall within these limits (for example, early recorders made wholly out of ivory or early lutes made with a significant amount of ivory inlay or veneer). However, we do not believe that the exemption should be so wide as to allow trade in all musical instruments. It is items made wholly or mainly out of ivory that have the closest link with poaching and the illegal trade (given that it makes most economic sense to trade in such items rather than items containing small amounts of ivory and they are the items most likely to be faked). Where an antique musical instrument made of solid ivory is considered to have particular artistic or cultural value such that it would be of interest to an accredited museum, it could be bought under the museums exemption. As with any exemption, the line has to be drawn somewhere.
- 10.6 We also understand that some musical instruments continued to be made out of ivory after 1975 and before 1989, so some musicians are arguing that the exemption should extend to 1989. We strongly oppose that. The 1980s saw the highest levels of poaching in recent history as elephant populations in Africa were reduced by 50% from c1.2 million to c600,000 in only ten years. It would be utterly wrong to allow continued trade in instruments made in the 1980s that may well have used ivory from elephants that were killed during that slaughter. 1975 is already a later date than many in the NGO community would have preferred but is suggested as a compromise. We do not believe that 1989 would have any support from the NGO community at all.
- 10a. *If this category of exemption were implemented as you suggest, what proportion of the existing trade in items containing ivory would you expect to be exempt from the ban? Please provide evidence.*
- 10.7 We believe that musical instruments form only a very small part of the general antiques trade. That may be because the high quality musical instruments containing ivory are traded through specialist dealers (such as the specialist piano auctioneer referred to in our response to Question 8) and, to an extent, through personal networks of musicians and orchestras. Others such as the British Musicians Union and the Music Industries Association will be better placed than we are to provide evidence.
- 11. Do you have any evidence about the current trade in musical instruments for professional use made wholly, or partially, of ivory?**
- 11.1 No
- If yes, please provide evidence.*
- 11.2 We believe that the British Musicians Union and the Music Industries Association are best placed to provide that evidence.
- 11.3 We would comment that professional musicians do not 'trade' in musical instruments, at least not in the sense of antiques dealers trading in items containing ivory. As we mentioned in our response to Question 9, professional musicians will commonly purchase only one or a small number of musical instruments during their career, investing in expensive instruments to be used in their profession that are ultimately sold when the musicians' careers end (often providing a form of pension). When musicians sell an instrument and then buy another during their careers, we understand that to be the usual process of professionals being in a position, as they become more successful, to 'upgrade' to better quality instruments that will further improve the quality of their performance.

12. Do you agree that the Government should include a de minimis exemption to an ivory ban?

12.1 Yes

Please provide evidence to support your view.

12.2 We agree with the Government's rationale for a de minimis exemption (namely, that trade in items containing a small amount of ivory does not contribute directly or indirectly to poaching or the illegal trade in ivory). The economic value for those involved in the illegal trade in modern ivory is in items that are predominantly ivory. This is evident from investigations into the trade in illegal modern-day ivory in Asia (where most newly-carved items are made wholly or mainly out of ivory, such as carvings, bangles, necklaces and chop sticks). It is also supported by the fact that items seized by UKBF on their way from the UK to Asia are usually made predominantly of ivory, as are the items that have formed the basis for prosecutions within the UK (see the details in Section 25 of the Evidence Document).

12.3 The items that are exported legally from the UK and recorded in the CITES trade database are usually described as carvings. There are limited categories available on the database so further detail is not available, but Defra will have access to the underlying information provided for each application for an export permit so will be able to identify the types of items that are of interest to the Asian market. Where items are being exported in order to be recarved, it is the items made wholly or mainly out of ivory that will be of the greatest interest.

12.4 The ease with which ivory can be extracted from a larger item will also be relevant, hence the need to ensure that a de minimis exemption is tightly framed (and includes a requirement that the ivory is integral to the larger item). Ivory chess pieces would not be integral (being easily removed from the set) and so could be reworked (although small, a chess piece could easily be reworked into even smaller pieces such as beads for a necklace – jewellery is one of the most common types of ivory item sold in the Hong Kong and Chinese markets).

12.5 For further details about both legal exports and items seized by UKBF, see Section 27 of the Evidence Document.

13. Do you have any views on what the scope of the de minimis exemption should be? Should it be qualified, or refined, further than proposed in the consultation document?

13.1 Yes

Please provide evidence to support your view.

13.2 We believe that the de minimis exemption should be based on a combination of the US Federal and individual US state models (adapted as explained below). Our proposal is that a piece of ivory would fall within the exemption only if it satisfied all of the following criteria:

- a) less than 5% of the item's volume is ivory;
- b) the ivory content weighs less than 200gms;
- c) the ivory is a fixed or integral component or components of a larger manufactured or handcrafted item;
- d) the item contains no raw/unworked ivory; and
- e) the item was manufactured or handcrafted before 1900 and has not been reworked or repaired with ivory since 1900¹⁶.

Explanation for volume and weight thresholds**5%**

13.3 The US Federal rule allows trade in antiques containing any quantity of ivory i.e. they do not have a de minimis rule for antiques, only for non-antiques. However, California and some other US states do have a combined antique and de minimis exemption, as we are suggesting. The California de minimis percentage threshold is 5%, the US Federal percentage threshold is 50%. (A 50% threshold is hardly de minimis in the usual sense but we understand it was agreed after considerable negotiation to accommodate certain special interests in the US, including the National Rifle Association – not an interest group we need to worry about in the UK.) We have proposed a 5% level to match that adopted by California. We believe that the point of the exemption should be to capture items that contain only a very small amount of ivory (consistent with the meaning of de minimis). A higher figure, such as 20% and certainly 50%, would not be de minimis.

¹⁶ It will be important to make clear that the object must still be in its original state because of potential attempts to circumvent the de minimis rules e.g. attaching a small carving to a larger object so that it falls under the de minimis thresholds.

13.4 We consider that a very low percentage such as 5% will make enforcement easier. It should be possible in most cases to tell at a glance whether an item contains a very small amount of ivory. The higher the permitted amount, the more of a judgment would have to be made. For example, telling the difference between an item containing 20% or 25% ivory would be very difficult, yet it is only a 5% difference. Telling the difference between an item containing no ivory or 5% would also only be a 5% difference, but would of course be very easy; so too would telling the difference between an item containing 5% and 10% - one is twice the other. So, the principle should be “the smaller, the better” for ease of enforcement.

200gms

13.5 In their explanation for the Federal de minimis criteria, the USFWS said that they chose the weight limit of 200gms after consultation with the antiques trade and musicians. They said that they believed the 200gms limit would be “*large enough to accommodate most pianos and other musical instruments, as well as many other household and utilitarian items (such as baskets with ivory trim, teapots with ivory insulators, knives and guns with ivory grips, some canes and walking sticks with ivory inlay or other decoration, and measuring tools with ivory trim or decoration), but also because it was small enough to ensure that [they] were not allowing commercialization of substantial volumes of ivory*”¹⁷.

13.6 In relation to household and utilitarian items, we believe the same would apply in the UK. Whilst we believe that many musical instruments would also fall within that limit, we believe the limit should be increased for the musical instrument exemption to accommodate certain specific types and makes of musical instruments, as reflected in our response to the questions about the musical instrument exemption.

13.7 It is worth mentioning for completeness that the US Federal model included an additional criterion, namely that the ivory is not the primary source of the value of the item (i.e. the ivory is no more than 50% of the value). We consider that introduces an unnecessary complication into the exemption. The value of ivory (and the value of the item within which the ivory is contained) will fluctuate over time, so that an item may be illegal one year but become legal the following year (and vice versa). The other criteria from the US Federal model do not suffer from this problem since they are not capable of fluctuating. Including value as a criterion would also pose an enforcement challenge, requiring authorities to be able to value an item properly, which would involve independent assessment, additional paperwork and extra costs to the taxpayer.

Justification for the 1900 date

13.8 Since the Government’s expressed intention is to make the UK’s rules on ivory among the toughest in the world, we believe this is an opportunity to adopt a cut off date that is earlier than 1947, sending the strongest possible message that the UK is serious about restricting ivory sales. The exemption should focus on items that are properly considered ‘antique’. California and New York, to name two, adopt a de minimis exemption that is based on a combination of percentage of ivory and age, currently pre-1917 (following the US Federal definition of an ‘antique’ as being at least 100 years old). The UK has the opportunity to adopt a definition of antique, de minimis ivory that is even tougher than in those two states.

13.9 On that basis, and for the reasons set out below, we propose a date of 1900:

- a) it is a simple, easily remembered date, allowing for very clear messaging to all those involved in the trade, either on an occasional or professional basis;
- b) feedback from the police and other agencies is that the rules need to be as simple as possible to aid awareness and enforcement;
- c) 1900 provides a clear cut off between 20th century and earlier ivory (we believe most people would not consider 20th century ivory to be ‘antique’);
- d) the antiques trade themselves often categorise ivory (and other antiques) by reference to the century from which they come (‘19th century’ and ‘early 20th century’ are common descriptions applied to ivory pieces when their precise date is not known);
- e) in the debate about a potential ivory ban, most of the focus from the antiques trade has been on ivory items from the 19th century and earlier (for example, in comments made in the Parliamentary debate on 6 February 2017). Setting the definition of ‘antique’ for ivory at 1900 will mean all of those items that satisfy the other aspects of the de minimis exemption will be unaffected;
- f) several definitions of ‘antique’ already exist that define an antique as an object that is at least 100 years old, including:
 - i) as mentioned above, the US Federal statutory definition (under the US Endangered Species Act (ESA)) and the definition in a number of US states including California and New York;

¹⁷ USFWS 50 CFR Part 17 Revision of the Section 4(d) Rule for the African Elephant Response to Comment 27, Page 42

- ii) the definition of antique used by HMRC for assessing Customs Duty, Excise Duty and VAT due on imports¹⁸; and
- iii) the definition in BADA's byelaws provides, at Byelaw 1.(2)(A)(a), that an antique is an object which “was manufactured more than one hundred years (hereinafter called “the centenary date”) prior to the date on which it is offered for sale by the Member”;
- g) the Government issued a consultation on 19 October 2017 about introducing a legal definition of antique firearm¹⁹ which proposed a potential date of 1900 (or sticking with the current date of 1939 set out in Home Office Guidance²⁰). 1900 has been proposed “on the basis that only weapons manufactured until 1899 can be imported as antiques”, so adopting 1900 would “bring the domestic situation in line with that for import”. Attempting to achieve consistency in the definition of ‘antique’ across legislation would clearly be desirable, particularly in the interests of clarity and enforcement.
- 13.10 Assuming that new ivory trade legislation is enacted in 2018, adopting the ‘100 year’ definition would mean that objects produced before 1918 would be ‘antique’, but that date has none of the other advantages of 1900 and is only a few years later. In addition, for the reasons explained in more detail below, we believe that a fixed date should be adopted and not a rolling date.
- 13.11 The point that the antiques trade themselves often describe items by reference to centuries is illustrated by the descriptions of ivory items for sale through online auction platforms such as the-saleroom.com (in common with many types of antiques where approximate age is usually by reference to centuries). Where dates were given on the-saleroom.com for a sample of 100 ivory pieces, the vast majority (83.6%) were described by reference to centuries: 19th century, 20th century, late 19th/early 20th century. The remaining 16.4% had specific dates (ranging from 1900 to 1945) or periods (e.g. Victorian). The breakdown was as follows:
- | | | |
|----|---|----|
| a) | 19 th century | 38 |
| b) | 20 th century | 10 |
| c) | late 19 th /early 20 th century | 3 |
| d) | specific date/period | 10 |
| e) | no date given | 39 |
- 13.12 The figures also demonstrate that almost four times as many pieces were from the 19th century as from the 20th century, so reinforcing the focus of the antique ivory market as being pre-1900.²¹
- 13.13 We believe that choosing a fixed date for the antiques exemption is better than the rolling period of 100 years used in the US. A fixed date will provide certainty. The 100 year rolling definition in the US rules was applied because it is the statutory definition of an antique under the ESA for all purposes and could not be changed specifically for the new regulations on the ivory trade (which were adopted pursuant to the ESA). The principal disadvantage is of course that an item that is currently illegal under US rules because it is, for example, 99 years old will next year become legal and can be traded. Whilst it is natural for most products that they should become ‘antique’ by the passage of time, the issues are very different with ivory, a product that comes from an endangered species. We are trying to prevent poaching and the further decimation of the species by restricting the trade in ivory, so it is critical that we ‘freeze’ the quantity of ivory antiques at today’s levels. We do not want people to believe that if they produce or acquire ivory items now, it is some form of investment for the future because they will eventually become legal. The antiques trade are understandably focused on protecting existing pieces that are considered to be antique and part of our heritage; we believe they are less concerned with new pieces that may become antique in the future.
- 13.14 There is serious concern that products from a number of endangered and threatened species, including ivory, are being stockpiled, based on the assumption or even expectation that trade will resume. We need clear and unambiguous signals that the trade in ivory in particular will not resume.
- 13a. *If this category of exemption were implemented as you suggest, what proportion of the existing trade in items containing ivory would you expect to be exempt from the ban? Please provide evidence.*
- 13.15 We have not carried out a systematic survey of items for sale to establish what proportion of the existing trade in items containing ivory would fall under our suggested de minimis thresholds, but we would be willing to assist in gathering that data if it would be helpful to Defra.

¹⁸ HMRC Notice 362: imported antiques, updated 20 October 2015.

¹⁹ **Policing and Crime Act: proposals to implement legislation to define antique firearms**

²⁰ Home Office Guide on Firearms Licensing Law, Chapter 8 (last updated April 2016).

²¹ In Caroline Cox’s report “Elephant in the Saleroom”, she comments that on the basis of the one to one interviews that she conducted with members of the antiques trade “the majority of the interviewees stock was antique (in the main 19th century)”.

- 13.16 On the basis of our understanding of the market at this stage, we believe that our proposal would allow for the continued commercial trade in antique (i.e. pre-1900) pieces containing a very small amount of ivory such as:
- a) all items of furniture where the ivory component is simply the escutcheon around the keyhole (e.g. in a chest of drawers);
 - b) many pieces of inlaid furniture where the ivory inlay is only on the top and/or front surfaces of the piece (bearing in mind the calculation of the percentage will include measuring the surface area of the top, front, sides and back);
 - c) many household items where ivory forms a small component of the piece (e.g. silverware with a small piece of ivory as an insulator in the handle but nowhere else in the item);
 - d) most musical instruments.
- 13.17 For example, most pianos would fall under the 5% de minimis threshold that we propose. According to evidence from the Music Industries Association at the meeting of the APPG on Endangered Species on 23 November 2017, the volume of ivory on piano keys as a percentage of the overall volume of a piano is usually around 3%. (The point about the amount of ivory on piano keys is relevant here, notwithstanding that we also support a separate musical instrument exemption.)
- 13.18 The Two Million Tusks report allocated auction lots for sale into different categories. Their largest study (6,243 lots containing ivory over a 3 month period in April, May and June 2017) found the following split between the different categories:
- | | | |
|----|---------------------|-----|
| a) | carvings/figures | 33% |
| b) | paintings | 10% |
| c) | furniture | 8% |
| d) | silverware/flatware | 10% |
| e) | miscellaneous | 39% |
- 13.19 The categories that are most likely to fall within the de minimis exemption would be furniture and silverware/flatware. Some of the paintings might fall within the exemption (depending on their dimensions and the amount of ivory they contain) and so might some of the miscellaneous items. Similarly, a minority of the furniture and some of the silverware/flatware might contain too much ivory. Taking everything in the round, a reasonable estimate could be that 10% to 20% of the items surveyed by Two Million Tusks would fall within the de minimis exemption we propose.

14. What thresholds of ivory content should be set for a de minimis exemption, by either percentage, volume or weight?

Please provide evidence to support your view.

14.1 We believe the appropriate thresholds should be:

- a) less than 5% of the item's volume is ivory;
- b) the ivory content weighs less than 200gms.

14.2 Please see our response to Question 13 for more detail and explanation.

15. Do you think that the majority of musical instruments containing ivory would be captured by a de minimis exemption?

15.1 Yes

Please provide evidence to support your view.

15.2 As the Government notes in paragraph 59 of the Impact Assessment: "**Many musical instruments made before the twentieth century [emphasis added] contain ivory components, such as piano keys, violin bows, and trims on bassoons and other woodwind instruments**". On that basis, many musical instruments would fall within our proposed de minimis exemption since they were made before our proposed 1900 cut off date and contained only a small amount of ivory (usually around 3%, see response to Question 13a).

15.3 We acknowledge the Government also noted that other instruments, such as bagpipes and early recorders, were made "*largely or entirely of ivory*". They would clearly not be covered by the de minimis exemption and as such, could not be sold (other than to museums), but could continue to be used, displayed and taken overseas.

15.4 As we have explained earlier in our response to Question 10, we do consider that the musical instrument exemption should contain higher percentage and weight thresholds than the standard de minimis exemption, in order to capture those instruments

(such as some bagpipes) that would fall above the standard de minimis thresholds we have proposed. We also consider that a later cut off date should be adopted for those musical instruments given their special nature as items that are actually in regular use for performances.

- 15.5 The Government has stated that any exemptions should be “*strictly limited*” and “*carefully targeted*”²², so it is inevitable when defining the exemptions that some items will not qualify. The inability to trade in those items has to be set against the need to ensure that wide exemptions are not used to defeat the purpose of the Government’s proposals: to tackle elephant poaching and the illegal trade in ivory.

16. How should the de minimis exemption operate in practice?

Please provide detail here.

- 16.1 Because the percentage threshold would be based on the volume of the item, it should be possible in the vast majority of cases to rely on a visual assessment. Sometimes, this may need to be backed up by simple measurements of the amount of ivory compared with the overall volume of the item. As we explained in our response to Question 13 (under the subheading ‘5%’), we believe that adopting a very small percentage for the de minimis exemption will assist enforcement, since it will make assessment easier ‘at a glance’.
- 16.2 We do not advocate that it should be standard practice for the police or other authorities to remove ivory that is fixed within a larger object for the purposes of weighing it. This may ultimately be necessary in some cases of dispute, but it should generally be discouraged, to avoid damaging what may turn out to be a legally-traded item. It ought to be relatively straightforward for the authorities to develop some guidelines based on research into the amount of ivory in a range of commonly-occurring items. That has already been done to an extent by the USFWS and their advice should be sought. New York state has also published guidance about how its ivory trade legislation will operate in practice, in the form of FAQs²³ (for example, creating a rebuttable presumption about the weight of ivory in a particular type of object).
- 16.3 Further research can be carried out into other items (perhaps in conjunction with the antiques trade and the musical instrument makers), so that enforcement authorities would know with a reasonable degree of certainty whether particular types of items usually fall above or below the de minimis threshold, both for the percentage and weight.
- 16.4 Ultimately, the onus should be on those involved in the sale to provide adequate proof that the item does fall within the de minimis exemption (see further in response to Question 26). Therefore, any guidelines that the enforcement authorities may develop will be useful to check the proof being offered, rather than the onus being on the enforcement authorities to prove that an item does not fall under the de minimis thresholds. That will be an important distinction in practice.
- 16.5 As part of a public awareness and education campaign about the new legislation, Defra could publish relevant guidelines on its website about objects that ordinarily would be expected to fall under the de minimis thresholds (see further in Section 26 of the Evidence Document for our suggestions about raising awareness and education).

17. Do you agree that the Government should include an exemption to our ivory ban to allow the continued sale of items of artistic, cultural, or historic significance?

- 17.1 No

Please provide evidence to support your view.

- 17.2 We are strongly opposed to this potential exemption. We believe:

- a) it would be extremely complicated to establish appropriate criteria and accompanying guidelines to determine the scope of the exemption;
- b) without such criteria and guidelines, it would be vague and open to a wide range of interpretations;
- c) even with criteria and guidelines, there would inevitably be an element of subjectivity in the assessment of any ivory item;
- d) there would need to be some form of licensing/certification system established, which would need to continue to operate for as long as any ivory remains to be traded, representing an ongoing and expensive drain on resources and a potential source of dispute when owners of ivory disagreed with a decision not to award a licence/certificate;
- e) it risks being a loophole for continued illegal trade;

²² Page 1 of the Impact Assessment, description of Option 2.

²³ http://www.dec.ny.gov/docs/wildlife_pdf/ivoryfaqs.pdf

- f) it would be extremely difficult to enforce and would create an unnecessary burden on enforcement agencies.
- 17.3 The Government has said that any “*exemption of this kind would need to be strictly defined to ensure that only the rarest and most important items are exempted*”²⁴. That is setting the bar very high. We firmly believe that if an item is so rare and important, it should be in a museum:
- a) displayed for the benefit of the public;
 - b) available to be studied for the purposes of research and scholarship;
 - c) properly preserved for the future in suitable facilities (with appropriate levels of lighting, heat and humidity);
 - d) with adequate security arrangements put in place for the highest value items;
 - e) with easy access to professional expertise for repair and restoration as necessary.
- 17.4 Such an item should not be traded between individuals on the open market, to be kept in private hands away from public view and in conditions that may not be suitable for its long-term preservation, entirely free of any supervision.
- 17.5 On this basis, there would be no need for a separate exemption because trade in these items would be covered by the museum exemption.
- 17.6 If the pool of potential purchasers is restricted to museums, there would be no need to engage in the extremely complicated, time-consuming and contentious process of trying to define what amounts to an item of artistic, cultural or historic significance. The only definition that would be needed is the definition of ‘museums’ (see further in our response to Question 20).
- 17.7 It is reasonable to work on the basis that a museum would only be interested in spending funds on items that are important and fit with their purpose (and indeed with their rules on acquiring items set out in their collections policies). Even in the unlikely event that some museums take a relaxed view of the significance of the items they acquire, the nature of the proposed museum exemption would mean that they could not later sell any of those items back into the commercial market - they would be able to sell only to other museums. So such items would be taken out of the commercial trade for good.
- 17.8 The antiques trade are understandably concerned about artworks of great quality that are part of our collective heritage. In the Parliamentary debate on 6 February 2017 and in articles in the trade press, much has been made of the importance of certain ivory items, including many that are several hundred years old. But they are very much the exception and focusing the debate on them is entirely misleading. Less frequently mentioned by the antiques trade, if at all, are the thousands of other ivory items that are bought and sold in the UK every year - through antiques dealers, auctions, antiques fairs, car boot sales and online sales. The vast majority have no significant artistic, cultural or historic value. If a billiard ball, piece of cutlery or insulated teapot does have any importance as part of our social history, it can be best demonstrated by displaying the item in a museum. Such items do not need to have, nor should have, any commercial value.
- 17.9 Any licensing/certification scheme would be complicated to administer and expensive to run. It would inevitably result in disputes when owners of ivory disagreed with a decision not to award a licence or certificate. There would need to be a dispute resolution process established to handle such disputes.
- 17.10 The evidence about ivory licensing and certification systems in other countries has shown that they are loopholes for illegal trade (e.g. China). Whenever a system is established that involves the issuing of a document to allow trade, it lends itself to forgery and abuse (up to and including bribery and corruption).
- 17.11 To sum up, it is clear to us that:
- a) the appropriate purchasers of items of this rarity and importance should be museums;
 - b) adopting this approach will be by far the simplest option, avoiding the immense complexity of establishing what the scope of the exemption should be;
 - c) this approach will be the best use of Government resources, avoiding the need for the ongoing expense of the licensing/certification process and associated dispute resolution procedures (up to and including proceedings in the High Court).

²⁴ Explanation to Question 17 in the consultation survey.

18. What do you think the scope of the items of artistic, cultural, or historic significance exemption should be? How should artistic, cultural, or historic significance be defined?

Please provide evidence to support your view.

18.1 Please see our response to Question 17.

18a. *If this category of exemption were implemented as you suggest, what proportion of the existing trade in items containing ivory would you expect to be exempt from the ban? Please provide evidence.*

18.2 We do not believe this exemption should be implemented.

18.3 If it is implemented, we consider that it should be limited to the “*rarest and most important items*”, as the Government has indicated. We would expect that to cover only a handful of items each year.

18.4 As Defra will be aware, there is a committee that assesses whether an item to be exported from the UK is in fact a ‘national treasure’ that ought if possible to remain within the UK (the Reviewing Committee on the Export of Works of Art and Objects of Cultural Interest). If the Committee considers the item to be of outstanding national importance such that it amounts to a ‘national treasure’, the granting of an export permit is delayed by a set period to allow funds to be raised to acquire the item and keep it in the UK. The Committee only intervenes in relation to 25 to 50 items each year, out of a total of c55,000 items for which export permits are sought²⁵. We think that would be the sort of proportion of ivory antiques that should fall within this exemption each year (if the exemption is in fact implemented).

19. How do you think an exemption for items of artistic, cultural, or historic significance should operate in practice?

Please provide detail here.

19.1 If there were to be such an exemption, we believe it would be extremely complicated to operate in practice. Agreeing the scope of the exemption in the first place would be a very contentious, complex and time-consuming process. An assessment and certification procedure would then have to operate for as long as ivory remains to be traded, representing an expensive drain on resources and an ongoing source of potential disagreement and dispute. In our response to Question 17, we suggest a solution that would avoid the need for such difficulties altogether.

19.2 We mentioned in our response to Question 18 the Committee that operates on behalf of the Department for Digital, Culture, Media and Sport when reviewing export permit applications. The composition of that Committee and the criteria against which it makes its decisions (known as the Waverley criteria) would be a possible model for the operation of a licensing/certification system for items of exceptional artistic, cultural or historic significance. The Arts Council guidance on the operation of the process also makes clear the nature of the documentation that needs to be supplied to the Committee to enable their decisions to be made, which could also be a model for any review panel established to adjudicate on whether items fall within an artistic, cultural or historic exemption.

19.3 We mention the Committee as an example of a system that could be used purely because Defra has asked for views on how the exemption should operate in practice, notwithstanding our strong objection in principle and in practice to the exemption, for the reasons we have explained.

20. Do you agree that the Government should include an exemption to allow continued sales of items containing ivory to museums or between museums?

20.1 Yes

Please provide evidence to support your view.

20.2 We acknowledge the important role of museums in maintaining and enhancing their collections of ivory items. Their public role and the fact that their prime interest is in conserving pieces for educational, research and display purposes means that they should enjoy special rights in relation to the trade in ivory items. Indeed, we believe that restricting the commercial trade in antique ivory may well benefit museums through increased donations and bequests and a reduction in the prices they need to pay when acquiring items in the market. Many of the specific pieces mentioned by those who are worried about the prospect of a total ban on the ivory trade are already safely in the possession and care of our leading museums and will remain there.

20.3 Therefore, we agree with the Government that there should be a specific exemption for museums. We believe that the exemption should allow sales:

- a) by anyone to a museum; and

²⁵ According to an Arts Council Notice dated 2016 entitled “*UK Export Licensing for Cultural Goods*”, containing guidance on the process.

- b) between museums.²⁶
- 20.4 As the Government has made clear in the Consultation Document, the proposed ban (and exemptions) would only deal with sales, so that display of ivory, donations and bequests to museums and loans and exchanges between museums would be unaffected.
- 20.5 If restricting most commercial sales of ivory leads to a significant reduction in the value of ivory items, it is reasonable to assume two beneficial consequences for museums:
- a) it would become easier for museums to purchase pieces (when they do wish to purchase) because the prices would be more affordable and they would not be in competition with wealthy private collectors able to pay inflated prices – it would effectively become a buyer’s market for museums who would be able to pick and choose what they wished to buy (see Section 6 of the Evidence Document concerning the trade in rhino horn for details of how prices drop when more affluent potential purchasers are excluded from the market, in that case by banning exports); and
- b) museums would be more likely to receive donations and bequests because owners would stand to gain less through the sale of ivory.
- 20.6 In our proposal, museums would be permitted to sell ivory items only to other museums. We consider such a restriction on ‘commercial’ trade by museums will have very little impact because museums rarely sell pieces from their collections. Such ‘deaccessioning’ is subject to strict standards and sanction (usually in terms of withdrawn public funding) if a museum does not comply with those standards.²⁷ The benefit of a piece becoming part of a museum’s collection is that it can be cared for and conserved on a long-term basis, insulated from the vagaries of commercial trade and private financial interests.
- 20.7 When the USFWS consulted on the proposed changes to the Federal ivory trade rules that took effect in July 2016, the U.S. Association of Art Museum Directors said in their submission that: *“Only rarely are works ever removed from the permanent collection. As a result, acquisition by a U.S. Art Museum effectively removes these items from the trade and allows them to be studied, researched and displayed for the benefit of the public, scholars and students”*.²⁸
- 20.8 In any event, museums principally rely on donations and bequests. Purchased pieces usually represent only a minority of their collections. According to the same submission by the U.S. Association of Art Museum Directors, art museums in the USA *“acquire approximately 80% of their collection through generous donations that allow the American public to see works that many museums could never afford to purchase.”* Our discussions with representatives of some leading UK museums confirm that the position is very similar in the UK.
- 20.9 Under our proposal, museums in the UK would be permitted to purchase ivory internationally, with an appropriate import permit, but would not be able to sell an item to a museum outside the UK. That is on the basis that our suggested definition of museum would be limited to museums that have been accredited under the Accreditation Scheme, which only covers UK museums (see below under ‘Definition of Museum’). It would be too difficult to establish the credentials of any museum worldwide that might wish to purchase an ivory item from a UK museum (and would carry a considerably increased risk of abuse).
- 20.10 New (legal) ivory items are not being produced and have not been produced (with a few exceptions) since 1947. Therefore, all ivory items of cultural or other importance are already at least 70 years old and will become increasingly fragile as time passes. Museums have the expertise and facilities to ensure the best preservation and conservation of historic items, to ensure they do not decay or suffer damage (e.g. through inappropriate levels of lighting, heat and humidity). If items do need repair, museums have the necessary skills and facilities. Museums are also able to ensure adequate security arrangements for their collections, particularly for those items of the highest value.

²⁶ In 1972, India implemented a comprehensive ban on the commercial trade in Asian elephant ivory (which was extended to African elephants in 1991). No commercial trade is possible at all, including trade in antiques. Museums are exempted from the legislation but individuals cannot sell to museums. Although not made explicit in the legislation, the view is that museums can trade ivory items between themselves, but with no-one else.

²⁷ Antiques Trade Gazette – 19 April 2015: New blacklist threat for deaccessioning museums.

A fresh warning has gone out to UK museums and galleries that they could face future funding cuts if they sell items from their collections. In a statement just released, ten influential public bodies, including Arts Council England, the Museums Association, the Art Fund and the Heritage Lottery Fund, hit out at *“unethical”* deaccessioning and threatened to blacklist *“organisations that choose to act outside the widely adopted standards for managing and caring for public collections”*. A spokeswoman for Arts Council England (ACE) told ATG: *“The joint statement developed out of a number of discussions between ACE, the Museums Association and the other signatories over the past year in response to increasing concern about the unethical sale of public collections. We feel it important to be as clear as possible that there is a shared sector position around such activity and to highlight the likely consequences if the well-established sector ethics and standards are not respected.”* These consequences will be primarily financial. The statement says that museums that choose to sell *“will find that it has a direct impact on their relationships with development bodies and funders and the ability to access support. Likewise, loss of accreditation is likely to affect the ability to access potential partners, loans and donations.”*

²⁸ Association of Art Museum Directors’ Presentation June 24, 2014, Oversight Hearing on “The U.S. Fish and Wildlife Service’s Plan to Implement a Ban on Commercial Trade in Elephant Ivory”.

- 20.11 Not only would museums wish to maintain proper environmental and security arrangements to ensure their collections are preserved, they would be under a duty to do so under the Accreditation Scheme. No such duty exists for private owners of ivory or any other antiques. They are free to do whatever they like with any item they buy, no matter how rare or important. They have no responsibility to ensure its long-term preservation or that it is held in a secure location.
- 20.12 Therefore, it would be a positive advantage for the preservation of all ivory items of artistic, cultural or historic significance that the new legislation would ensure they could only be acquired by museums.
- 20.13 Those opposed to any restriction on the sale of antique ivory have often mentioned some of the most valuable and historic artworks made of ivory in support of their arguments. They have raised the prospect of museums, stately homes and galleries no longer being able to display their ivory items and have suggested that in some way their collections will be damaged. That is not true. The possession and display of such items would not be affected by our proposals. Indeed, focussing the debate on the *“medieval treasures in our museums, churches, homes and antique dealers”* and *“objects that have been around for thousands of years and are now in our museums”*²⁹ gives an entirely wrong impression of the ivory trade in the UK; the vast majority of the trade does not involve items of anywhere near such age or historical importance. Reference was even made in the Parliamentary debate on the ivory trade on 6 February 2017 to items dating from 11,000BC and 2,980BC. It is fair to say that they do not form a significant part of the UK’s ivory trade. Indeed, both of those items are in the British Museum and have not been traded at all for a very long time: the ‘swimming reindeer’ from 11,000BC were acquired by the museum in 1887 – and are in fact made out of mammoth not elephant ivory – and King Den’s sandal label dates from 2,985BC and has been in the museum since 1922. So far as we are aware, there is no immediate prospect of either being sold.
- 20.14 The fact that the swimming reindeer are not made out of elephant ivory also demonstrates the misinformation that is sometimes put out by those who argue in favour of no, or very limited, restrictions on the commercial antiques trade. The Lewis chessmen, which are also in the British Museum and have been since 1831/1832, were also cited in the Parliamentary debate as a precious ivory artefact which would be banned. In fact, the Lewis chessmen are made out of walrus ivory and whale teeth.
- 20.15 So of three items mentioned as being potentially at risk from a closure of the domestic ivory market, all are safely housed in the British Museum for their long-term conservation and display to the public and no ivory sales ban will require their removal or destruction - and two are not actually made out of elephant ivory at all.

Definition of Museum

- 20.16 The museums able to benefit from this exemption should be those museums that have received full Accreditation under the Accreditation Scheme managed by the Arts Council England, the Welsh Government, Museums Galleries Scotland and the Northern Ireland Museums Council.
- 20.17 The Arts Council maintains a list on its website of all museums that have full Accreditation, enabling any member of the public or an enforcement authority to check whether a particular museum does have full Accreditation. That will of great help both for compliance and ease of enforcement.

Restrictions on exemption

- 20.18 We consider that the same cut off date should be used for this exemption as for the de minimis exemption i.e. 1900 (and for the same reasons as those set out in our response to Question 13).
- 20.19 Pre-1900 items under the de minimis level could be commercially traded. Pre-1900 items above the de minimis level could be acquired by museums (to ensure that such items considered important enough by the museums are ‘saved’).
- 20.20 It is important that the new legislation is as simple and easy to understand as possible, both for those trying to comply with the law and for those responsible for enforcing it. Consistency of dates between these two exemptions will be a great advantage, leaving only the musical instrument exemption with a different date for its own unique reasons.
- 20.21 However, although we believe 1900 is an appropriate cut off date for the reasons given, if there were strong representations by the museums sector that this would be too limiting, we would be sympathetic to a later date (but no later than 1947).

21. *Should any other form of institution/s or organisation/s be covered by the exemption to allow the continued sale of items containing ivory to and from museums?*

- 21.1 Yes

If yes, please state which and provide evidence to support your view.

²⁹ Victoria Borwick, MP for Kensington and President of the British Antique Dealers Association, in the Parliamentary debate on the domestic ivory trade on 6 February 2017.

- 21.2 Institutions and organisations that fall outside the definition of ‘museum’ suggested in the response to Question 20 would not benefit from the exemption but should still be able to display their ivory items (even if charging an entrance fee, as discussed in the response to Question 27 below). Like anyone else, they would be able to sell their ivory items to accredited museums and would be able to buy and sell items that fell under the de minimis or musical instrument exemptions.
- 21.3 If Defra felt it appropriate, we would be sympathetic to institutions such the National Trust, English Heritage and the National Trust for Scotland being included within the definition of ‘museum’. Ease of enforcement will still be important so it must be simple for any potential seller of an ivory item to be able to check whether the institution is properly within the definition (so a specific, exhaustive list would be necessary, rather than a general description of types of institution).
- 22. Do you think we should consider any other exemptions to this ivory ban?**
- No
- 23. Do you have evidence on the scale, in terms of value and/or volume, of any of these exemptions?**
- 23.1 No
- If yes, please provide evidence.*
- 23.2 We do not consider that there should be any other exemptions. Our evidence on the scale of the three exemptions that we do support is set out in our answers to the earlier questions.
- 24. Do you have any views as to which public body should be responsible for enforcing the ban?**
- 24.1 Yes
- Please provide evidence to support your view.*
- 24.2 We do not believe there should be any change in the public bodies responsible for enforcing the ivory trade legislation. However, we do believe that those bodies will need significant further financial and personnel resources in order to enforce the new legislation, otherwise we will be getting the law right, but not providing those responsible for enforcing it with the tools they need to do their jobs properly, thereby reducing the effectiveness of the legislation.
- 24.3 Public awareness of the new rules will also be critical (as the US experience has shown), both to educate law-abiding people who are simply unaware of the rules and also to prevent those who are determined to break the law from pleading ignorance (see further in Section 26 of the Evidence Document).
- 25. Do you have any views as to the sanctions that should be applicable to those found to be in breach of this ban?**
- 25.1 Yes
- Please provide evidence to support your view.*
- 25.2 We consider that the current maximum sentences under COTES and CEMA are appropriate. However, the courts have shown no willingness to apply the maximum sentences for even the most serious offences involving the illegal trade in ivory. Details of the prosecutions and other police and UKBF actions that we have been able to identify in relation to illegal ivory trading in the UK are set out in Section 25 of the Evidence Document. There are a very small number – only 24 stretching back over a considerable period (1993 to 2016). This is despite the increasing number of seizures of ivory (set out in Section 27 of the Evidence Document) and the considerable evidence of illegality set out in a number of reports into the trade in ivory within and from the UK (e.g. numerous IFAW reports, the Two Million Tusks report and TRAFFIC’s 2016 Report into the UK ivory market).
- 25.3 The maximum term of imprisonment (not suspended) that has been applied in the examples we have found is only 10 months. The development of sentencing guidelines is critical and long overdue.
- 25.4 As the Government has recognised in the Consultation Document, both legal and particularly illegal trade in ivory impacts levels of elephant poaching. Therefore, sentences should reflect that link. Impact assessments should be commissioned for all instances of illegal trade in ivory and sentences should increase with the seriousness, and frequency, of offences.
- 25.5 There should be different levels of offence (or at least, differing levels of sentence set out in specific sentencing guidelines) to differentiate between a private individual involved in a one off sale or purchase compared with a professional (such as an antiques dealer or auctioneer). The professionals’ knowledge of the relevant law, and their professed expertise in dealing with antiques, can reasonably be expected to be higher than a private individual and therefore their culpability for failure to comply with the law should be greater.

- 25.6 The California ivory trade legislation provides for different levels of penalty depending on the value of the ivory and for second and subsequent offences, both of which we believe should be reflected in sentencing guidelines here.³⁰
- 25.7 The levels of offence and/or sentencing could also distinguish between the position of the seller and the purchaser. The former should bear the prime responsibility for proving that the item falls within an exemption but the latter should still be accountable if it turns out that he or she has chosen to buy an item that could not in fact be sold legally.
- 25.8 The recent United Nations General Assembly resolution on tackling illicit trafficking in wildlife (adopted on 11 September 2017) contained a number of references to improving and strengthening enforcement, prosecution and appropriate sentencing, as follows:
- “4. Urges Member States to take decisive steps at the national level to prevent, combat and eradicate the illegal trade in wildlife, on both the supply and demand sides, including by strengthening their legislation and regulations necessary for the prevention, investigation, prosecution and appropriate punishment of such illegal trade, as well as by strengthening enforcement and criminal justice responses [...];
8. Encourages Member States to make use, to the greatest extent possible, of legal instruments available at the national level to tackle illicit trafficking in wildlife, including through legislation related to money-laundering, corruption, fraud, racketeering and financial crime;
10. Further encourages Member States to enhance their enforcement efforts, including through recording and monitoring both seizures and successful prosecutions, in order to more effectively counter and deter the illegal trade in wildlife;”
- 25.9 Whilst the UK may be ahead of many countries in its legislative regime and coordinated enforcement operations, more needs to be done, particularly to address the extremely low levels of prosecution and sentencing we have identified.
- 26. Do you think that it should be for those involved in the sale to demonstrate that an item falls into an exempted category?**
- 26.1 Yes
- Please provide evidence to support your view.*
- 26.2 It is clearly the case under legislation in the USA, both at Federal and State level, that the onus is on the seller to demonstrate that an item falls within one of the exemptions that allow trade. The New York legislation provides that “*the antique status of such antique [must be] established by the owner or seller thereof with historical documentation evidencing provenance and showing the antique to be not less than one hundred years old*”³¹ (with very similar language in the relevant legislation in Hawaii³²).
- 26.3 The revision of the legislation in the UK should make this absolutely clear.
- 26.4 Defra is proposing a ban on the sale of ivory in the UK, subject to narrow exemptions. This means that the starting point for any sale of ivory will be that it is illegal, unless the sale falls within one of the exemptions. Therefore, the onus should very clearly be on the seller to produce sufficient proof that the piece satisfies the requirements of the relevant exemption.
- 26.5 Without that proof, or if the proof is inadequate, the seller would have failed to prove the piece falls within an exemption and so the sale would be illegal. It should not, for example, be the responsibility of the enforcement authorities to demonstrate that the ivory is of a particular age. That should be the seller’s responsibility.
- 26.6 The APHA advise that when considering an application for an export permit for ivory, which can only be granted for an item that is pre-1947, they are not satisfied with a statement from an antiques dealer that an item is ‘pre-1947’. They require a positive case to be made out that the item is of a particular age or from a narrow age range (e.g. c1830, the 1890s, etc). So with any age cut off (such as 1900), the same approach should be taken: positive proof would be needed that the item was of a particular age or narrow age range, rather than a broad statement that the ivory was from before the relevant date.
- 26.7 Methods of verification should be robust and independently verifiable instead of the easily-abused self-assessment methods that are currently allowed. For items containing a de minimis amount of ivory, there will be other indications of the item’s age from its non-ivory elements (such as hallmarks in silver items).³³ Other scientific methods apart from radiocarbon dating will be possible (such as dendrochronology for wooden items, which is sometimes used to assess the age of musical instruments).

³⁰ California Code, Fish and Game Code – FGC 2022 (e)

³¹ NY Senate, Environmental Conservation Act, Section 11-0535-A 3(a)

³² Act 125(16) Relating to Natural Resources

³³ In the Parliamentary debate on 6 February 2017, Victoria Borwick MP and President of BADA replied to a question about the difficulty of accurately assessing the age of ivory by saying: “*The hon. Lady is right about the difficulty of those details when something is made entirely of ivory. Of course, ivory often forms part of something else. Therefore, we often date, for example, a clock, a piece of furniture with an inlay or another decorative object on the other items. For example, it is easy to date ivory that appears in a silver teapot where it acts as the handle or an insulator. Although this debate is all*

- 26.8 We set out in Section 26 of the Evidence Document suggestions for the types of proof that could be used to prove the age and provenance of an ivory item (based in part on the EU Guidance Document issued in May 2017). Where there is doubt over whether the proof supplied is genuine, the police and other enforcement authorities would be able to use other methods to try to establish the truth, as they would when testing the truth of any evidence e.g. questioning the seller on oath, seeking corroborating proof, testing the veracity of documents, using handwriting experts etc.
- 26.9 It should be made clear that all those involved in the sale of an ivory item are responsible for its legality, not only the seller (and are therefore potentially guilty of an offence if the sale is in fact illegal). This should include the owner, anyone selling on his/her behalf (including an auction house) and the purchaser. No-one involved in the sales process should be able to avoid responsibility.
- 26.10 In addition, we believe that all adverts for ivory items should be required to confirm that the item falls within an exemption, with the relevant information (for example, proof of age) made available to a potential purchaser. Without that confirmation on the face of the advert and the availability of the information, the advert itself would be illegal (even if it in fact turned out that the item was within the exemption). This would apply to auction catalogue descriptions, descriptions in shops or on stalls etc.
- 26.11 The position of museums would have to be specifically addressed, particularly when a private individual is selling an ivory item to a museum. The museum itself should be under an obligation to prove that it has full Accreditation under the Accreditation Scheme. It could do so by producing to the seller its certificate of full Accreditation and/or by showing that its name is on the published list of accredited museums on the Arts Council website. The seller should also bear a degree of responsibility for checking that list to ensure it is selling to an accredited museum.
- 26.12 For any other elements of the 'museum exemption', for example the 1900 date cut off, everyone involved in the sale (including the seller and the museum purchaser) would be in the same position as for the de minimis exemption discussed earlier (i.e. proof of age would be needed to the same standard).

No self-certification by antique dealers

- 26.13 Requiring those involved in the sale to demonstrate that the item falls into an exempted category does not mean that there should be any form of 'self-certification'. It should be made clear in the legislation that an opinion, no matter how 'expert', from anyone involved in the sale should be not acceptable proof that an item falls into an exempted category.
- 26.14 The current system under the COTES Regulations that allows an auction house or antiques dealer to confirm the age of an ivory item simply based on his or her own opinion creates an obvious loophole that lends itself to abuse and illegality, as well as genuine mistakes. As Caroline Cox points out in her Report, "*According to the National Careers Service, no qualifications are needed to become an antiques dealer. For this reason, the majority of members of the antiques trade are non-specialist, general dealers*". The position is the same for auctioneers. So an entirely unqualified individual is allowed under the current system to confirm simply on the basis of their opinion that a piece of ivory is from before 1947, so making it legal.
- 26.15 In fact, the position is even worse because the opinions of those unqualified individuals are also relevant to post-1947 ivory pieces. According to IFAW in its Report "Elephants on the High Street" published on 1 January 2005, "*Defra advises people wishing to obtain an Article 10 certificate for ivory to have it appraised by an 'auction house or antiques dealer'. However, this immediately reveals a major problem. Even if a dealer were to obtain an Article 10 certificate (IFAW investigators did not meet even one trader who had such a permit), the system would appear to mean they can appraise the age of the piece themselves – given that most people selling ivory in this country call themselves 'antiques dealers'. Yet the vast majority of dealers we met during this investigation were woefully ill-equipped to make any appraisal about the age of ivory pieces they were selling. Many had very little idea of the properties of the substance and readily admitted to IFAW that they had no idea of the age of the piece in question, while others confidently claimed an object was antique 'because of the style of the carving' – and were happy to write receipts certifying that the piece was more than 100 years old. Although a few traders did mention having heard of Defra (though few could remember its name), all of these were under the impression that certificates from Defra were only needed for ivory if exporting to the US. Such a system of self-policing and self-appraising is clearly open to abuse. At least two incidents investigated by police have uncovered new ivory being carved to 'look antique' for sale through antiques outlets – either with, or without, the knowledge of the end seller. IFAW investigators have seen thousands of pieces of ivory for sale in a period of just a few weeks. However, only 14,939 Article 10 certificates were issued in 2000 (and 14,329 in 1999) for all types of CITES-listed specimens including live animals such as birds or reptiles.*"
- 26.16 IFAW's report was written in 2004 but the situation has hardly improved, judging by the evidence presented by Two Million Tusks in their Report in 2017. They found that for 90% of the auction lots they investigated, the auction houses could not produce the 'proof of age' that is legally required for pre-1947 ivory items. There are many examples in their Report of auction house staff being unable to assess the age of ivory (sometimes inviting the potential purchaser to 'satisfy themselves before bidding' because

about ivory—one of the reasons the date was chosen was because it is pre-convention—where ivory appears in something else, the date of the ivory can be assessed from the rest of the item."

the auction house could not be sure of the item's age). Some auction house staff were even unable to assess whether the item was in fact ivory as opposed to another material, even a synthetic material like resin.

26.17 The need to ensure that those who give 'expert' opinions about the age or other provenance of ivory items are unconnected with the sale has been acknowledged by the EU in its guidance issued on 16 May 2017.

How might this be enforced?

26.18 As we have mentioned, public awareness and education is a critical first step to successful enforcement.

26.19 We set out in Section 26 of the Evidence Document the difficulties with the current system and make some practical suggestions for how best to raise awareness of the new legislation along with measures to assist enforcement. The New York state government has issued some useful guidance³⁴ as to how its legislation on trade in ivory and rhino horn will work in practice and we suggest something similar should be done by Defra.

26.20 Once it has been clearly established that the onus is on the seller to provide the necessary proof that an item falls within an exemption, without which the sale will be illegal, we believe that will make it easier for the authorities to enforce the ban. Such a reversal of proof will:

- a) discourage those who are not confident that their documentary proof will be sufficient so they will not attempt to sell it in the first place;
- b) focus attention on the reduced number of transactions that still take place;
- c) mean that the enforcement bodies (principally the police) do not themselves initially have to come to a view on whether an item falls within an exemption but will instead be able to focus their attention on the quality of the proof presented by the seller (and anyone else involved in the sale, as appropriate);
- d) where the evidence is inadequate, an offence will, on the face of it, have been committed and the police (and ultimately the Crown Prosecution Service) will have to decide whether to charge those involved.

27. Do you have any other comments about this proposed ivory ban?

27.1 We have the following comments, divided by subject matter.

What should be covered by the offence

27.2 We agree with the Government that the ban on sales should cover: sale, offer for sale, purchase, offer to purchase, keeping for sale and transporting for sale.

27.3 To reduce the opportunities for individuals to be 'inventive' in the type of transaction they use to try to avoid the legislation, it should be made clear that 'sale' would include any transfer of ownership for value, whether by way of cash or other consideration. Drawing on the language of the US Federal ban and legislation in New York and California, we believe it would be helpful to clarify that the following types of transaction would also be covered by a ban on sales: possession with intent to sell (to the extent not covered by 'keeping for sale'), barter for monetary or non-monetary consideration and exchanges in return for value.

27.4 Generally, anti-avoidance provisions should be considered, for example to ensure that transactions are not disguised as long term "loans" that effectively transfer beneficial ownership for a lengthy period of time (potentially, in perpetuity).

What should not be covered

27.5 As the Government has acknowledged, their proposals would not affect legal possession or ownership of ivory nor would they require destruction of legal ivory. We suggest it should be made absolutely clear that the action proposed by the Government is directed at sales of ivory, so the following would not be affected:

- a) ownership or possession (except where there is intent to sell);
- b) display;
- c) ivory items moving within or between countries as part of travelling exhibitions;
- d) musicians travelling with instruments containing ivory (within a country or between countries);

³⁴ http://www.dec.ny.gov/docs/wildlife_pdf/ivoryfaqs.pdf

27.6 Specifically, the ban would not require the destruction of ‘priceless’ antiques or other ivory items of artistic, cultural or historic significance, as some people have suggested. It is important to continue to make clear what is not affected in order to reassure owners of ivory items and to counter potential scaremongering by the antiques trade.

Importance of dates in each exemption

27.7 Although the Government does not wish to introduce a date-based ban, it will of course be necessary for each of the exemptions to contain a ‘cut off’ date, otherwise modern day ivory that falls under the other elements of an exemption could be bought and sold. The choice of the date for each exemption will be an intrinsic and critical part of the Government delivering on its commitment to “*strictly limited*” and “*carefully targeted*”³⁵ exemptions.

27.8 There is an opportunity to develop a definition of ‘antique’ ivory that does not simply use the 1947 date from the ‘worked specimen’ derogation in EU law (which was never an antique exemption in the true sense, certainly not one based on any evidence of what would normally be considered an antique, by the antiques trade or anyone else). As the Secretary of State has made clear, he wants the UK’s ivory trade rules to be among the toughest in the world, as part of his intention to create a gold standard for environmental protection. The choice of dates will play a crucial part in that – and we believe must be earlier than 1947 to limit as much of the market as possible and, not least, to send a signal to the rest of the world that we are determined to take strong action. Given that the US Federal and state laws currently define as an antique as pre-1917 (based on their 100 year old rolling definition), it is important that the date chosen in the UK should be earlier than 1917. For the reasons we have explained in this response, we believe that 1900 is an appropriate date that delivers on the Secretary of State’s commitment and remains a proportionate cut off point. For the reasons we have also explained above, we agree that there are unique reasons supporting a later date for musical instruments.

Imports and exports

27.9 There is global demand for ivory and the continued trade of ivory in and from the UK fuels this demand. Analysis of the CITES trade database demonstrates conclusively that during 2010 to 2015, the UK was the largest exporter of legal ivory pieces globally, exporting almost four times as much ivory as the next highest exporter, the USA³⁶. Over the same period, the UK was also the largest supplier of legal ivory to China and Hong Kong, which are the world’s largest markets for legal and illegal ivory.

27.10 Over the period 2010 to 2015, the UK exported 36,135 pieces of ivory. The next highest exporter was the USA with 9,824 pieces. Over that same period, the UK exported 13,056 pieces to China and Hong Kong compared with 7,772 from the next highest exporter, Italy. Exports from the UK into China and Hong Kong were low at the start of that period (only 193 pieces in 2010) but shot up dramatically to 4,122 in 2013 and 4,105 in 2014, with China and Hong Kong replacing the USA as the main destination for UK legal ivory exports. Therefore, the UK has become the leading supplier of legal ivory to the world’s largest illegal ivory markets. Further detail is set out in Section 27 of the Evidence Document, as well as further evidence about the UK’s contribution to fuelling demand for ivory in Asia.

27.11 In a notice dated 30 December 2016, China announced the timeline for closing its domestic commercial ivory market by the end of 2017 (and is well on the way to ensuring that happens). Ivory sales will be prohibited, except that cultural relics that are of legal origin and have been verified by a specialist appraisal body may, with the necessary permits, be auctioned under strict supervision, to demonstrate their cultural value.

27.12 In December 2016, Hong Kong’s Chief Executive in Council approved a plan to phase out the domestic trade in ivory by 2021. A bill was submitted to the Legislative Council in June 2017. A three-phase process towards a complete ban has been proposed, the final phase being a ban on the possession of ivory for commercial purposes, prohibiting all local ivory sales (with the exception of antique ivory), taking effect on 31 December 2021. The proposed definition of ‘antique’ is 1 July 1925, which is 50 years before CITES came into effect.

27.13 The UK should do all it can to support these efforts by China and Hong Kong. To complement their closure of their domestic markets, it is essential that the UK ends all exports of worked ivory. Failure to do so would be damaging and counter-productive – and clearly inconsistent with global efforts to halt the ivory trade. Continuing to allow exports from the UK of worked ivory risks displacement of the Chinese and Hong Kong markets into other nearby countries such as Vietnam, which has a significant domestic ivory trade that is almost completely unregulated.³⁷ Following the UK’s decision several years ago to stop granting export permits for raw ivory, the UK should now do the same for worked ivory.

27.14 The UK’s ivory imports are also a cause for concern. Japan features prominently in recent years, and was the largest exporter of worked ivory products to the UK in 2014. Japan has a flawed registration system for ivory, is known for mass-producing antiqued ivory which may be difficult for UK Custom agencies to detect and is a known destination country for illegal ivory. As the UK takes

³⁵ Page 1 of the Impact Assessment, description of Option 2.

³⁶ Figures taken from information contained in the CITES database.

³⁷ “Vietnam’s Illegal Ivory Trade Threatens Africa’s Elephants”, Save the Elephants (2016).

steps to restrict most sales of ivory in the UK, there is no justification whatsoever for adding to the stock of ivory in this country by continuing to allow it to be imported.

- 27.15 We believe that all commercial imports and exports of ivory, whether raw or worked, should be prohibited, with no de minimis exemption. Enforcement would be made considerably easier if UKBF could be sure that it would be illegal for any ivory to be imported or exported for the purposes of, or as a result of, a sale. That would not be the case if the de minimis exemption for commercial trade were to apply to imports and exports.
- 27.16 The musical instrument exemption would also not apply in relation to international sales, but instruments could still be brought into and taken out of the UK for use by their owners, with the appropriate permits.
- 27.17 Museums would still be allowed to acquire ivory internationally, as detailed further in our response to Question 20.
- 27.18 The new legislation should make clear that non-commercial imports and exports of ivory would be allowed only in the following circumstances:
- a) part of an inheritance;
 - b) part of a household move;
 - c) for law enforcement or scientific purposes, including training.
- 27.19 Appropriate permits for such imports and exports would be needed.
- 27.20 Ending commercial imports and exports is an administrative step that the Government could take without any new legislation at all. Therefore, in our view it should be done immediately. Whilst we remain the EU, it would not be possible to end imports and exports as an administrative measure but exports to Asia in particular could be stopped immediately.
- 27.21 Ending commercial exports from the UK to Asia would be one of the most significant contributions that the Government could make to the fight against the illegal trade in ivory and the poaching of elephants.

Display or other use for commercial purposes

- 27.22 We believe that the Government should make clear in the new legislation that displaying ivory in places such as stately homes is not prohibited, even where an entrance fee is charged. Currently, such displays of ivory, even if entirely incidental to the main purpose of the property, could constitute an offence. The position of other commercial premises such as pubs and restaurants which happen to display ivory items as part of their artwork and decoration should also be addressed to make clear that such display is not an offence. It should, in simple terms, be the buying and selling of ivory that is illegal, not its display (without intent to sell it).
- 27.23 Therefore, as well as providing for a specific museum exemption, we believe that the new legislation should remove some of the more extreme aspects of the current rules. For example, according to an article in the Antiques Trade Gazette (ATG) on 2 May 2017, a dinner gong given to the future Edward VII in 1875-76 that contained two unworked elephant tusks had been removed from Sandringham House because of a concern that it was being used for commercial purposes and so, since the ivory was unworked, it should have had an Article 10 certificate. The commercial purposes were because Sandringham charges an entrance fee. According to an APHA case officer who was quoted in the article, *"If you are charging for entry then it is commercial use."* Consequently, any museum or exhibition with a ticket price needs to apply for an Article 10 licence to display an Annex A species. A spokesperson from the Metropolitan Police Wildlife Crime Unit confirmed to the ATG that similar issues arose when taxidermy was displayed in places such as pubs, restaurants and gentlemen's clubs: *"Often we will ask what is the purpose of the public's visit or the function of the venue. Is the Annex A species part of the background furniture or does it pertain to why an entrance fee is being charged? If it is background furniture then you might not need one - but always get the answer from the APHA in advance."*
- 27.24 Whilst recognising that this interpretation is not solely a UK government interpretation but derives from EU law, we believe it goes too far. It should only be the trade in Annex A species that is illegal, not the display of items. Basing everything on whether an entrance fee is charged has the bizarre consequence that a piece of unworked ivory displayed in the main collection of the British Museum (for which entry is free) would not require an Article 10 certificate but if the same piece was displayed as part of a special exhibition in the next room for which an entrance fee was charged, an Article 10 certificate would be needed.
- 27.25 Similarly, it is stretching a point to say that taxidermy displayed on the wall of a pub was the reason why the public went there – presumably the reason they went to the pub was to have a drink or something to eat. Overly-restrictive interpretations like this only result in making the law look foolish - and the more foolish a law looks, the more likely it is to be ignored.
- 27.26 In framing the new legislation, the Government has the opportunity to clarify that the 'ban' is focused on sales (i.e. changes of ownership for value), rather than other aspects of owning or displaying ivory.

Raw/unworked ivory

- 27.27 On 23 February 2017, the Guardian reported that the EU as a whole was set to ban raw ivory exports from 1 July 2017 as it struggled to deal with what was almost certainly another record year of ivory seizures across the continent in 2016. On 16 May 2017, the Commission duly published its guidance, *“recommending that EU Member States (i) suspend the (re)export of raw ivory items and (ii) ensure a strict interpretation of the provisions in EU law authorising intra-EU trade in ivory and the (re)export of worked ivory.”*
- 27.28 We suggest it should be made clear in the new legislation that sale of any raw/unworked ivory of any age should be banned.

Devolved powers

- 27.29 We have not specifically looked into the position but are responding to the Consultation on the basis that the proposed legislation would be applied consistently across each of the countries of the United Kingdom.

Influencing other countries

- 27.30 It is reasonable to assume that other countries who have announced proposals to close their domestic ivory markets are watching what approach the UK takes and will be influenced by what we do. In particular, how we deal with antiques will have significant ramifications for the approach taken by other countries, including those countries that have sizeable illegal markets and are consumers of most of the ivory from recently-poached elephants. The announcement by China in 2016 about the closure of their domestic ivory market referred to cultural relics being exempt, but without giving details about what would be considered a cultural relic nor about how the trade would be regulated. We have an opportunity to lead by example in our tightening of the rules on antique ivory, in the knowledge that whatever steps we take (or fail to take) will be noted by China.
- 27.31 The point is reinforced by a letter dated 24 April 2017 to Catherine Bearder MEP from Yang Yanyi, Ambassador and Head of the Chinese Mission to the EU. In his letter, the Ambassador enclosed a document about the measures that China is taking which included a request to the EU and countries in Europe *“to take credible steps to effectively ban illegal trade in ivory and their products.”* The document also said that *“China has taken measures to step up international co-operation and exchange with African countries, and has increased dialogue with western countries, including the United States and United Kingdom, in the fight against illegal trade in ivory and other wildlife and to expand international consensus on wildlife protection.”*
- 27.32 In February 2017, The African Elephant Coalition (AEC), made up of 29 member countries and representing 70% of African elephant range States, released a statement urging the EU to emulate China in banning its domestic ivory trade.³⁸
- 27.33 There will be a clear reputational benefit to the UK of responding to these calls for us to take action to close our domestic ivory market and resume a global leadership role on illegal wildlife trade. Kumara Wakjira, Chair of the EPI Implementation Board and Director General of Ethiopian Wildlife Conservation Authority, wrote to the Secretary of State on 24 November 2017 to *“commend [the Government’s] stated intention to implement a ban on the sale of ivory in the United Kingdom”,* which will be *“a welcome boost to our collective efforts to ensure a viable future for our elephants.”*
- 27.34 Other countries that are currently considering new ivory trade legislation include Australia and New Zealand. According to Fiona Gordon, Environmental Consultant in New Zealand: *“Federal MP Jason Wood is currently progressing a domestic trade ban in Australia. Members of Parliament in support of Jason Wood’s motion refer to other countries with bans in place as a means to strengthen their argument for a domestic trade ban in Australia. Eg “China has committed to phasing out its ivory industry. I understand that 11 states in the US are legislating to ban ivory trading. These are both encouraging developments, but there are many other countries where the ivory is still being sold, and Australia, whilst it’s taken some steps, is one country that could be doing more.” (Hansard October 2017). And “Domestic trade bans have already been enacted or will be enacted by China, the United States, France and India, and I believe that it is time for Australia to follow suit.” (Hansard September 2017). So, it would seem logical that Federal MP Jason Wood and supporting Members of Parliament would also refer to the UK in the same way if the UK enacted a domestic trade ban too.”*³⁹
- 27.35 A draft bill to regulate trade domestic trade in ivory and rhino horn is being considered by the New Zealand government. Fiona Gordon also commented that: *“In my opinion, a UK decision to implement a domestic trade ban can only encourage this new New Zealand government to progress the proposed domestic trade ban in New Zealand. Further, the legislation proposed for New Zealand is very much in line with UK proposed legislation.”*
- 27.36 In a letter from the then Associate Minister of Conservation, the Hon Nicky Wagner, to Fiona Gordon dated 8 September 2017, Ms Wagner confirmed that the New Zealand government was *“currently tracking developments related to domestic trade bans of*

³⁸ Save the Elephants. Available at <http://www.savetheelephants.org/about-elephants-2-3-2/elephant-news-post/?detail=african-nations-urge-eu-to-emulate-china-in-banning-ivory-trade>

³⁹ Extract from email to EIA from Fiona Gordon, Environmental Consultant in New Zealand dated 21 November 2017.

elephant ivory and rhino horn in other countries” and that they “*continue to monitor global trends*”. The clear inference is that the New Zealand approach may be influenced by developments elsewhere.⁴⁰

27.37 What we do here, and the leadership we show, will have repercussions far beyond our borders, both by sending a signal to the elephant range states that we support their efforts to end poaching by doing our part to tackle demand and by encouraging other countries to take action on their domestic trade - particularly in the largest illegal ivory markets in the world. We can make a real difference there by our actions at home.

Precautionary principle

27.38 The precautionary principle is detailed in Article 191 of the Treaty on the Functioning of the European Union. It aims at ensuring a higher level of environmental protection through preventative decision-taking in the case of risk. According to the European Commission, the precautionary principle may be invoked when a phenomenon, product or process may have a dangerous effect, identified by a scientific and objective evaluation, if this evaluation does not allow the risk to be determined with sufficient certainty. In the case of an action being taken under the precautionary principle, the burden of proof is effectively reversed: the producer, manufacturer or importer may be required to prove the absence of danger.

27.39 The precautionary principle is widely used in the context of species conservation; there are many wildlife species for which there is no data, or very little, and extinction risks are assessed making inferences or using proxy measures. The same principle should apply to elephant conservation and the UK’s role in the global ivory trade.

27.40 In any event, we consider that there is data to demonstrate the risk that the UK’s legal ivory market contributes to poaching and that the illegal trade in ivory has been identified by scientific and objective evaluation, even if the exact nature of the risk has not been determined with total certainty (which is hardly surprising with an illegal trade where hard data of its precise extent is difficult to collect). Therefore, when considering the new legislation to be introduced, we consider this is precisely the sort of situation in which the precautionary principle should be applied. Given the evidence, the onus should be on those who wish to continue trading in ivory to demonstrate that their activities are not contributing to the decline of elephant populations through poaching and illegal trade.

Unintended impact on other species

27.41 We urge the Government to ensure that, in its efforts to end commercial domestic trade in elephant ivory, it also take steps to ensure that this does not stimulate trade in non-elephant ivory, particularly from species such as narwhal, walrus and hippopotamus. There are indications that the killing of hippo for their ivory is on the increase and could jeopardise the survival of a species that numbers, perhaps, 100,000 individuals compared to c400,000 remaining African elephants. Levels of poaching and illegal trade in species that carry ivory should be carefully monitored and necessary measures adopted if increases are detected (demand reduction, support for anti-poaching efforts and restrictions on trade).

27.42 In this respect, it is relevant that the California state law protects all forms of ivory (elephant, hippopotamus, mammoth, mastodon, walrus, warthog, whale or narwhal)⁴¹.

Specific measures for online trade

27.43 The dramatic growth in online trade has created particular problems for enforcement. Vast quantities of ivory, including raw tusks, are offered for illegal sale nationally and internationally over the Internet. Most sellers claim to regularly send ivory with no problem and many have schemes to avoid detection (according to IFAW’s reports, techniques range from not marking a sender’s address, labelling the item as a gift, or mislabelling it as ‘*bone carvings*’, ‘*antiquities*’, or simply missing the word ‘*ivory*’ out of an item’s description, for example labelling an ivory snuff box as ‘*snuff box*’ or an ivory bangle as ‘*bangle*’).

27.44 Most items sold over the Internet are then dispatched by courier and regular mail services. Although UKBF officers do monitor the postal and courier service system, with the volumes involved it is inevitable that a significant number of illegal items will slip through.

27.45 The level of illegality in the UK online market must be stopped. The enforcement agencies do their best, but battle the twin problems of lack of funding and complicated legislation that is not fit for purpose. Therefore, we recommend that there should be a complete ban on the sale of ivory pieces online. Purchases should be made in person at auctions and antique dealers’ premises. (Bidding online as part of a physical auction should still be allowed.) Personal inspection, rather than relying on photographs in an online description, will assist purchasers in identifying whether ivory is legal and, perhaps more importantly, will make it more

⁴⁰ Since that letter was written, there has been a change of government in New Zealand and the new Minister for Conservation is from the Green Party. The pre-election statement by the Green Party included support for the draft bill to regulate trade in ivory and rhino horn, making it even more likely that New Zealand will act.

⁴¹ California Code, Fish and Game Code – FGC 2022 (a)(2)

difficult for sellers to launder illegal ivory. Most of the ivory smuggled illegally out of the country to Asia is bought online, so making it illegal to sell ivory online in the UK will assist enforcement efforts to reduce illegal exports.

27.46 If online trade is to be permitted, specific measures will be needed to restrict the ivory trade on the Internet. As IFAW explained in a report in 2012,⁴² the Czech Republic has been leading the way in Europe in introducing legislation to deal with Internet wildlife trade, instituting legislation specifically recognising the unique nature of the Internet. The legislation puts the onus clearly on sellers to prove their wildlife product is legal: they are required to provide access to copies of relevant documentation and inform buyers of their obligations under wildlife crime legislation. Website owners or operators must ensure this information is made public for each item and are required to remove postings that fail to comply.

27.47 We set out a number of recommendations in Section 27 of the Evidence Document, along with further evidence demonstrating the problems with online trade.

Conclusion

27.48 It is clear that adopting tougher rules on the ivory trade commands cross-party support and would be hugely popular with the UK public: according to the survey mentioned in our response to Question 5, 85% of the public think buying and selling ivory in the UK should be banned.⁴³ 57% thought that there should not be any exemptions to a ban (27% thought there should be exemptions and 16% did not know), so there is a clear majority in favour of no exemptions. On that basis, the public mood is clear that when considering how many exemptions to have and their scope, the Government should take as narrow a view as possible.

27.49 We believe that implementing new legislation on the basis we suggest in this Response will:

- a) significantly reduce the UK's contribution to the global illegal ivory trade by reducing opportunities for laundering illegal ivory and assist efforts to reduce poaching;
- b) enable the Government to send a positive message to those countries, particularly African elephant range states, who have been called on the UK to act;
- c) ensure compliance with various resolutions passed at the 2016 IUCN World Conservation Congress, at the 2016 CITES meeting of the Conference of the Parties and the 2017 United Nations General Assembly, all urging countries to close their domestic ivory markets; and
- d) be a clear example of the kind of moral leadership for which the UK has been so well known in so many fields, particularly the fight against illegal wildlife crime.

27.50 Our approach has been to propose tough new legislation that is also realistic and proportionate. We have attempted to balance the interests of the antiques trade, museums and other owners of ivory against the clear and pressing need to take action to protect the remaining elephant populations. We believe that our proposals get that balance right.

⁴² "Killing with Keystrokes 2.0", IFAW (2012).

⁴³ TNS survey, weighted sample of 1,265 adults in the UK aged 16+

EVIDENCE DOCUMENT

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SECTION 2

QUESTION 2: HOW THE PROPOSED BAN WILL AFFECT ELEPHANT CONSERVATION AND THE NATURAL ENVIRONMENT, INCLUDING WIDER SPECIES CONSERVATION

1. *"They are a keystone species, playing an important role in maintaining the biodiversity of the ecosystems in which they live. During the dry season, elephants use their tusks to dig for water. This not only allows the elephants to survive in dry environments and when droughts strike, but also provides water for other animals that share harsh habitats. When forest elephants eat, they create gaps in the vegetation. These gaps allow new plants to grow and create pathways for other smaller animals to use. They are also one of the major ways in which trees disperse their seeds; some species rely entirely upon elephants for seed dispersal. On the savannahs, elephants feeding on tree sprouts and shrubs help to keep the plains open and able to support the plains game that inhabit these ecosystems. Wherever they live, elephants leave dung that is full of seeds from the many plants they eat. When this dung is deposited the seeds are sown and grow into new grasses, bushes and trees, boosting the health of the savannah ecosystem."*⁴⁴
2. Elephant dung itself is a source of food for the larvae of dung beetles. The larvae in turn are a food resource for honey badgers. Elephants also bring down branches, providing fruit and leaves as a food resource for those that wouldn't otherwise have been able to reach them.⁴⁵
3. *"In Africa, no other nonhuman animal fulfils the role of ecosystem engineers to the extent of the elephant. [...] Our objective was to sample the herpetofauna⁴⁶ within an Acacia habitat that varied in the degree of elephant impact. [...] Areas of heavy damage yielded higher species richness than [an area that excluded elephants]. [...] The results support the notion that free ranging elephants influence herpetofaunal species distribution by creating habitat complexity through modifying the woodland area."*⁴⁷
4. One of the authors of that report, Dr Bruce Shulte of Western Kentucky University, USA, explained to BBC News how elephants modify the landscape: *"They will do everything from digging with their front legs, pulling up grass to knocking down big trees. So they actually change the shape of the landscape."* In addition, because elephants' digestive systems are not very good at processing many of the seeds that they eat *"As the faeces are also a great fertiliser, the elephants are also able to rejuvenate the landscape by transporting seeds elsewhere."*⁴⁸
5. *"The presence of elephants in moderate numbers opens up the dense woodland canopy, allowing a proliferation of species in the light gaps. The invading species, including shrubs, herbs and grasses, in turn reduce the germination rate of fever trees, reducing their domination. [...] Elephants also stem bush invasion in savanna ecosystems and dry forests over much of Africa, thereby creating a more productive mix of grazing and browsing animals. Subsistence herders and commercial ranchers also benefit when elephants reduce bush-lands, expand grasslands and eliminate tsetse fly."*⁴⁹
6. *"With elephants to control the tree population, grasses thrive and sustain grazing animals such as antelopes, wildebeests, and zebras. Smaller animals such as mice and shrews are able to burrow in the warm, dry soil of a savanna. Predators such as lions and hyenas depend on the savanna for prey."*⁵⁰

⁴⁴ <http://www.savetheelephants.org/about-elephants-2-3-2/importance-of-elephants/>

⁴⁵ <https://www.gvi.co.uk/blog/4-reasons-need-elephants/>

⁴⁶ Reptiles and amphibians

⁴⁷ The impact of tree modification by African elephant (*Loxodonta africana*) on herpetofaunal species richness in northern Tanzania, published in the African Journal of Ecology in 2010, written by Nabil A. Nasser, Lance D. McBrayer and Bruce A. Schulte

⁴⁸ <http://www.bbc.co.uk/news/science-environment-11607299>

⁴⁹ Western, D. (1989). The ecological role of elephants in Africa. *Pachyderm*, 12(1), 42-48, available at <https://cmsdata.iucn.org/downloads/pachy12.pdf#page=43>

⁵⁰ *Keystone Species*. *The National Geographic Encyclopedia*. Retrieved December 14, 2017, from <https://www.nationalgeographic.org/encyclopedia/keystone-species/>

SECTION 3

QUESTION 3: THE IMPACT OF BANS IN OTHER COUNTRIES OR JURISDICTIONS ON ELEPHANT CONSERVATION AND THE NATURAL ENVIRONMENT, INCLUDING WIDER SPECIES CONSERVATION**THE USA - New York and California**

The number of ivory vendors in New York City has appeared to decline drastically due to stricter controls. A 2008 market assessment found a total of 124 outlets selling at least 11,376 ivory items in the city.⁵¹ In stark contrast, in 2016, after New York passed ivory ban legislation in 2014, an assessment conducted by the International Fund for Animal Welfare, WWF, and TRAFFIC found only 41 outlets selling 224 ivory items in New York City.⁵²

Date	Outlets	Ivory Items
2008	124	11,376
2016	41	224

Similarly, the number of ivory vendors in California has also appeared to decline drastically due to stricter controls. A 2008 market assessment found a total of 45 outlets selling at least 2,587 ivory items in San Francisco and 102 outlets selling at least 2,277 ivory items in Los Angeles.⁵³ A 2015 market survey commissioned by the Natural Resources Defense Council similarly found large amounts of ivory in these cities, with 777 items and 77 vendors in Los Angeles (between 77-90% of which was likely to be illegal) and well over 473 ivory items and 30 vendors in San Francisco (approximately 80% of which was likely to be illegal).⁵⁴ The above-referenced 2016 assessment found only 42 outlets selling 177 ivory items in LA and 17 outlets selling 88 items in San Francisco in 2016 shortly after California's ban became effective.⁵⁵

Date	Outlets	Ivory Items
2008	147	4,864
2015	107	1,250
2016	59	265

⁵¹ Esmond Martin & Daniel Stiles. (2008). Ivory Markets in the USA at 29.

⁵² Kramer, R., et al. July 2017. The US Elephant Ivory Market: a new baseline, [file:///C:/Users/epepper/Downloads/TRAFFIC_US_Ivory_Report_2017%20\(1\).pdf](file:///C:/Users/epepper/Downloads/TRAFFIC_US_Ivory_Report_2017%20(1).pdf).

⁵³ Esmond Martin & Daniel Stiles. (2008). Ivory Markets in the USA at 29.

⁵⁴ Daniel Stiles. (2015). Elephant Ivory Trafficking in California, USA at __. Available at https://www.nrdc.org/sites/default/files/wil_15010601a.pdf.

⁵⁵ Kramer (2017) at 44.

SECTION 4

QUESTION 4: HOW PROTECTING ELEPHANTS THROUGH THE PROPOSED BAN WOULD BE ECONOMICALLY BENEFICIAL**ALSO, THE IMPORTANCE OF TOURISM AND OPPORTUNITIES FOR UK-BASED AND AFRICA-BASED COMPANIES (PARAGRAPH 48 OF THE IMPACT ASSESSMENT)****1. INTRODUCTION**

The ability to see the 'Big Five' species (elephant, lion, rhino, leopard and Cape buffalo) is a key and well-known marketing strategy for safari operators and reserves (sometimes described as the 'Holy Grail' of wildlife watching tourism in sub-Saharan Africa). Charismatic species such as elephant *"are thought to be a primary motivator for tourist decision-making, and the key to financial competitiveness for protected areas (Goodwin & leader-Williams, 2000; Kruger, 2005)."*⁵⁶

Tourists, particularly those on their first safari, are most interested in being able to see some or all of the Big Five, perhaps recognising that it may be their one and only chance to do so. Of the Big Five, it is reasonable to say that the elephant and lion are the two species that first-time tourists are most interested in seeing (the populations of lions in Africa are also declining alarmingly, along with elephants). Experienced, repeat visitors remain interested in seeing these iconic species but also become interested in seeing other less well-known species. A report into tourists' preferences for the species they want to see on safari in South Africa (referred to at footnote 55 below) found that two particular groups – less experienced visitors and (importantly) wealthier visitors – were most interested in seeing the charismatic megafauna, which includes elephants. Elephants were the second favourite animal for all groups of visitors, after leopards. Their importance to the growing safari business in southern (and east) Africa is clear.

The same report also found that *"Well-established and capitalized conservation businesses, for instance, are increasingly delivering financial benefits and guaranteeing employment to local communities helping achieve human and economic development (Spenceley, 2010)."*

Tourism is an increasingly important part of the economies of many countries in Africa, much of which is based on wildlife watching. Wildlife-based tourism in particular is important for the jobs it creates in remote communities where there are often very few (if any) other opportunities for employment. The World Travel & Tourism Council publishes reports about the contribution of travel and tourism to the economies of individual countries. For 2016, to take just two examples, in Namibia tourism represented 14.9% of GDP and 14.9% of employment and in Tanzania, 13.3% of GDP and 11.6% of employment. (Figures for other selected countries are set out below at point 4 of this Section.) Most of the income comes from international visitors to those countries, providing much needed foreign earnings. These are significant contributions to the economies of developing countries.

2. QUOTES FROM EXPERTS IN THE UK AND US TRAVEL INDUSTRY**Justin Wateridge, Managing Director, Steppes Travel**

The economic benefits of elephants to tourism are clear and manifold. Elephants are at the top of the list of wildlife that tourists want to see. They are a huge draw card for which tourists will pay and thus it has been estimated that the value of a single elephant to tourism each year is \$23,000, some \$1.4m over a sixty year lifespan.

More than that there is a huge emotional benefit in seeing elephants in their natural habitat. There is an unbridled joy in seeing wildlife, all the more so of elephant. The smile of joy on my eldest daughter's face on seeing elephants was glorious to behold, pure entranced delight. She was so moved by the experience that she wanted to do something to help. "Daddy, how can I make a difference?" "You have (made a difference) just by coming here."

Ian Simkins, CEO Audley Travel

Our own research in the UK and the US has shown that observing wildlife in its natural environment is the highest motivational factor for travel cited by our clients, and watching wild elephant in Eastern and Southern Africa is undoubtedly one of the world's great wildlife travel experiences. Therefore the loss of elephant populations through poaching, undoubtedly, has a detrimental effect on travel. Conversely, the economic benefits of conserving viable wild elephant populations are high. Safari lodges and their suppliers, transport providers, including destinations' national airlines, all see the economic benefit, as well as the public benefit

⁵⁶ From a report into tourists' preferences on safari: Di Minin, E., Fraser, I., Slotow, R. and MacMillan, D.C. (2013), Understanding heterogeneous preference of tourists for big game species: implications for conservation and management. *Anim Conserv*, 16: 249-258. Doi:10.1111/j.1469-1795.2012.00595.x

from taxes. I believe a worldwide ban on the trade of ivory can only have a significant and positive effect in the fight to conserve Africa's magnificent elephant.

Henrietta Lloyd, Founder/Co-owner Cazenove + Lloyd

Having been sending high end clients to Africa for over 30 years (and having lived in Botswana for three) thus indirectly involved in this ongoing debate for a long time, there is absolutely no question in my mind that there should be a total ban on the trading of Ivory and that this should have been implemented a long time ago.

Elephants are the most magical creatures – gentle giants – and there is not a single client of ours both from Europe and the US where we have an office, who does not want to see above all else these magnificent animals in the wild. Seeing game in its natural habitat anywhere on the diverse and mesmerising continent of Africa is one of life's greatest privileges and a world without this would be a travesty.

Geoffrey Kent, CEO and Founder of Abercrombie & Kent

In the early 20th century, there were 3-5 million African elephants. Today there are just 415,000 left.

We were the first to introduce luxury tented safaris with the philosophy of "shoot with a camera, not with a gun." Today virtually all safaris are photographic safaris, and prospective travellers can choose countries committed to sustainable conservation practices that protect wildlife and share the economic benefits of wildlife tourism directly with local communities.

Wildlife based tourism has played a vital part in Botswana's growth over the last 30 years, creating over 70,000 jobs and contributing to nearly 10% of Botswana's GDP.

3. WORLD TOURISM ORGANIZATION (2014), TOWARDS MEASURING THE ECONOMIC VALUE OF WILDLIFE WATCHING TOURISM IN AFRICA – BRIEFING PAPER, UNWTO, MADRID⁵⁷

Page 3:

"A total of 48 governmental institutions (tourism authorities and protected area and wildlife conservation agencies) from 31 African countries participated in the survey. The sample represents 63% of UNWTO African Member States. Additionally, a total of 145 tour operators selling trips to Africa from 31 different countries participated, 50% of which were tour operators mainly from Europe (generally the principal source market for Africa) and 50% were Africa-based tour operators. The survey findings confirm that wildlife watching is a very important segment of tourism for most African countries, representing 80% of the total annual trip sales to Africa for the participating tour operators, with that share only increasing. The survey findings also indicated that for the vast majority of the countries denoted in the paper, poaching is seen as a serious problem that has negative impacts on tourism that threatens the sector's long-term sustainability and its development opportunities. For example, the employment opportunities generated for the local community in accommodation, restaurants and guiding, as well as the indirect benefits linked to the redistribution of protected area fees and community funds are at risk from the negative impacts of poaching."

Page 5:

"Poaching and the illegal wildlife trade lead to detrimental environmental, economic and social consequences. Wildlife crime threatens the future existence of species and impacts the ecological integrity of whole ecosystems, especially as big mammals are essential for the maintenance of biodiversity and ecosystem functions. Poaching deprives communities of their natural capital and cultural heritage and undermines sustainable economic development and poverty alleviation. Wildlife crime is also a security challenge that threatens national security, undermines government authority, breeds corruption and restricts the potential for sustainable investment, constraining a country's social and economic development"

Page 6:

"[UNGA] Resolution 65/173, Promotion of Ecotourism for poverty eradication and environment protection, which "recognizes that the development of ecotourism, within the framework of sustainable tourism, can have a positive impact on income generation, job creation and education, and thus on the fight against the poverty".

"...tourism [in Africa] has been increasing steadily with an average annual growth rate of international tourist arrivals of about 6.1% per year between 2005 and 2013. During the same period, arrivals grew from 35 million in 2005 to reach a new record of 56 million in 2013. The total international tourism receipts for Africa in 2013 reached US\$ 34.2 billion. Absolute numbers are predicted to more than double during the upcoming decade, reaching 134 million international arrivals in 2030."

⁵⁷ <http://cf.cdn.unwto.org/sites/all/files/docpdf/unwtowildlifepaper.pdf>

“From a policy perspective, it is important to note that over 30 African countries have identified tourism as a national priority within the Enhanced Integrated Framework (EIF)¹⁰. This underlines that tourism is considered a priority sector for many African countries and much hope is put into future tourism development as a vehicle for economic growth, job creation and poverty alleviation. The multiplier effects on local and national economies due to the broad range of goods and services included in its value chain have benefits beyond generating income and revenue.”

“Cultural and wildlife heritage is one of the assets of many developing countries that can be harnessed for economic development.”

“1.3 Tourism is affected by the loss of species

The world’s highest levels of biodiversity occur in less developed countries and these offer some of the world’s most well-known wildlife watching destinations. Africa is exceptional for mammal diversity and the main destination for wildlife watching tourism¹⁴. According to the Centre for the Promotion of Imports from developing countries in the Netherlands (CBI), the destination of about half of all wildlife watching tourism trips booked worldwide is an African country. The global market size of wildlife tourism has been estimated at 12 million trips annually and is growing at a rate of about 10% a year.”

Page 7:

“Countries in East and Southern Africa are known as the world’s top destinations for the so-called “Big Five” watching (African Elephant, Cape Buffalo, leopard, lion and rhinoceros).”

“However, wildlife crime is threatening the very existence of iconic species that are essential to Africa’s image as home to the world’s top wildlife destinations and thus jeopardizes the basis of one of Africa’s most important tourism products. Security, safety, the conservation of ecosystems, and the quality of tourism products and services are basic prerequisites for successful tourism development, while poaching has serious negative impacts on the political, social and economic framework in which tourism development can take place. Consequently, the loss of wildlife caused by poaching is likely to significantly impact tourism development in Africa as well as the tourism sector worldwide linked to the African market with the subsequent reduction of the sustainable development opportunities linked to the sector.”

Page 10

The intrinsic value of wildlife and its various contributions to sustainable development and human wellbeing – including ecological, genetic, social, economic, scientific, educational, cultural, recreational and aesthetic – are manifold and maybe more or equally important as the economic value, but they are not the subject of this paper.

The economic value of tourism can be defined as the result of all economic impacts caused by tourism. These impacts are direct, indirect and induced through the total of tourism expenditures, creation of employment, positive and negative externalities, revenues from taxes and other public charges, foreign exchange earnings and the related multiplier effects.

UNWTO Statistics focus on measuring the direct economic contribution of tourism to the national economy.

Page 14

“96% of the 145 tour operators participating offer safari tours.”

Page 19:

“The 25 governmental replies received reveal that nature, national parks, wildlife, adventure and cultural sites are among the most important assets for the visitors to their countries (rated as “very important” by 84%, 76%, 72%, 54% and 48% of respondents, respectively). [...] Tour operators were asked the same questions. The 145 replies received from tour operators show that 95% of the respondents evaluate wildlife, nature and national parks as “very important” for their customers (rated 95%, 92% and 87% respectively).”

Page 22:

“National parks and local tourism providers are mentioned most frequently as beneficiaries [of wildlife watching tourism] (both by 85% of respondents), but also local communities (73%), national tour operators (69%) and other local providers (69%).”

Page 26:

“All in all, wildlife watching represents a high percentage of the participating tour operators’ product portfolio (73%) and clients (75%). A total of 83 tour operators provided data on annual sales from wildlife watching tours, which totaled US\$ 263 million. [...] In total, wildlife watching tours represent 88% of the total annual revenues of trips to Africa for the participating tour operators.

Interestingly, 20% of the participating tour operators sell only wildlife watching tours. The majority (60%) of the 140 participating tour operator respondents state that the sales of wildlife watching tours have been increasing over the last five years. Another 24% find the situation stable and only 16% experienced a decrease in the wildlife watching tours sold in the same period. Some of the participants state that the reasons for decreased demand most probably link to the financial crisis and recession in North America and Europe. However, security issues, poaching and negative media coverage are also mentioned as factors influencing the decrease of arrivals.”

Page 30:

“3.4.2 Poaching has a negative impact on the tourism experience

Governmental institutions were requested to indicate whether there are problems with poaching in their respective countries and which animals are being poached among the following: a) terrestrial mammals; b) marine wildlife; c) birds; d) others. Additionally, both governmental institutions and tour operators answered the question “Do you consider poaching as an issue that affects wildlife watching tourism?” and tour operators were requested to indicate the “difficulties encountered during tours because of poaching activities”.

Out of the 46 governmental institutions that replied to the first question, 93% confirm that there are problems with poaching in their countries or in their protected areas. The majority of the governmental institutions state that terrestrial mammals are the most commonly poached (70%). Marine wildlife and birds are threatened to a much lesser extent (indicated by 25% and 30% of the participants respectively). Other species were mentioned by 5% of the governmental institutions that replied.

Additionally, out of the 46 governmental institutions and the 145 tour operators that replied to these questions, 80% of the governmental institutions and 70% of the tour operators state that it is affecting wildlife watching tourism. The following explanations were provided:

- Poaching decreases wildlife populations and adversely affects ecosystems;
- Poaching has a deteriorating effect on the tourism experience: reduced wildlife populations and changes in animal behaviour diminish the chance to observe wildlife. Animals become shyer and are harder to find and approach;
- Bad sightings occur (carcasses, rhinos without horns, marked animals, slaughtered and living animals on sale) that significantly affect the tourism experience;
- Poaching threatens security. Shootings in the parks, nogo areas, warning signs, encounters with poachers and armed anti-poaching patrols make tourists feel unsafe or are put in actual danger;
- It creates a bad image of a country or a destination and therefore fewer tourists visit the places affected by poaching;
- Anti-poaching measures are a big financial burden for the protected areas and countries in general; and
- Poaching results in lower numbers of tourists, reduces tourism receipts and affects the long-term sustainability of tourism.

While a majority of the tour operators state that tourism is affected by poaching, only 26% of the participants report direct impacts on their operations, e.g., additional costs for extra security measures, the necessity to change itineraries because of blocked roads or closed areas and a negative impact on the tourists’ satisfaction as wildlife observation is less guaranteed and bad sightings as described above occur.”

Page 31:

“32% of 145 [tour operators] state that their customers actively ask about poaching, another 51% say that the customers express their concern when the topic comes up – depending on the tour operator, this was found to happen very often (70%) or occasionally (30%). Only 16% report not experiencing concerns of the tourists regarding the topic. The extensive comments of the participating tour operators reveal their deep concern with the topic of poaching (see box below).

“The increased media coverage about poaching has been a matter for our clients. In many cases, they have seen evidence of poaching (...) with skittish animals, carcasses or areas devoid of game.” (Tanzania)

“Great concern with the elevated rhino and elephant poaching activity occurring in Africa, this will ultimately impact the wildlife viewing opportunities as well as devastate the tourism industry.” (United States of America)

Page 33:

“The results of the survey reflect the serious concern of both governmental institutions and tour operators related to the poaching crisis and its negative impact on tourism. It is clear this criminal activity is viewed as a threat to the long-term sustainability of

tourism and potentially jeopardizes the development opportunities linked to the sector. Moreover, the feedback from the participating governmental institutions and tour operators confirm that wildlife watching is a very important segment of tourism for most African countries as well as a profitable one, with potential to benefit the local community. In fact, local communities appear to be involved in wildlife watching tourism in most of African countries, mainly through employment in accommodation, restaurants and guiding. Communities also function as suppliers of goods and services, primarily food and beverages and receive sometimes indirect tourism benefits through redistribution of revenues from protected area entrance fees and funds allocated to community development projects. Additionally, the annual revenues of wildlife watching tours represent 80% of the total annual revenues of trips to Africa for the participating tour operators. The replies provided indicate that revenues are expected to grow further.”

Page 34:

“Safari tours are being operated by 96% of the participating tour operators and the sub-regions that are most frequented for safari tours are East and Southern Africa, where countries which are already known as wildlife watching destinations are located.”

Page 35:

“Despite the limitations, the findings support the potential of the tourism sector to advance its contribution to the fight against poaching in Africa and confirm the importance of wildlife watching tourism for the sustainable development of the region.”

4. WORLD TRAVEL & TOURISM COUNCIL 2017 REPORTS⁵⁸

Figures for total contribution of travel and tourism for 2016, for destinations where wildlife watching is an important component of travel and tourism (in the view of the NGOs submitting this response).

1. Namibia
14.9% of GDP, 14.9% of employment
2. Tanzania
13.3% of GDP, 11.6% of employment
3. Botswana
10.9% of GDP, 7.1% of employment
4. Kenya
9.8% of GDP, 9.2% of employment
5. South Africa
9.3% of GDP, 9.8% of employment
6. Zimbabwe
8.1% of GDP, 5.25% of employment
7. Zambia
7.0% of GDP, 5.0% of employment

⁵⁸ Available at wtcc.org

SECTION 6

QUESTION 6: HOW THE PROPOSED BAN WOULD AFFECT THE ARTS AND ANTIQUES SECTORS, OR INDIVIDUALS WHO OWN IVORY ITEMS**PARAGRAPH 79 OF THE IMPACT ASSESSMENT: THE SCOPE FOR THE SECTOR TO ADAPT TO A LOSS OF PART OF ITS MARKET****A) CHANGES IN THE MARKET – DECREASE IN US BUYERS AND INCREASE IN CHINESE BUYERS**

According to TRAFFIC's 2016 Report "A Rapid Survey of UK Ivory Markets":

".....there appears to have been a change in buyer demographic over the last decade. In 2004, it was reported that the majority of buyers were from the USA, followed by the UK and other European countries. Furthermore, in 2004 it was noted that high-end shops were apparently selling 75% of ivory antiques to US citizens, however in 2016 many traders noted a dramatic decline in buyers from the USA."

As the number of US buyers has decreased, so has the number of Chinese and other Asian purchasers increased:

"According to traders, the principal buyers of ivory antiques in recent years are East Asian citizens, from mainland China, Japan and Hong Kong, as well as European citizens, such as Germans, Austrian and Portuguese. One trader explained that she had learnt the Chinese (Mandarin) word for ivory to accommodate the high number of potential Chinese buyers. Furthermore, during the surveys, two Chinese speaking 'scouts' were observed taking pictures of antiques, including ivory items, on their mobile phones, uploading images with descriptive text, and calling contacts (speaking in both English and Chinese language). No purchases were specifically observed, however one trader confirmed that one of the scouts had purchased many ivory items in the past."

One simple example of how the sector adapts to a loss of some of its consumer base is by ensuring that it is well placed to deal with new consumers – for example, the trader who learnt some key Mandarin words so she can deal with Chinese customers.

In 2013, the leading regional auction house Woolley & Wallis created a separate page on its website wholly in Mandarin, to cater for the needs of its rising Chinese clientele.

B) EXAMPLES OF ADAPTABILITY BY THE ANTIQUES TRADE

Extracts from articles in the Antiques Trade Gazette:

13 September 2001: Tastes shift to post-war cult classics

The film poster sale majored on post-war films with particularly strong selections of 1960s and '70s titles including small sections devoted to cult collecting areas such as James Bond, Clint Eastwood and 2001: A Space Odyssey. Not many years ago these would have barely featured in a movie poster auction. It is a sign of how tastes have shifted that they now feature so prominently and, moreover, that the smaller selection of early pre-war vintage material proved to be the weaker section of the sale, according to Christie's specialist Sarah Hodgson.

20 July 2004: Sotheby's create new hybrid art department as market changes

Sotheby's have announced that they are merging their Modern British art and Victorian art departments to create a new one called British Art 1850 – Present Day.

Scott Reyburn noted only last week in reporting on the most recent British paintings sales in London for the Antiques Trade Gazette Art Market pages that with a new millennium, shifting tastes, "and the vast majority of great pre-20th century British pictures long sold off, this is an edifice that is developing some severe structural problems".

It seems Sotheby's are only too aware of the difficulties and actively trying to do something about it.

31 January 2005: Purchasing fashions change in Sheffield

Changing fashion was the talking point at ELR's recent quarterly antiques sale. While the market for traditional furniture remains difficult, collectable names from the 20th century were in high demand.

19 February 2007: Sign of the times as collector turns his back on Turner

The changing tastes of collectors and the great 21st century art boom have been widely reported in recent times. And a timely case arrives with the news that the Belgian collector and food magnate Baron Guy Ullens has chosen to sell his collection of 14 Turner watercolours to focus his collecting energies and resources on Chinese Contemporary art.

18 February 2007: Changing faces of London's coin market

It was a tumultuous year. From sometimes dramatic staff movements to the migration of material from Germany, the face of the London numismatic trade changed in 2016.

More possibilities exist in the market that for quite some time.

Bank notes, once a minor factor in the market, have become a major one across the last decade.

19 January 2009: LAPADA to launch Modern art to association

LAPADA Modern is being founded to reflect the growing market importance and number of dealers involved in contemporary and modern art and 20th century design, the latter being one of the fastest growing areas of the trade.

21 January 2015: Lesters blame market forces as they cancel American International Fine Art Fair at 11th hour

"We recognise that we cannot create markets for sectors in which there is limited demand."

"We believe that the key to success is recognising opportunities where they exist and recognising declining market realities where they exist and adjusting our efforts accordingly."

"As the biblical verse says, 'To everything there is a season'."

Quotes from David Lester

26 May 2016: BABA members to voice trade history

The British Antique Dealers Association (BADA) is launching 'BADA Voices,' an oral history of the trade as the first of their 2018 centenary initiatives.

"BADA members provide a unique overview of the changing social, economic and political landscape since BADA's establishment in 1918," said BADA CEO March Forgiione.

"The 20th century was a period of unparalleled change, development and turmoil. Throughout it BADA members have been instrumental in leading the development of the art and antiques trade."

8 July 2016: Triple threat: Three major fairs hold steady in the wake of Brexit concern

"There might have been a momentary gasp and clutching of the wallet on the day of Brexit. But quite possibly that will not impact on changes that will take pace with time anyway," [Jolyon Warwick James] added, citing cyber selling and changing consumer taste as the real long-term market challenges.

22 April 2017: Then & now: the changing nature of house contents sales

[Referring to a house sale in 1983] Traditional on-the-premises house sales like this are themselves rare species now. The auction profile, too, is redolent of a different era: dominated by American private buying with big spending on early Georgian furniture.

6 May 2017: Interview: Tom Lintern-Mole, part of the new generation

Across a decade, the number of independent book shops in the UK has shrunk from more than 1500 to less than 1000. But this jovial Oxford history graduate is one of the new breed: an optimistic dealer.

"It was nice to bring rare books back on to the high street again," he says. "The trade has faced increasing rents, rising rates and changing tastes. But it really does seem resilient."

1 July 2017: Mayfair gallery exhibition links antiquities to contemporary art

Mixing ancient and new is all the rage. The contemporary art boom has drawn new faces into the antiquities market, changing the way the trade think and display ancient art.

23 September 2017: Triple-A relaunches for 'post-Brexit world'

The group of regional auctioneers known as The Association of Accredited Auctioneers (AAA) has relaunched as an organisation to promote business and pool resources in the face of "a post-Brexit world and a rapidly changing market".

C) ANALOGIES WITH GREATER RESTRICTIONS ON TRADE IN RHINO HORN

The rules on the sale and export of rhino horn products have changed several times in recent years, as the articles set out below from the Antiques Trade Gazette (ATG) make clear.

Articles from the Antiques Trade Gazette

(Relevant extracts quoted)

20 Sep 2010: UK restricts rhino horn exports with immediate effect

The government are to refuse nearly all future applications for the export of old rhinoceros horn sold in the UK.

The Department for Environment, Food and Rural Affairs (DEFRA) issued new guidelines on September 16 with immediate effect in a bid to curb the auction market for rhino horn trophies, which the authorities believe is fuelling the illegal trade in Far Eastern homeopathic remedies.

However, the decision to stop the trade moving overseas will impact 'open market' prices significantly. Taiwanese, Korean and mainland Chinese are the primary buyers in this field and they have been willing to pay increasingly high sums for old horns that can be legitimately traded.

In the immediate future Tennants will continue to offer rhino horn trophies for sale to UK-based buyers. "We will soon see what happens to prices," he said.

21 Feb 2011: Ban on rhino horn comes into force immediately

The ban on selling rhino horn trophies, scheduled for introduction over the next couple of months, has been brought into force with immediate effect.

The sudden ban came after the WLRs decided to act immediately on European Commission guidance changing the definition of what constitutes a work of art in relation to rhinoceros horn. It brings to an end the lucrative legitimate trade that saw some specimens sell at auction for over £100,000.

It was the surge of rhino horn sales to Far Eastern buyers at both UK and continental auctions that has encouraged the European Commission to look again at the issue. Specimens such as that sold by Tennants of Leyburn last year for a record £155,000 now have no legal commercial value in the UK.

19 March 2012: Rhino horn restrictions to include all 'worked' items

Restrictions surrounding the export of rhino horn from countries within the European Union have been further tightened to include all items, whether or not they have been 'worked'.

In practice this means that, while it is still legal to sell rhino horn works of art in the UK, they will no longer be granted licences to be sent overseas.

It will still be legal to sell a Ming or Qing dynasty rhino horn libation cup (or an Edwardian big game trophy or a tribal club) within the UK, providing the authorities agree prior to sale that an item has been 'worked'. But the intention is now to exclude buyers from the increasingly affluent market where such things are most highly prized. It remains to be seen by how much this will impact prices.

26 March 2012

The assembled Chinese and Hong Kong agents in the room watched while a UK-based private buyer outpaced a London dealer at £74,000 (estimate £40,000-60,000). It was not the six-figure sum the vessel might have commanded prior to the legislation but nor did this 'test case' suggest the EU measures (effective until at least the end of the year) will easily extinguish the vibrant European auction market for rhinoceros horn works of arts.

The March 12 announcement restricted the export of rhino horn from countries within the European Union much further, extending to all items, whether or not they have been 'worked'. In practice this means that, while it is still legal to sell rhino horn works of art in the UK, they will no longer be granted licences to be sent overseas to the increasingly affluent nations where such things are most highly prized.

SECTION 7

QUESTION 7: THE VALUE, OR NUMBER, OF SALES OF ITEMS CONTAINING IVORY IN THE UK (ALSO ADDRESSING PARAGRAPH 81 OF THE IMPACT ASSESSMENT)**NUMBER OF SALES OF ITEMS CONTAINING IVORY****A) ONLINE AUCTION SALES THROUGH THE-SALEROOM.COM**

Quantity of ivory lots sold through the-saleroom.com (based on Two Million Tusks data)

TMT Study 1: 180 ivory lots, 155 sold = 86%

TMT Study 3: 787 ivory lots, 625 sold = 79%

NB: TMT Study 2 did not record sold items, simply the number of lots for sale

Therefore, assume c82% of lots are usually sold (approximate midpoint between 86% and 79%).

TMT Study 2 was split into two studies (A and B). TMT Study 2A involved the largest assessment of quantity of ivory lots for sale: 6,243 ivory lots for sale over a 3 month period by 301 auction houses.

Assuming 82% of those lots were sold:

- $6,243 \times 82\% = 5,119$

Assuming the 3 months in TMT Study 2A are representative of the other 9 months of the year, multiply by 4 to find the annual figure for sold lots:

- $5,119 \times 4 = 20,476$

Therefore, online auction sales of ivory lots through the-saleroom.com would be **20,476** per annum.

(This is only one, albeit the most popular, of the online auction websites.)

B) OVERALL AUCTION HOUSE SALES

According to the Consultation Document, there are c1,000 auction houses in the UK. Some will not use the-saleroom.com but will use other online auction websites and others may not use online auction websites at all, relying solely on physical auctions.

There were 366 auction houses registered on the-saleroom.com when Two Million Tusks started their 3 month survey of sales during April, May and June 2017, with 301 auction houses identified as selling any ivory lots in that period (82%).

Therefore, to calculate an approximate number for overall auction houses sales, we have assumed that:

- 82% of the 1,000 UK auction houses sell ivory lots (820);

- sales are similar to the quantity of sales through the-saleroom.com, set out in A) above.

Based on the figures for 301 auction houses in A), producing an annual figure for 820 auction houses involves multiplying by 2.72:

- $20,476 \text{ lots} \times 2.72 = 55,695$

Therefore, the sales of ivory lots through UK auction houses could be c55,695 per annum.

VALUE OF SALES**C) PRICE DATA**

Price: based on Two Million Tusks data – average price of ivory lots sold

TMT Study 1: 155 lots sold, average price £264

Applying that average price to the 55,695 ivory lots sold annually through UK auction houses:

- $55,695 \times £264 = £14,703,480$

TMT Study 3: 625 lots sold, average price £823

TMT Study 3 involved Woolley & Wallis, one of the leading regional auction houses in the UK, dealing in more 'high end' antiques than most auction houses (hence the higher average price).

- $55,695 \times £823 = £55,758,250$

Since Woolley & Wallis operate at the top end of the market, the £55m figure is unrealistic. However, the £14m figure may be too low since it does not include the main London auction houses such as Christie's, Sotheby's and Bonhams.

Therefore, we suggest an appropriate likely range for the value of ivory lots sold through auction houses in the UK annually could be £20m to £30m.

D) ANTIQUES DEALERS

Based on the data from Caroline Cox's Report summarised in our response to Question 6, it appears that the majority of antiques dealers have far smaller businesses than the majority of auction houses (at a ratio of approximately 1:20).

The British Art Market Federation (BAMF) reports that the UK art and antiques market comprises 7,850 businesses.⁵⁹ It is not clear if they would include auction houses. It is also not clear how many would be businesses specialising in selling art, most of which will sell few if any ivory objects.

Despite the above concerns around the number of businesses and taking the figure of 7,850 and assuming:

- they are all antiques dealers (not auction houses or art dealers);
- the same proportion sell some ivory as for auction houses (82% of 7,850 = 6,437);
- the proportion of ivory items they sell is similar to auction houses;
- the prices they achieve will be similar to prices for items sold at auction;
- a ratio of 1:20 in size of business (and therefore of sales).

On that basis, if auction houses sell between £20m and £30m of ivory lots annually, antiques dealers would sell:

- £20m to £30m divided by 20 (for the size of business) = £1m to 1.5m.
- multiplied by the ratio of antiques dealers selling ivory items (6,437) compared with the number of auction houses selling ivory (820), which is c1:8:
- £1m to £1.5m x 8 = £8m to £12m

The lack of specific data for the number of antiques dealers versus art galleries means our estimate is likely to be a high overestimate, but notwithstanding that **we suggest an appropriate likely range for the value of ivory items sold by antiques dealers in the UK annually could be £8m to £12m.**

The volume of sales by antiques dealers would similarly be the total volume of sales by auction houses (55,695) divided by 20 and multiplied by 8 = 22,280.

⁵⁹ British Art Market Federation, <http://tbamf.org.uk/>, accessed 21 February 2017.

E) TOTAL IVORY SALES

Adding together the figures for sales by auction houses and antiques dealers results in a range of value for **total ivory sales in the UK of £28m to £42m.**

The total volume of sales by auction houses and antiques dealers could be $55,695 + 22,280 = 77,975$.

This excludes:

- non-auction house sales through online platforms such as eBay;
- sales through car boot sales and antiques fairs (to the extent sellers are not counted as antiques dealers in the BAMF figures mentioned earlier);
- many musical instrument sales (e.g. through personal connections or through specialists such as piano auctioneers).

SECTION 25

QUESTION 25: SUPPORTING OUR VIEW ABOUT THE SANCTIONS THAT SHOULD BE APPLICABLE TO THOSE FOUND TO BE IN BREACH OF THIS BAN**PROSECUTIONS AND POLICE/UKBF ACTIONS IN THE UK RELATING TO ILLEGAL IVORY TRADE**

1. In 1993, police and Customs officers raided a stall in Wandsworth Arndale Centre, London where a woman was selling carved ivory and reptile skin bags. She was cautioned, her property was seized and she was later deported after being found to be in the country illegally.
2. In 1996, the owner of a walking stick shop on Portobello Road, London, was found to have travelled by train to the town of Bedford on several occasions to hand over raw ivory to an elderly lady, who then carved it into antique 'looking' walking stick handles for sale in his shop. Several pieces of raw and carved ivory were seized during a 'drop off' at the station canteen. The shop owner – who admitted buying two tusks for £2,000 'from a man in the street' – was fined £250 with £54 costs at a Magistrates' Court.
3. In 1997, police acting on a tip-off entered a small industrial unit in Clerkenwell, London, where several ivory tusks and carving machinery had been seen. They seized many pieces of elephant tusk and an ivory auctioneer's gavel, carved to look like an antique, which was to have been sold on a stall in Portobello Road. The offender was cautioned.
4. In November 1997, police seized a quantity of new ivory jewellery from a shop in Tooting, south London. The shop owner was given a formal warning.
5. In May 1998, a parcel arriving from Hong Kong and declared as hippopotamus teeth was found to contain 87 carved elephant ivory items and a few pieces of mammoth ivory. No permits were presented with the shipment and it was confiscated.
6. In 2000, a London taxidermist was sentenced to six months' imprisonment, three of them suspended, for illegal wildlife trade offences. Items seized during a police raid included a gorilla skull, a tiger and her young litter and a leopard as well as a large elephant tusk.
7. In November 2003, Warwickshire police seized 24 tusks (weighing around 650kg in total), along with a large number of other hunting trophies, including an elephant skull and 14 stools made from elephant feet.
8. In 2006, a firm pleaded guilty to the illegal sale of ivory shaving brushes and received a £10,000 fine.
9. In 2008, a man was found guilty at Southwark Crown Court of trade in ivory carvings. The confiscated items included 24 whole ivory tusks and dozens of carved items made from elephant, hippo and sperm whale ivory. The individual was given a two year suspended sentence and ordered to pay £1,480 costs.
10. In 2009, a man was sentenced to 10 months' imprisonment for illegally trading internationally in ivory and whale teeth (charged under both COTES and CEMA).
11. In 2012, an antiques dealer was convicted of exporting six ivory items to countries outside the EU without obtaining licences. He sold the items on eBay to a man in New Zealand, who therefore illegally imported them. The defendant was fined more than £1,000 while the man in New Zealand was fined NZ\$12,000.
12. In 2013, a seized elephant tusk that had been lent by UK Border Force to a wildlife park for educational purposes was stolen.
13. In 2013, a police operation targeting illegal wildlife trade seized suspected illegal ivory from 17 stalls in Portobello Road market.
14. In 2013, a man was charged with 12 counts of trafficking ivory and other illegal wildlife items (both the unlawful acquisition of a specimen of an imported species and also sale of a specimen of an endangered species).
15. In September 2013, a Battersea antiques dealer was charged, and subsequently pleaded guilty, to three counts of illegal trade in ivory, whale and dolphin bones and marine turtle shell. He had reworked antique ivory to create new items, such as walking stick handles and artwork, and attempted to sell them without a certificate from Defra. He had also advertised ivory on eBay as ox bone, which it is legal to trade. He was fined £750 and ordered to pay costs of £550 and a victim surcharge of £75.
16. In 2014, Chiswick Auctions were prosecuted for the unlawful sale of carved ivory that was dated by an expert to be pre-1947 but on scientific analysis, turned out to be from the 1960s.

17. In 2014, a man was jailed for 120 days after stealing a tusk that was part of the UK's seized ivory stockpile and had been loaned out to a wildlife park as an educational exhibit at their museum.
18. In 2015, a Cornish auction house voluntarily surrendered to police a collection of carved elephant ivory. They had come into possession of the collection following the death of its previous owner. However the auctioneers decided it would not be right to put the pieces up for auction, because they could not be sure of the age or provenance of the ivory. They could not be certain that some of ivory pieces were not modern, but treated in a way to given them an antique look, so they took the responsible decision to voluntarily hand the collection to the police. A spokesperson for the police and NWCUC said, *"The potential value of this collection was not insignificant. It is reassuring to see this responsible trader not wanting to profit before breaking the law."*
19. In May 2016, L S Smellie & son, an auction house in Hamilton, was fined £1,500 for offering to sell raw elephant tusks on their website.
20. In 2016, Christie's auction house was fined over £3,000 for selling a piece of ivory without the relevant documentation. In September 2016, the owner of the piece was also convicted, receiving a Conditional Discharge and being ordered to pay costs of £620 and a victim surcharge of £15.
21. In September 2016, a stallholder at Spitalfields Market in London pleaded guilty to charges of illegally offering sale 232 pieces of ivory, much of which was considered by an expert to be of recent origin, most probably within the last 20 years. He was sentenced to a 5 months' imprisonment suspended for 18 months and was ordered to pay a fine of £1,000, costs of £250 and a victim surcharge of £115.
22. In September 2016, an antiques dealer pleaded guilty to two offences involving the sale of ivory. He had offered several ivory items for sale on eBay described as 'cow bone' to avoid the eBay filters, since eBay banned the sale of ivory in 2009. The items were seized in a joint operation by Cumbria police and the NWCUC. After carbon dating, the ivory was proved to be from the 1970s and therefore had been offered for sale illegally. He was sentenced to 7 months' imprisonment suspended for 18 months and ordered to pay the costs of the ivory carbon testing (£1,134). The judge said *"It must be made clear to you and anyone else who may become aware of this or any similar case that those who trade in African elephant ivory are, by that trade, promoting the slaughter of such animals."*
23. In November 2016, an individual pleaded guilty to selling 78 ivory items through eBay valued at £6,408, of which 59 items valued at £4,881 were exported outside the EU (the majority going to China). He had described the items as 'bovine bone' to avoid eBay's filters that prohibit the sale of ivory. A further 43 ivory items were discovered at his home. He was sentenced to 1 year's imprisonment suspended for 2 years, a 1 year Community Order requiring 150 hours of unpaid work, £85 costs and a victim surcharge of £85.
24. On 30 March 2017, a man in London was charged by the Metropolitan Police Wildlife Crime Unit with offences relating to the illegal sale of elephant tusks, rhino horn and hippopotamus tusks.
25. On 18 May 2017, following a joint operation by Derbyshire Police, National Wildlife Crime Unit and UK Border Force, a 30 year old man from the Derby area has been reported for offences relating to the prohibited sale and export of elephant ivory. In October 2016 officers from UK Border Force stopped and searched a number of packages containing carving made from elephant ivory. The packages were being exported without permits to the far-east. The shipper was identified and in November 2016 officers from the National Wildlife Crime Unit and Derbyshire Police executed search warrants at addresses in the Derby area and seized 100s of pieces of ivory, computers and documentation. A 30 year old man from Derby was arrested and bailed pending forensic analysis and further enquiries. On 18th May 2017 the man answered his bail at Derby Police HQ and was reported for offences contrary to the Customs and Excise Management Act 1979 and Control of Trade in Endangered Species (Enforcement) Regulations 1997.

SECTION 26

QUESTION 26: SUPPORTING OUR VIEW THAT IT SHOULD BE FOR THOSE INVOLVED IN THE SALE TO DEMONSTRATE THAT AN ITEM FALLS INTO AN EXEMPTED CATEGORY (AND HOW THIS MIGHT BE ENFORCED)**A) EXAMPLES OF THE TYPE OF EVIDENCE TO PROVE THE AGE AND PROVENANCE OF AN IVORY ITEM**

- *“a detailed history of the item, including but not limited to, family photos, ethnographic fieldwork, art history publications, or other information that authenticates the article and assigns the work to a known period of time or, where possible, to a known artist or craftsman”* (US Federal guidance);
- Customs documentation (from the importing or exporting country). The document(s) should be verified, if possible, against information in relevant databases;
- a receipt, invoice or transfer deed;
- manufacturer’s warranty or guarantee document;
- a deed of gift or inheritance documents, such as a will;
- old photographs of the ivory item (with a date, identifiable person or at the place of origin);
- an old hunting permit (or other documents relating to a hunt);
- insurance documents;
- letters;
- old public documents (such as auction catalogues, newspaper articles or other original reports/publications);
- results of radiocarbon dating/isotope analysis to determine age (also origin) of the item;
- other ancillary evidence (e.g. evidence that the person who brought the item into the UK worked or lived overseas before the relevant date, such as work permits, employment contract, travel documents, passport stamps, birth certificate).

B) RAISING AWARENESS

1. According to Auctioneer and TV antiques expert James Lewis, *“I visit antiques fairs regularly, and anyone who says that there isn’t a problem in the antiques trade of ivory-selling is kidding themselves. If there was more awareness and education round this issue, I think the antiques traders would support a ban”*.
2. Andy Fisher, head of the Metropolitan Police Wildlife Crime Unit (at the time), said in a comment quoted in IFAW’S 2004 Report⁶⁰: *“The law concerning trade in ivory is complicated and it is not surprising that people in the UK are confused. There are still too many people here who think that the illegal trade in endangered species is something that happens somewhere in Africa or Asia and do not realise that we in the UK are consumers of endangered species from all over the world. The Metropolitan Police has seized thousands of products made from endangered species, including ivory, in London. In most cases the purchasers had assumed that an item on sale was legal or were unaware that it was made from an endangered species. In our experience most consumers will not, knowingly, buy products made from endangered species, but many do so without realising it. Consumers need to ask questions to be as sure as they can be that they are not buying a product made from an endangered species. In the case of ivory, they need to be sure that what they are buying is a genuine antique or has come from a legal source. The seller must be able to produce evidence of this. The trade in endangered species is illegal, but if legal protection is to make a real difference to elephants and other endangered species, we need both traders and consumers to have a better understanding of endangered species laws and how they apply to trade in the UK.”*
3. That comment may have been made 13 years ago, but the evidence from recent studies, such as those by Two Million Tusks, shows that much of it is equally true today.
4. It would be fair to say that due to the focus in the trade and general press on the plight of the elephant and the potential for changes to the UK ivory trade rules, some of those who are professionally involved in the trade do have a better understanding of the law than they used to have, in particular the 1947 cut off date.⁶¹ But as the Two Million Tusks’ research shows, this improved knowledge does not appear to extend to knowledge of the requirements for selling pre-1947 ivory, in particular the need to be able to show proof of age.

⁶⁰ “Elephants on the High Street”, IFAW (2004).

⁶¹ “respondents to the survey did have a sound basic knowledge of the COTES regulations. Respondents referred to the 1947 cut-off date and to recent cases involving members of the antiques trade.” “The Elephant in the Sale Room”, Cox. C (2017).

5. It is still very much the case that those with specialist expertise who deal in high-end antiques do have a much greater level of knowledge than the vast majority of generalist antiques dealers and auction houses – certainly far greater than the knowledge displayed by dealers at small antiques fairs and car boot sales who showed *“little or no knowledge of the item they were selling”* (according to Caroline Cox). TRAFFIC also made a similar point in their 2016 Report that *“casual/opportunistic traders were less knowledgeable and took a more fluid stance on the need for documentation.”*
6. There is very little guidance available for those who do want to find out the relevant law. According to Caroline Cox, *“Strikingly, none of the organisations we researched had any specific advice on their front facing websites regarding the laws and regulations on the sale of ivory”* and any advice and guidance that is provided by the trade bodies to their members *“is by way of newsletters, updates and the “members only” sections of their websites.”*
7. Later in this Section we set out recommendations for how the principal players in the ivory market can take steps to raise awareness, including Defra, the enforcement agencies and the trade associations such as BADA, LAPADA and SOFAA. The Antiques Trade Gazette also has a major role to play in increasing awareness as the most widely-read antiques publication in the UK.

C) ENFORCEMENT

1. It has proved to be extremely difficult to achieve successful prosecutions in cases involving the illegal ivory trade in the UK. We have found details of only 24 prosecutions and other actions by the police or the UKBF for offences involving illegal ivory between 1993 and 2016 (listed in Section 25 of the Evidence Document. (There may have been more but inadequate systems of recording offences mean that the data is likely to be incomplete.) However, in recent years there has been a dramatic increase in the number of seizures and quantity of items seized in the UK or in transactions associated with the UK. In 2011, 78 items were seized whereas in 2015, the number had increased to 395. Further details are set out in Section 27 of the Evidence Document. Although the effectiveness of the UKBF is clearly improving, that has not yet translated into a similar improvement in prosecutions.
2. As WWF observed in a 2016 Report⁶²: *“It seems that illegal wildlife trade and associated offences are not rare, but only a very small proportion of illegal wildlife trade will ever come to the attention of authorities meaning officially gathered data will be just a fraction of that actually taking place so that few cases result in detection and, ultimately, prosecution (McMullan & Perrier, 2002)”*.
3. The enforcement infrastructure has been established and has the potential to be highly effective. However, other priorities and lack of the necessary resources are significant obstacles to its success. In 2012, the Metropolitan Police Wildlife Crime Unit was faced with closure due to lack of funding and had to be rescued by an NGO, World Animal Protection. There have been other examples of successful cooperation between UK NGOs and enforcement agencies (e.g. Operation Charm) but it is clear that lack of financial support seriously compromises enforcement activity and effectiveness. Despite the commitment of the Government in the 2014 London Declaration on the Illegal Wildlife Trade to strengthen the legal framework and facilitate law enforcement to combat illegal wildlife trade, to date nothing of any significance has been done.
4. Part of the challenge with enforcement is that it is difficult for law enforcement officers to tell the difference between pre and post 1947 ivory. Newer ivory is frequently deliberately disguised as antique (as shown by the BBC documentary by Hugh Fearnley-Whittingstall). It is impracticable for all ivory to be age tested as the process of radiocarbon dating every piece of ivory would be hugely expensive. The current system for certifying the age of an ivory item, whether pre or post 1947, is extremely lax and open to abuse. The lack of any statutory or regulatory control on who can set themselves up as an antiques dealer and so be able to certify the age of an ivory piece is a major loophole in the UK ivory trade regulations which allows entirely unqualified individuals to assess the age of the item and in the case of pre-1947 ivory, allows self-assessment, which is obviously open to fraud. Placing the onus clearly on the seller to provide adequate proof that an item falls within an exemption will go a long way towards addressing these problems.

Sentencing guidelines

5. Although the COTES Regulations and CEMA have been in force since 1997 and 1979 respectively, so far as we are aware the maximum sentences under each (5 years and 7 years) have never been applied for illegal ivory trading. In fact, no sentence has come close to the maximum. As shown by the details of convictions set out in Section 25 of the Evidence Document, the longest sentence of imprisonment (not suspended) that has been imposed is only 10 months. Low fines and short suspended sentences of imprisonment categorise the penalties actually applied on conviction of offenders. These are wholly inadequate given the severity of the crimes, particularly in the light of the increasing plight of the elephant.
6. So not only do prosecutions rarely happen, even when they do happen most sentences are far too lenient. The judiciary has generally not taken wildlife crimes seriously, despite the commitment in the Declaration agreed at the London Conference on The Illegal Wildlife Trade in 2014, at point 16XI, that the signatories should *“Strengthen the ability to achieve successful prosecutions and deterrent sanctions by raising awareness in the judicial sector about the seriousness, impact and potential profits of wildlife*

⁶² “Sentencing Wildlife Trade Offences in England & Wales: Consistency, Appropriateness and the Role of Sentencing Guidelines”, WWF (2016).

crime.” That has not been done. There is an urgent need for specific sentencing guidelines, emphasising the importance of appropriate sentences reflecting the seriousness of the crimes. Sentencing guidelines should make clear that the more endangered the species, the greater the penalty to be imposed.

7. In a comparative analysis of the UK and Norway,⁶³ there were a number of positives for the UK’s illegal wildlife trade enforcement regime that we should highlight: specialist enforcement agencies and officers and training for frontline staff; effective partnership work and communication between international enforcement agencies, including shared data systems at EU level; intelligence-led national illegal wildlife trade priorities; CITES proficiency at Defra and the CITES team within the UKBF was singled out for praise for its increasingly effective work. But a number of weaknesses were highlighted, some of which we have already mentioned: incoherent/outdated domestic legislation; inconsistent application of laws and regulations; non-compliance and difficulty enforcing complicated CITES regulations (limited public and stakeholder awareness); limited financial (and other) resources to enforce CITES; weakness in investigation, prosecution and sentencing of offences, with limited specialist training of agency staff.
8. All of these weaknesses need to be addressed as part of the overhaul of the UK’s ivory trade legislation, otherwise whatever new laws are put in place will be as widely ignored and weakly enforced as the current legislation. There is little point the Government running a consultation process and introducing any tighter restrictions if they are not going to be enforced effectively.

D) PRACTICAL SUGGESTIONS FOR RAISING AWARENESS/EDUCATION AND ASSISTING ENFORCEMENT

Introduction

1. In addition to the specific recommendations set out in Section 27 of the Evidence Document for the online ivory trade, in this Section we make the following recommendations for raising awareness and improving enforcement of the new legislation.
2. These recommendations are largely based on recommendations contained in reports by IFAW and TRAFFIC.

RAISING AWARENESS/EDUCATION

Recommendations to Defra:

- a. Make easily available on the Defra website a basic guide to the legal ivory trade and the potential penalties for illegal trade. (At present, it is very difficult to find the relevant rules in one place on Defra’s website.) Links to other documents should be avoided where possible, so all relevant information is in one place.
- b. Initiate a programme of action to raise awareness among those involved in the antiques trade on the requirements for trading in ivory into, out of and within the UK, and the penalties for illegal ivory trade. This should include information about the scale of the international illegal ivory trade and the impact on endangered elephant populations.
- c. Require any outlet trading in ivory (such as antiques dealers and auction houses) to display clearly visible information summarising the relevant legal requirements. This should include specific information about the rules governing export of ivory from the UK and the need for non-nationals to comply with import rules in their own countries, giving examples of the rules from the principal countries such as China/Hong Kong and the USA.
- d. Publish guidance on the revised legislation in the trade press, particularly the Antiques Trade Gazette, which is the leading publication for the antiques trade. It has a readership of around 35,000. The trade associations such as BADA and LAPADA have approximately 900 members, so it is clear that the ATG reaches a much wider readership (both antiques dealers who are not members of the trade associations and interested sellers/buyers).
- e. The guidance should emphasise that sellers, purchasers and intermediaries such as dealers and auctioneers are all covered by the legislation and can be guilty of the offence.
- f. Annual updates should be published through the ATG and trade associations as reminders.
- g. Raise awareness of tourists, in collaboration with CITES authorities in destination countries/ territories, regarding rules for purchasing ivory in the UK and its transportation across borders (where possible), through tour operators, airlines and targeted signage in relevant airport terminals.

Recommendations to those involved in the antiques trade and others trading in ivory:

- h. Understand and comply with the requirements for trading in ivory.

⁶³ “Law enforcement of the illegal wildlife trafficking: a comparative strengths, weaknesses, opportunities and threats analysis of the UK & Norway”, J. Maher, University of South Wales and R. Sollund, University of Oslo (2016).

- i. Encourage traders' associations to provide full and clear clarification on the legal requirements governing the sale of ivory and the penalties for illegal trade.
- j. Make sure that customers are made aware of the law before buying any such items and under no circumstances encourage them to smuggle items out of the UK.

ENFORCEMENT

Recommendations to Defra:

- k. Implement relevant parts of CITES Resolution Conf. 10.10 (Rev. CoP12) 'Trade in elephant specimens'. There are clear recommendations within the resolution that would improve control of the ivory trade in the UK.
- l. Keep an updated and user-friendly database or other record-keeping system of the status of all applications for CITES permits to allow enforcement officials to verify documentation with Defra quickly and easily.
- m. Establish a centrally-held database of nationwide information on illegal ivory trade within, into and out of the UK, in order to monitor trends. This should include records of seizures, investigations and prosecutions. Ensure that information on specimens includes the number of items, description, size and weight.
- n. Increase awareness among enforcement officials of the potential for CITES permits to be forged, and explore the use of stamps or improved forgery-proof paper which is already in use in some CITES member states.
- o. In conjunction with the Ministry of Justice, develop sentencing guidelines for crimes involving endangered species, so that sentences better reflect the seriousness of the crimes.

Recommendations to enforcement agencies including Police and UKBF:

- p. Allocate higher priority to and bid for increased resources for detection and prevention of the illegal ivory trade.
- q. Each time an ivory seizure is made, file an Ecomessage - a system designed to transmit information on wildlife crime to Interpol.

Recommendations to magistrates and others involved in sentencing of criminals:

- r. Impose tougher sentences on conviction, including greater use of custodial sentences, to provide a strong deterrent to those participating in the illegal ivory trade.

NOTE: Although focussed on the ivory trade, the recommendations in this Section could equally apply to all forms of trade in endangered species and could therefore form part of a general programme to tackle the illegal wildlife trade.

SECTION 27

QUESTION 27: SUPPORTING OUR OTHER COMMENTS ABOUT THE PROPOSED BAN

1. BANNING IMPORTS AND EXPORTS

A) DATA ON LEGAL IVORY EXPORTS FROM THE UK

THE UK IS THE LARGEST SUPPLIER TO THE WORLD'S IVORY MARKETS

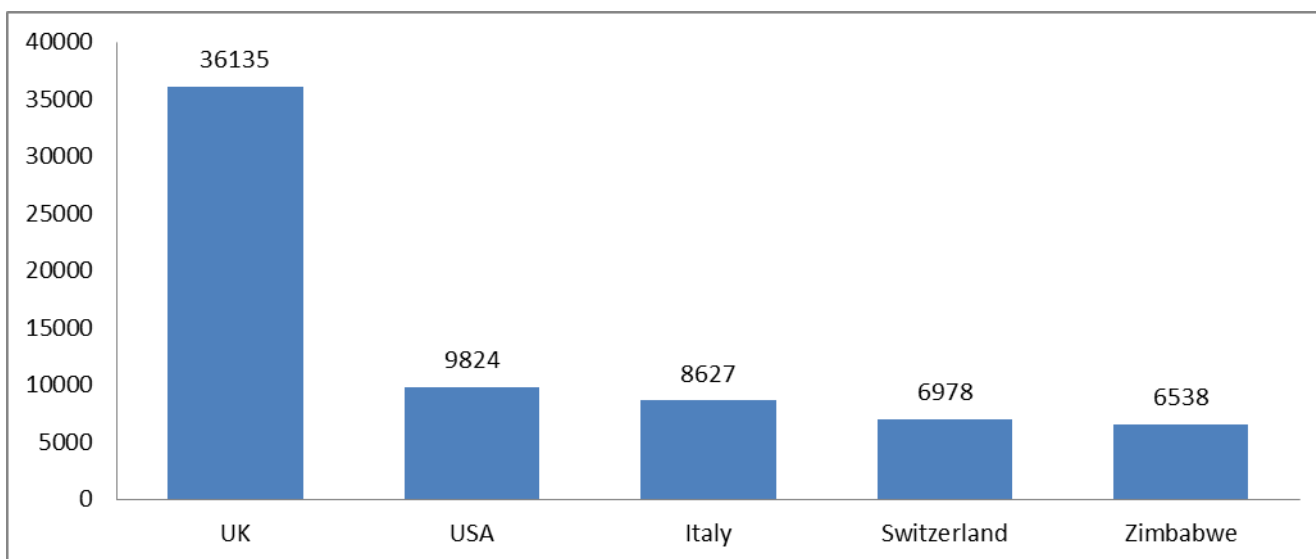
EIA's analysis of the CITES trade database recording certificates issued for legal exports of ivory for 2010 to 2015 shows conclusively that the UK was:

- The world's largest exporter of ivory.
- The world's largest supplier of ivory to China and Hong Kong.

The world's largest exporter of ivory

- The UK exported 370% more ivory items than the next highest exporter, the USA.
- The UK occupied top spot in the list of exporters for each year except 2015 when the UK was second behind Italy.

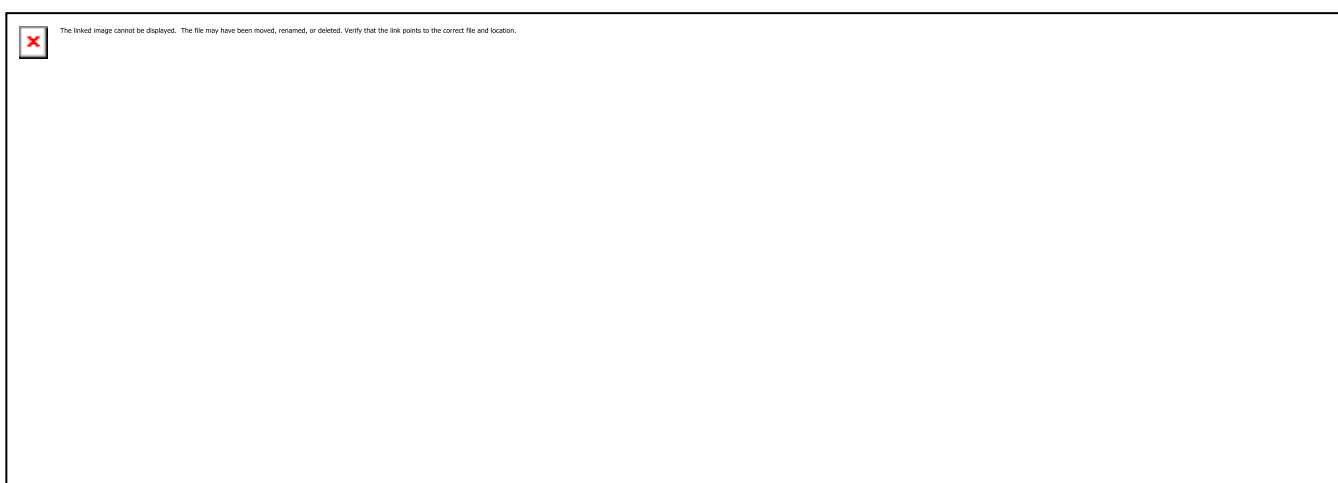
2010 to 2015 global ivory exports, by number of items



The world's largest supplier of ivory to China/Hong Kong

The UK exported more legal ivory than any other country to China and Hong Kong, two of the world's largest markets for legal and illegal ivory.

2010 to 2015 ivory exports to China/Hong Kong, by number of items



The USA was the main destination for UK ivory exports between 2010 and 2012. From 2013, China/Hong Kong became the main destinations for exports of ivory from the UK as exports to the USA dropped significantly and exports to China/Hong Kong rose significantly.

2010 to 2015 UK exports to USA and China/Hong Kong, by number of items, showing relative positions

	2010	2011	2012	2013	2014	2015
USA	3,526 (1 st)	2,707 (1 st)	2,823 (1 st)	3,212 (2 nd)	204 (4 th)	17 (10 th)
China/Hong Kong	193 (5 th)	824 (2 nd)	2,598 (2 nd)	4,122 (1 st)	4,105 (1 st)	1,214 (1 st)

BACKGROUND NOTES

- Data derived from the CITES Trade Database, UNEP World Conservation Monitoring Centre, Cambridge UK, accessed on 12 May 2017.
- Based on annual data for 2010 to 2015.
- Trade data for Elephantidae was analysed, which includes data for: Elephantidae spp. (elephant), *Elephas* spp./*Elephas maximus* (Asian elephant), *Loxodonta* spp./*Loxodonta Africana* (African elephant).
- The figures quoted are based on exporter-reported quantities. Importer-reported quantities sometimes vary from exporter-reported, for various reasons. We consider exporter-reported quantities to be more reliable.
- Trade records are typically reported as number of items or weight, making it difficult to compare and measure total volumes. Items with no assigned unit are taken to mean the number of items, not the weight (according to CITES guidance on use of the database). Therefore, as most ivory items had no assigned unit, their entries were treated as the number of items. The minority reported as kg were excluded to ensure consistent interpretation.
- 'Ivory items' were identified using the data filters set out below.
- Because CITES certificates are not required for movement of ivory from the UK to other EU member states, it may be that subsequent reported exports from other EU member states may be items that were originally exported from the UK. This analysis has focused only on direct exports from the UK. Therefore, the values reported here may understate the total exports, direct and indirect, from the UK.

DATA FILTERS APPLIED TO ANALYSIS OF CITES TRADE DATABASE

Included:

- raw ivory: tusks, ivory pieces and ivory scraps
- worked ivory: carvings, ivory carvings

Excluded:

- 'piano keys': it is unclear if records reported as '1' represent one set of keys or one individual piano key
- 'jewellery' and 'jewellery – ivory': these categories were only present in reports from some countries and it is unclear if 'jewellery' included ivory

Purpose: commercial (T), personal (P) or blank

Source: specimens taken from the wild (W), unknown (U), pre-convention (O), confiscated/seized specimen (I), blank

B) DATA ON ILLEGAL IVORY EXPORTS FROM THE UK - SEIZURE DATA 2010-2016

Summary prepared by EIA of seizure data disclosed by UK Border Force in April 2017 in response to a Freedom of Information Request made by a third party

Table 1. Ivory items by number seized each year, April 2010 to September 2016

IVORY ITEM	2010 (Apr- Dec)	2011	2012*	2013	2014	2015	2016 (Jan- Sep)	TOTAL
Carvings	2	43	19	22	45	43	141	315
Other	-	2	42	27	14	100	58	243
Household (P)	-	8	-	13	5	73	142	241
Household (w)	2	1	-	5	15	55	41	119
Jewellery	-	2	-	16	6	79	10	113
Pieces	-	2	-	42	11	11	10	76
Tusks	3	14	1	5	6	16	2	47
Piano Keys	-	-	2	9	7	6	6	30
Walking sticks	15	-	-	1	-	4	-	20
Furniture	1	4	-	5	2	-	-	12
Netsuke	-	2	5	-	-	2	3	12
Bagpipes	-	-	-	7	2	-	-	9
Billiard balls	-	-	-	-	-	5	2	7
Paintings	1	-	-	-	-	1	1	3
TOTAL	24	78	69	152	113	395	416	1,247
FULL YEAR EQUIVALENT TOTALS	32	78	69	152	113	395	555	

*There were no recorded seizures for April to December 2012, for no apparent reason.

Notes on Table 1:

A) There were a total of 410 seizures during the period April 2010 to September 2016.

B) Bagpipes were the only musical instruments (piano keys are listed separately).

C) Billiard balls (which includes snooker balls) were usually listed in the figures as '1 unit' without specifying the number of balls. There was one example of the number of balls being listed but that has been treated in the same way as the other listings and counted as '1 unit'.

D) Carvings include items such as figurines, statues, ornaments and carved balls.

E) Furniture includes items such as tables and wooden screens with ivory inlay.

F) Household (P) means a household item partly made of ivory e.g. cutlery, teapots, mirrors, brushes.

G) Household (W) means a household item wholly made of ivory e.g. napkin rings, boxes, chess sets.

- H) Chess sets were counted as one item.
- I) Piano keys were usually listed as '2kgs'. This was treated as one set of keys. On one occasion, the entry was '100 units', which was treated as two sets of keys (on the basis of 52 keys in a set).
- J) 'Other' includes entries such as 'ivory items', 'ivory' and weapons.
- K) 'Walking sticks' includes canes and umbrellas.
- L) Where the data recorded the quantity seized by number of units, that number was used as the number of items. Where the data recorded the quantity seized by weight in kilograms, that quantity was converted into a number of items. The conversion was based principally on the description given in the narrative for each record, on the following basis:
- Where the narrative gave a specific number of items, that number was used.
 - Where the narrative described a single item, it was counted as '1'.
 - Where the narrative described items in the plural, they were counted as '2' (giving a conservative result, since 2 would be the absolute minimum for a plural).
 - Where the narrative described 'various' items, they were counted as '5' (this was on the basis that 'several' is often given as a synonym for 'various'; a common meaning of 'several' is 'more than two but not many'; therefore, 5 was chosen as a number that was more than 2 but not many).
- M) In the case of both plurals and 'various', the numbers 2 or 5 were adjusted if there were other indications of the actual number of items. For example, if the weight in kilograms was given and the weight made clear that the actual number of items was higher than 2 or 5 (by comparison with information given for similar items elsewhere), an educated estimate of the higher number was included. Such adjustments were made for 9 of the 317 data entries recorded by weight.

Table 2. Seizure of worked and unworked/raw ivory by weight reported in kg only (not items), April 2010 to September 2016

Year	Total kg of worked ivory seized	Total kg of unworked/raw ivory seized
2010	0.18	3
2011	22.15	0
2012	5.29	0
2013	108.48	4.65
2014	35.57	23.86
2015	124.60	125.65
2016	69.73	9
Total	366	184.16

Notes on Table 2:

Unworked/raw ivory includes only the following data entries: tusks, raw ivory.

Worked ivory includes carved ivory tusk, pieces of ivory, ivory items and 'ivory', as well as items that are obviously worked such as carvings, statues and jewellery.

There were two data entries that combined both worked and unworked/raw ivory items, with one total weight given for each entry. We have split the weights given in those two entries 50/50, attributing 50% to worked ivory and 50% to unworked/raw ivory.

C) FUELLING DEMAND AND THE ILLEGAL IVORY TRADE IN ASIA

- China is the world's largest destination market for illegal ivory⁶⁴. Investigations by EIA in Guangzhou, China in November 2010 documented a thriving and growing illegal trade in ivory where the perception of both legal and illegal traders was that up to 90% of the ivory available on the market came from illegal sources.⁶⁵ The trade in illegal ivory to China was confirmed to EIA from the African end of the supply chain, by a Zambian ivory trader: *"Mostly, ivory goes to China. The big buyers are Chinese, they buy big quantities. We also sell direct and regularly to Chinese people in this country, so you get to know the Chinese words for certain products and prices."*⁶⁶
- Ivory is also being sent in large quantities from the UK to Hong Kong – the city with the highest number of ivory items for sale in the world⁶⁷. A paper⁶⁸ recently published by the Hong Kong Government concluded that *"The UK, France, Belgium, Germany and Portugal are currently the five countries with the greatest volume of export of pre-Convention ivory to Hong Kong."* Further, the paper also states that inspections by its enforcement agency found irregularities regarding 92 export certificates involving around 1 ton and 42 pieces of ivory, and the exporting countries included the following EU Member States - the UK, Belgium, Portugal, France, Germany, Austria, Italy and Spain. So the UK is not only involved in high levels of exports to Hong Kong but also has not "got its house in order" in relation to export permits.
- WWF-HK have found that much of the ivory imported into Hong Kong is then bought by customers from mainland China, since it is easier to take ivory across the border between the two than to import it directly from Europe into China. WWF-HK quoted findings by Martin & Vigne in 2015 that *"well over 90 per cent of ivory objects in Hong Kong are bought by mainland Chinese visitors."* (Martin & Vigne also studied the ivory market in Vietnam, reporting in 2016 that *"nearly all the customers [they] saw shopping for ivory were from mainland China"*, concluding that Vietnam's illegal ivory trade is one of the largest in the world.)⁶⁹
- In a report published in December 2015⁷⁰, the Elephant Action League (EAL) reported that a contact at a Shanghai company dealing in ivory products *"identified antique certification and items with certificates of auction (both representing pre-ban ivory) allow [sic] for an easy pass through customs when importing ivory."* The contact went on to claim that *"all ivory can be imported to China if*

⁶⁴ See e.g. "Elephants in the Dust – The African Elephant Crisis. A Rapid Response Assessment", UNEP et al (2013); "Illicit Trade Report 2012", World Customs Organisation (2013); "Status of elephant populations, levels of illegal killing and the trade in ivory: a report to the CITES Standing Committee". SC65 Doc 42.1. TRAFFIC (2014).

⁶⁵ "Blood Ivory – exposing the myth of a regulated market", EIA (2012).

⁶⁶ "The Inside Story – environmental criminals' perceptions of crime, corruption and CITES", EIA (2013).

⁶⁷ "Hard Truth – How Hong Kong's Ivory Trade is Fuelling Africa's Elephant Poaching Crisis", WWF-HK (2015).

⁶⁸ Bills Committee on Protection of Endangered Species of Animals and Plants (Amendment) Bill 2017, Government's Response to the List of Follow-Up Actions Arising from the Discussion at the Meeting on 8 November 2017, <https://www.legco.gov.hk/yr16-17/english/bc/bc06/papers/bc0620171129cb1-288-2-e.pdf>

⁶⁹ "Vietnam's Illegal Ivory Trade Threatens Africa's Elephants", Save the Elephants (2016).

⁷⁰ "Blending Ivory: China's Old Loopholes, New Hopes", Elephant Action League (2015).

appropriate documents are obtained... This statement applies to antique, pre-ban and post-ban ivory." At a shop in the Putian region, the EAL investigator was offered "available ivory carvings that included tea-soaked ivory pieces that looked like antiques. The buyer would be able to pass the item off as an antique that has been passed down by ancestors according to the contact. An assumption could also be made that tea-soaked new ivory could be imported with "bought" antique certifications." It is into this market that ivory pieces are being exported from the UK in large quantities, fuelling demand and assisting the illegal trade by mixing genuine antiques with new ivory that has been 'antiqued'.

5. A well-known figure in the industry, James Lewis, has spent 25 years in the auctioneering business – first at Neales in Nottingham and from 2002, at Bamfords – and has made regular appearances roles on TV shows Flog It! and Bargain Hunt. In his view, "Without question, the major demand at auctions for solid tusk carvings is from China and Hong Kong, usually from live bids online or from buyers in the room who then sell on to those places." An article in the Antiques Trade Gazette on 2 May 2017 about the auction of 31 ivory lots by Hansons in Derbyshire was just one example of the active involvement of Chinese purchasers in the UK antique ivory market: "Dealers were the main buyers of three-figure Meiji ivory items with Chinese bidders being their main, and sometimes successful, competition." As TRAFFIC reported in August 2016⁷¹, buyers of antique ivory in London's markets were dominated by American and European tourists in 2004, but in 2016 buyers of ivory were largely travellers/citizens from mainland China, Hong Kong and Japan. As China takes steps to close its market, there is a serious concern that the UK market is stimulating further demand among Chinese consumers, running counter to China's efforts to control the illegal trade by its citizens.
6. On 16 May 2017 the European Commission published its new guidance on the issuing of export permits for raw ivory and stricter interpretation of the rules for worked ivory. The Commission noted that the new guidance was a response to the fact that "The legal export of old ivory items from the EU to Asia has risen since 2012 to a level where it could fuel the global demand for ivory and be used as a cover for illegal ivory trade."
7. According to Guy Clarke of the UKBF in a presentation in Brussels in February 2017, "In the week of January 30th, 2017, 20 seizures of ivory were made as part of Operation thunderbird. 95% products are worked ivory going to Asia such as silver cutlery, billiard balls and other smaller products. Typically from online sale of ivory, it takes about 5 days to get to port of exit".
8. In 2014, TRAFFIC reported that "Recent cases show that Chinese buyers purchase antique ivory items legally in EU [Member States], with a view to smuggling the items out of the EU to China. In January 2013, for example, two men were arrested at Shanghai airport for attempting to smuggle 37 ivory items (in addition to 1- rhinoceros horns and a libation cup) from France to China. The items were reported as having been purchased at auction houses, antique shops and fairs in Paris. Similarly June 2013, a Chinese antique dealer was sentenced to 7 years in prison for attempting to smuggle 14 ivory figurines (together with 4 rhinoceros horns and 3 decorative items made of rhinoceros horn) purchased from France into China."⁷²
9. Specifically for the UK, TRAFFIC reported in February 2017⁷³ that a Chinese national had been sentenced for posting 11 ivory products to China which he had purchased in London in March 2016. He knew that it was illegal to take them back to China and so, on 22 March 2016, he posted the products from London to Zhoushan of Zhejiang Province, China, hiding them in coffee powder and chocolate and using a fake name "Chen Kun". On 3 April 2016, the post office branch of Customs intercepted the products during a routine inspection. He was sentenced to 2 years in jail, suspended for 3 years, with a fine of CNY 50,000, for smuggling endangered species products.
10. An article from the Antiques Trade Gazette on 8 November 2016 concerning James Lewis' firm, Bamfords, makes the point about fuelling demand in China very clearly: at a NAVA conference in 2014, James Lewis warned that the antique ivory trade was in the last-chance saloon and that dealers and auctioneers needed to link with environmentalists. "I've always appreciated the beauty and skill in antique ivory objects and, for 20 years of my auctioneering career, thought that selling old ivory didn't affect elephants today," said Lewis. "But in recent years my opinion has shifted as I learned about the new market for modern ivory. I've been to Hong Kong five times, where you see old ivory on the same shelf as new ivory. I realised then there's a major market in the Far East that looks at ivory as a commodity as well as an art form, and that the old ivory market is fuelling modern ivory demand."
11. When the same traders sell antique and modern ivory, their revenue and profits from those sales are intermingled and impossible to separate. It is therefore highly likely that profits from trading in antique ivory from the UK are being used to purchase illegal ivory from recently-poached elephants. In addition, the presence of so much antique ivory from the UK in the Chinese market enhances its social acceptability and fundamentally undermines the demand reduction campaigns that are critical to reducing poaching.

⁷¹ "A Rapid Survey of UK Ivory Markets", TRAFFIC, (2016).

⁷² "Re-export of Pre-Convention Ivory from EU", TRAFFIC (2014).

⁷³ TRAFFIC - China's Wildlife Enforcement News Digest (February 2017).

12. There is a misconception that Asian consumers are mainly interested in modern ivory - that they “*have no interest in most historical objects on sale in the UK*” and “*prefer [ivory] shiny and modern*”, according to Victoria Borwick MP and President of BADA in the Parliamentary debate on 6 February 2017. If that were so, it is surprising that so many thousands of ivory pieces are bought by Asian consumers from the UK – presumably none of them being ‘*shiny and modern*’ since traders maintain there is no modern ivory in the UK. As we have shown, there is in fact significant evidence that Asian, and particularly Chinese, consumers buy significant quantities of antique ivory from the UK (see the figures for the huge number of pieces of ivory exported from the UK described above) and that they are well represented at antique auctions in the UK, purchasing a great deal of antique ivory. It is also clear from reports analysing the markets in China and Hong Kong that many Chinese consumers appreciate and value items from antiquity and are enthusiastic purchasers of legal antique ivory as well as illegal modern day ivory. Others simply wish to own ivory, regardless of age, and are just as happy to buy older ivory as new, focusing on the attraction of the ivory as a substance.⁷⁴

2. ONLINE TRADE - ISSUES AND RECOMMENDATIONS

1. The large proportion of antiques sales carried out over the Internet presents serious problems for enforcement. In a report in 2007⁷⁵, IFAW commented that “*The Internet’s very anonymity makes it impossible to quantify exactly the scale of the illegal trade in protected and endangered species. However, a succession of in-depth investigative reports by organizations that include IFAW, the Humane Society of the United States and the Wildlife Conservation Society has uncovered worrying levels of wildlife trade via the Internet.*” In the survey summarised in that Report, IFAW found that of 424 elephant ivory listings on eBay in the UK in one week, only 2 offered Defra certification.
2. In 2008, IFAW conducted a particularly comprehensive investigation into the potentially illegal trade in endangered species on the Internet.⁷⁶ Over a six week period, IFAW tracked 7,122 online auctions, advertisements and communiques across 8 countries, including the UK. They were focussing on trade in 10 species, one of which was the elephant. They found that Internet trade in elephant products dominated the results of their investigation, representing 73% of the monitored auctions, advertisements and communiques and ivory formed 98.77% of those elephant products. As IFAW commented, “*The complexity of laws surrounding the sale of ivory, the fact that it is nearly impossible to distinguish between legal and illegal ivory on the Internet, the fluid nature of the Internet and weak or absent enforcement seem to allow unscrupulous sellers to profit from the slaughter of elephants.*”
3. Their investigations showed that only 7% of the 7,122 items for sale were “Likely Compliant”, meaning that they complied with the website’s policy on wildlife trade and claimed legality, offering some form of supporting proof or documentation. The figure improved to 33.58% for ivory items in the UK, which is likely to reflect the fact that eBay carried the majority of adverts and had a policy requiring provision of documentation for all ivory sales.
4. IFAW recognised the important step that eBay had taken in 2007 when it announced a ban on cross-border trade in elephant ivory, yet a year later “*eBay was found responsible for 83% of all ivory identified by investigators and a full 63% of all trade in this investigation, a significant amount of which shipped internationally. This demonstrates one of the key issues in global Internet trade: a strong policy without adequate enforcement is ineffective.*”
5. IFAW found various ways in which sellers deliberately circumvent marketplace filters, using creative spellings such as ‘*ivorie, ivoree, lv ory, and lv*ry.*’ or by using evasive descriptions such as ‘*material from an elephant*’, all of which proves such sellers know that what they are doing is in breach of the website’s policy and/or is illegal. Sellers are still using these techniques: in November 2016, a man from Cumbria was given a suspended sentence of 1 year’s imprisonment for selling ivory pieces on the internet, describing them as ‘*bovine bone*’ to evade filters intended to identify attempted sales of ivory.
6. IFAW concluded that “*site driven policies and enforcement have been effective in reducing the number of suspect items for sale on eBay Germany and the UK*” and that “*only the combination of strict, clear policies set forth by providers and efficient enforcement mechanisms bring success, otherwise policies may be rendered useless.*”
7. After IFAW’s 2008 report was published, eBay responded in 2009 by instituting a global ban on ivory sales on all its websites. In a further report in 2012,⁷⁷ IFAW found that this ban had a significant impact on the level of ivory sales on eBay websites. Across the 5 countries surveyed by IFAW, eBay postings formed only 6.41% of the total postings, compared with 83% in 2008. Germany had no ivory items for sale (compared with 39 in 2008) and France had 4 (down from 192 in 2008). The UK eBay site still offered 39 listings in total but the average had fallen from 60 a week in 2008 to 20. Since by 2012 the eBay ban was in place, these sellers were using techniques to evade eBay enforcement, such as adverts for ox bone or faux ivory that indicated the items were elephant ivory by selecting ivory as the item’s primary material. Nevertheless, the ban has significantly reduced the total ivory listings on eBay and has been particularly successful in eliminating the large number of multiple sellers of ivory compared with 2008.

⁷⁴ “Decline in the Legal Ivory Trade in China in Anticipation of a Ban”, by L. Vigne and E. Martin (2017).

⁷⁵ “Bidding for Extinction”, IFAW (2007).

⁷⁶ “Killing with Keystrokes”, IFAW (2008).

⁷⁷ “Killing with Keystrokes 2.0”, IFAW (2012).

8. The eBay experience does show that a ban, properly enforced, can achieve significant results. The next challenge is to repeat that success with other websites that have not yet introduced such bans and to whom some sellers are likely to have moved from eBay. The extent of that challenge is illustrated by the fact that in IFAW's 2012 report, of all the UK ivory sales studied by IFAW, none were Likely Compliant.
9. The research by Two Million Tusks demonstrates that the situation has not improved; most of the concerns identified by IFAW in their series of reports are still relevant.

EXTRACTS FROM "CAUGHT IN THE WEB: WILDLIFE TRADE ON THE INTERNET", IFAW (2005)

10. Some individuals are taking advantage of the situation to perpetrate illegal wildlife trade. Whether or not traders are aware that they are breaking the law, the negative impact on endangered species and on the welfare of individual animals is the same. However, it is also currently far too difficult for those buyers and sellers wishing to act within the law to check what can be legally sold or to report suspect items. The information that is available is often inadequate and difficult to access. Auction sites on which wildlife is traded have taken very limited voluntary action to inform users or to facilitate reporting of potentially illegal wildlife items. The lack of information available on auction sites may be in part a consequence of the lack of gravity accorded to wildlife crime in general. This situation must be remedied urgently through statutory regulation.
11. Good cooperation between enforcement agencies, both nationally and internationally, has delivered notable successes. Explicit campaigns enabling and encouraging users to report instances of 'suspect' material posted allow enforcement authorities to gain a far wider reach. International organisations have identified the need for closer connections between international law and domestic laws to further a more effective response to the diverting of drugs via Internet pharmacies. Better inter-agency cooperation and a better coordinated response from legislators would be useful in the fight against illegal wildlife trade organised on the Internet.
12. Within one week, IFAW found the following: 5,527 individual elephant products and 11 traders. Items listed for sale included: skin/leather products such as boots, wallets, purses, footwear and bags; bone products such as carvings, jewellery, a Mah-jong set and fans; and ivory products such as jewellery, boxes, chess sets, ornaments, and expensive sculptures, including one with an asking price of US \$18,000. Ivory items also ranged from the more traditional (piano keys) to the clearly contemporary (such as the ivory "functional" telephone with a touch-tone pad).
13. It is now widely acknowledged that the Internet is being used to facilitate illegal trade in wildlife and that this increasing problem poses new challenges to legislators and enforcement agencies.
14. In March 2004, IFAW published a report entitled 'Elephants on the High Street: an investigation into ivory trade in the UK', which documents how vast quantities of ivory are sold illegally over the Internet, within the UK and internationally, with little or no monitoring or enforcement by relevant authorities. The report concludes that there is widespread ignorance of laws restricting the ivory trade, and that traders who are aware of the legal restrictions can easily find ways to get around them with little chance of detection.
15. In October 2004, the UK House of Commons Environmental Audit Committee (EAC) published a report on wildlife crime that noted "*the significant switch to the internet as the preferred method for trading in protected and endangered species*". The EAC based its conclusions on written and oral evidence from government officials, enforcement agencies and non-governmental organisations (NGOs), all of which is publicly available.
16. The EAC was told that the National Wildlife Crime Unit ("NWCU") is also taking action in this area: collaborating with auction sites; working proactively to develop actionable intelligence from information obtained from such sites; and monitoring wildlife sales on other types of sites. The EAC voiced a concern that these efforts were not sufficient and recommended that additional resources should be forthcoming to assist in a more systematic approach.
17. IFAW believes it is currently too difficult for buyers and sellers to check what can be legally sold. Simple explanatory paragraphs detailing how CITES regulates and prohibits trade in endangered species should be available in a clear and straightforward manner on every site that offers wildlife for sale.
18. Another solution might be to devise a user-friendly Defra website to which all auction sites and other trading sites could direct their users. The link should be devised so that potential buyers have no choice but to read the information before browsing for wildlife. For those wanting more in-depth information the Defra site could have a direct link to the CITES website or a similar source where users can search for the legal status of a particular type of animal using their common name. This measure, of course, would only be effective in relation to UK-based sites and similar measures should be adopted in all countries.
19. There is also a need for site owners to encourage and facilitate the reporting by site users of illegal wildlife listings, particularly where the site provides off-site chatroom facilities. IFAW found a lack of standardised user reporting mechanisms across the range of websites visited, and encountered potential difficulties for buyers who wanted to report suspicious items to UK-based auction

sites. Ad-mart.co.uk is an online classified site that has a direct link from the item page to an “Alert Admin” reporting mechanism. IFAW found this approach user-friendly and believes that it could be used as a model for best practice. Users should also be able to report items directly to a law enforcement agency.

20. Lessons from other areas of crime and other regulation of Internet content suggest that effective cooperation between enforcement agencies, both nationally and internationally has delivered notable successes. Explicit campaigns enabling and encouraging users to report instances of ‘suspect’ material posted enables enforcement authorities to gain a far wider reach. International organisations such as the INCB have identified the need for closer connections between international law and domestic laws to further a more effective response to the diverting of drugs via Internet pharmacies.
21. Better inter-agency cooperation and a better coordinated response from legislators is no doubt essential in the fight against the illegal ivory trade organised on the Internet.

EXTRACTS FROM “EU ACTION PLAN ACTION WILDLIFE TRAFFICKING - SUPPORTING DOCUMENT” (2016)

22. Internet sales are typically completed by parcel/post-delivery. Interpol reported (in 2013) that between 2007 and 2011, mail parcels accounted for 22 per cent of illegally traded wildlife and wildlife products seized in the EU. These illegal shipments are likely to have been ordered online. This shows the widespread use of the internet for illegal wildlife trade transactions, which affect the EU as both a consumer and a transit region.
23. Most EU countries have acknowledged the threat posed by the online wildlife trade. However, there are insufficient indications from Member States that national competent authorities receive adequate training and – where necessary – assistance by specialised cybercrime units to systematically investigate/study wildlife crime on the internet.

EXTRACTS FROM “ INTERPOL/IFAW – PROJECT WEB 2013”

24. CITES acknowledged the need for measures to be taken on the trade in wildlife by organising an E-commerce Workshop chaired by the United Kingdom in 2008. The outcome of the workshop resulted in an amendment to Resolution Conf. 11.3 to include e-commerce in CITES listed species.... It recommends that the Parties, regarding the e-commerce of CITES-listed species, “*evaluate or develop their domestic measures to ensure that they are sufficient to address the challenges of controlling legal wildlife trade, investigating illegal wildlife trade and punishing the perpetrators.*” In addition, some specific enforcement measures were recommended.... Although the EU acknowledges the resolution, the general recommendation did not lead to the implementation of any concrete regulations concerning the Internet trade in specimens of CITES-listed species.
25. Only one of the countries participating in Project Web, the Czech Republic, has implemented national legislation on e-commerce that aims to address this gap in CITES and EU legislation. This legislation obliges the Internet seller to indicate that this item needs to be accompanied by valid CITES documentation by making the notice CITES-obligatory documents “*an obligatory part of an advertisement offering the sale of a specimen subject to the registration or a specimen subject to the prohibition of commercial activities*”. This facilitates enforcement and helps to increase consumer awareness and thus to increase transparency of the online wildlife trade.
26. E-permits are issued by the Czech CITES Management Authorities to facilitate this legislation and to avoid fraudulent use of traditional paper permits. The law also requires sellers to inform buyers of their obligation to register their specimens and other legal provisions. It also requires website owners and/or operators ensure that this obligatory information is made public for each specimen offered in advertising or Internet sales. Finally, the Czech Environmental Inspectorate can require removal of advertisements if they do not comply with international or national legislation.
27. Project Web demonstrates that the implementation of e-commerce specific legislation, as in the Czech Republic, in addition to trade legislation based on CITES and EU Wildlife Regulations, is needed to adapt legislation to modern needs and to combat the illegal Internet trade.
28. Countries participating in Project Web have stated that the lack of obligations for the seller to prove the legality of the ivory is causing great difficulties in regulating the sale of illegal ivory on Internet auction sites. It has led to a situation where law enforcement is unable to distinguish legal ivory from illegal ivory in advertisements. To control the trade on the Internet, the authorities need to obtain the contact details of the owner of the advertisement, and in some countries it is difficult to obtain a warrant to do so. Verification is then needed as to whether the necessary documents are available and/or to determine the origin of the ivory. As a result of this lack of e-commerce adapted legislation, the effective control of advertisements on the Internet has become and almost impossible task.
29. In addition to this, websites cannot be forced to cooperate or develop policies on the trade of ivory, nor can strong efforts be made to control them. Law enforcement authorities are similarly unable to control legal compliance and take measures against website owners if these obligations are not met. Project Web demonstrated that most of the websites do not have policies concerning the trade of ivory, and the few larger ones that do have policies often lack the ability to enforce them.

RECOMMENDATIONS

30. If online trade in ivory in the UK is to be allowed to continue, then we make the following recommendations, based largely on the recommendations contained in IFAW's reports into the online ivory trade, including its joint report with Interpol (Project Web):

That the UK Government and enforcement agencies, in particular Defra and the NWCU, take the following steps:

Information dissemination

1. Provide easy access on the Defra website to user-friendly information about Internet wildlife trading for Internet Service Providers, site owners and consumers, accessible by a link on relevant Internet sites.
2. Launch a public awareness campaign targeting Internet users who may otherwise unwittingly buy ivory products illegally.

Legislation

3. Follow the lead of the Czech Republic by introducing specific legislation governing the online ivory trade. This should include placing a legal responsibility on sellers to provide access to relevant documentation and to inform buyers of their obligations under wildlife crime legislation. Such legislation would also require website owners or operators to ensure this information is made public for each ivory for sale on their sites.
4. Introduce a legally-binding code of practice for websites where ivory is sold, including ensuring that a minimum level of information about the legal requirements for trading in ivory is made available to their users, and an obligation on website owners and operators to remove an advertisement that does not comply with the e-commerce legislation.

Enforcement

5. Undertake greater research and monitoring into the extent of the illegal Internet ivory trade in order to secure reliable data with which to inform understanding of volume, trends and effective responses.
6. Enable law enforcement access to the CITES database of e-permits in order to enforce trade on the Internet.
7. Introduce the position of an Internet detective within national law enforcement agencies to monitor and enforce the e-commerce in CITES listed species.
8. Promote the use of a hotline for easy reporting of any suspicious trade by Internet users. Advertising of the hotline details should be mandatory on auction sites and those of any legitimate trading or specialist organisation dealing in ivory.
9. Instruct Internet Service Providers to conduct regular monitoring of sites that they host and remove any suspect sites.
10. Develop a closer working relationship between enforcement agencies, NGOs and other interested parties specifically on illegal Internet ivory trade as a means to coordinate efforts and establish trends or novel areas of threat.
11. Ensure sufficient enforcement capacity (trained and equipped staff) to address this problem at a national level and to further international cooperation, in particular in relation to organised crime.
12. Work with Interpol (including using Ecomessage, Interpol's reporting system for wildlife crime) and the authorities in China, the US, elephant range states and other countries involved in the illegal Internet trade to identify and take action against the individuals responsible.
13. Encourage the development and implementation of an EU action plan to reduce illegal ivory trade on the Internet, including introduction of an EU wide ban on the advertising of ivory to the general public.
14. As Party states to the Convention on Cybercrime, include among the minimum list of offences other transnational forms of crime that are facilitated by the Internet and specifically to include wildlife crime.
15. Raise awareness at airports in order to decrease the number of ivory items being traded as personal effects through the Internet.

That the owners of sites on which ivory may be traded take the following steps:

16. Ideally, follow eBay's lead and ban the sale of ivory entirely.
17. Provide easy and prominent access for site users to user-friendly information on the site's policy on ivory trading and, if it is allowed, explaining the legal requirements for the trade (including a link to the relevant part of Defra's website).
18. Actively promote awareness of this issue among their users.

19. Establish an effective reporting or 'alert' mechanism to allow users easily to report any suspicious items (that are in breach of the site's policy and/or illegal).
20. Remove the suspicious item within 24 hours of the report and provide prompt feedback to the person who reported the item on the action taken.
21. Ensure a consistent approach with all of the site's associated sites in other countries, so they all follow best practice and there are no weak links.
22. Introduce software filtering to ensure that users cannot search for prohibited terms such as 'ivory' or 'elephant'.
23. Develop effective monitoring procedures to identify ivory items, including addressing the various techniques used by sellers to disguise the fact that they are attempting to sell ivory.
24. Establish close cooperation with appropriate enforcement agencies in order to facilitate reporting of potentially illegal items for investigation.
25. Devote sufficient resources to ensure regular and detailed monitoring of site content for ivory items and to enable rapid and appropriate action to be taken by the site owner and enforcement agencies in relation to any suspicious items, including those reported by site users.
26. Cooperate fully with the Government, enforcement agencies, other relevant authorities and NGOs in efforts to reduce the illegal ivory trade on the Internet.

That ISPs hosting sites on which wildlife may be traded take the following steps:

27. Conduct regular monitoring of sites hosted and investigate any sites on which there is evidence of the illegal ivory trade, removing such sites as necessary;
28. Encourage site owners to implement the recommendations outlined above;
29. Cooperate fully with the Government, enforcement agencies, other relevant authorities and NGOs in efforts to reduce the illegal ivory trade on the Internet.

That buyers and sellers

30. Make themselves aware of relevant national legislation and websites' policies on selling ivory.
31. Comply with such legislation and policies, including in particular the provision of genuine documentation.
32. Refuse to buy ivory which appears to be in breach of legislation and/or a website's policy.
33. Report suspicious items to the website owner or operator and to the enforcement authorities if no action is taken to remove the item.

NOTE: Although focussed on the ivory trade, these recommendations could equally apply to all forms of trade in endangered species and could therefore form part of a general programme to tackle the illegal wildlife trade on the Internet.