



Department
for Environment
Food & Rural Affairs

Banning UK sales of ivory

Summary of responses and government response

April 2018



© Crown copyright 2018

You may re-use this information (excluding logos) free of charge in any format or medium, under the terms of the Open Government Licence v.3. To view this licence visit www.nationalarchives.gov.uk/doc/open-government-licence/version/3/ or email PSI@nationalarchives.gsi.gov.uk

This publication is available at www.gov.uk/government/publications

Any enquiries regarding this publication should be sent to us at

Ivory Team
Area 1D
Nobel House
17 Smith Square
London
SW1P 3JR

Email: IvoryConsultation@defra.gsi.gov.uk

www.gov.uk/defra

Contents

| | |
|---|----|
| Part 1: Summary of responses | 1 |
| Introduction | 1 |
| Number of responses..... | 1 |
| Demographics | 3 |
| Headline figures | 3 |
| Responses by question | 4 |
| Evidence | 5 |
| Conservation | 5 |
| UK business | 10 |
| Exemptions | 12 |
| Musical instruments | 12 |
| De minimis | 14 |
| Items of significant artistic, cultural or historical value | 17 |
| Allowing the continued sale of ivory to museums..... | 18 |
| General questions on exemptions..... | 19 |
| Portrait miniatures..... | 19 |
| Enforcement | 21 |
| Enforcing the ban..... | 21 |

Part 2: Policy statement..... 23

 Exemptions 23

 Compliance 25

 Enforcement..... 26

 Offences 27

 Sanctions..... 27

How our ban will compare internationally 28

Glossary 29

Part 1: Summary of responses

Introduction

This document provides a summary of responses to the government's consultation on proposals to ban UK sales of ivory.

The purpose of the consultation was to:

- Seek views on the government's proposal to implement a total ban on ivory sales in the UK, and to prohibit the import and re-export of ivory for sale to and from the UK, including intra-EU trade to and from the UK, where such sales could contribute either directly or indirectly to the poaching of elephants, with some narrowly defined exemptions.
- Call for evidence on the effect of a sales ban on elephant conservation, the natural environment and businesses, as well as its economic and cultural effect;
- Seek views on the scope of the proposed exemptions, and how they could operate; and,
- Seek views on the enforcement and sanctions regimes that should be applied to this ban.

The consultation ran for 12 weeks, from 6 October 2017 to 29 December 2017.

Number of responses

In total 71,238 responses to the consultation were received. These were made up of:

- 10,623 individual responses.
- 60,613 campaign responses.
- 2 petition responses.

The individual responses comprised:

- 5,715 responses through the online questionnaire on Citizen Space.
- 4,593 responses via email.
- 315 responses via post.

The two petitions were signed by a total of 66,994 respondents, and the three, largely duplicated, campaign responses, and were submitted by a total of 60,613 respondents. This gives a combined total of 127,607 campaign and petition responses. These are detailed in the box below.

A number of other organisations also encouraged supporters to respond to the consultation, either through an online system or by providing suggested points to raise. This included WWF, the Musicians Union, Animal Defenders International, International Fund for Animal Welfare, International Wildlife Bond and Action for Elephants UK. These responses had been substantially personalised by individual respondents, so have been assessed as individual responses.

For the email or postal responses, where respondents answered the specific consultation questions these have been included in the analysis statistics throughout this document. Where they provided more general comments the views have been picked up in the broader analysis and in picking out key themes from all of the comments.

Stop Ivory campaign response

The Stop Ivory campaign response comprised 39,485 identical emails. The response expressed support for the government's proposed ban. It expressed opposition to the proposed exemption for items of artistic, cultural or historic value, saying the exemption would be vague, subjective and complicated to administer and enforce. The response said the exemption could be used as a loophole for the illegal ivory trade.

Avaaz campaign response

The Avaaz campaign response comprised 21,099 largely duplicated responses. They all expressed support for the proposed ban. The campaign allowed respondents to personalise their response, and substantially personalised responses have been assessed as individual responses.

38 Degrees petition response

The 38 Degrees petition response comprised one response, signed by 66,472 people. The response urged the government to do all it can to protect elephants across the world. It called for a thorough ban on the elephant ivory trade in the UK, and for the ban to be in place within 12 months.

Natural Resources Defense Council response

The Natural Resources Defense Council submitted a campaign response comprising 29 responses and a petition response signed by 522 people. The campaign and petition responses were identical. They called for the government to finalise a total ban on UK sales of ivory to help end the elephant poaching crisis. It said that African forest elephants could be driven to extinction in less than a decade, and that savanna elephants are also endangered. It said that the UK is one of the largest exporters of ivory items to China and Hong Kong and that the proposed ban will go a long way toward helping to save elephants from extinction.

Demographics

Of the 10,623 individual responses received, 10,431 were from individuals, 175 were from organisations, and 17 respondents provided no identifying information.

Organisations were able to select which sector their organisation represented. Some selected more than one category and some did not select any. The most represented sector was the fine art/antiques trade with 50 responses, followed by non-governmental organisations (NGOs) with 40 responses, the museums sector with 21 responses and the music industry with 20 responses. Other sectors represented included auction houses, tourism, repair/restoration, export/import operators, galleries, research institutes, jewellers and film production.

Headline figures

- 10,623 individual responses to the consultation were received.
- 87.6% (9,300) of respondents expressed support for the government's proposed ban, 4.3% (458) expressed opposition, and 8.1% (865) did not express a definitive opinion.
- Over 1,700 respondents said that they did not consider government should create any exemptions to the sales ban. These respondents did not further engage with questions on the individual exemptions, but they have been recorded in the following statistics as being opposed to each of the proposed categories of exemption.
- 16.9% (1,791) of respondents expressed support for the musical instruments exemption, 50.2% (5,335) expressed opposition to the exemption, and 32.9% (3,497) did not express a definitive opinion.
- 20.8% (2,210) of respondents expressed support for the de minimis exemption, 47.2% (5,011) expressed opposition, and 32% (3,402) did not express a definitive opinion.
- 15.6% (1,659) of respondents expressed support for the exemption for items of artistic, cultural or historic significance, 52.4% (5,563) expressed opposition, and 32% (3,401) did not express a definitive opinion.
- 25.6% (2,717) of respondents expressed support for the exemption for museums, 41.1% (4,363) expressed opposition, and 33.4% (3,543) did not express a definitive opinion.

Responses by question

Q1. Do you agree with the proposed ban?

87.6% (9,300) of respondents expressed support for the government's proposed ban, 4.3% (458) expressed opposition, and 8.1% (865) did not express a definitive opinion.

Over 1,700 respondents said that they believed that there should be a total ban with no exemptions. Whilst the majority of respondents who said this supported proposals for a ban, some who opposed the proposals also said they did not agree that there should be exemptions to it. A common rationale of those who expressed this view was that exemptions would continue to make ivory socially acceptable and desirable to own and would allow the continued laundering of ivory.

Many respondents in favour of the proposals emphasised the positive effect the ban would have on reducing the trade in ivory and on elephant conservation. A number of respondents caveated their support, for instance on the condition that a particular proposed exemption was included. Others said they would only support the proposals if another exemption, not proposed, was included, for example portrait miniatures, netsuke (small Japanese carved ornaments) or chess sets. Some said that they were opposed to at least one of the proposed exemptions, most frequently that for items of significant artistic, cultural or historical value. A number of respondents expressed tentative support for the proposals, depending on the scope of the proposed exemptions.

Of those opposed to the proposals, many said that they did not believe a sales ban would benefit elephant conservation on the grounds that it would increase the value of ivory, and thus the incentives for poaching. Others said they believed current regulations were sufficient, but needed to be better enforced. Others expressed concern about the effect of a ban on the trade of antique and arts sectors.

Evidence

Conservation

Q2. Do you have any evidence to present on how our proposed ban will affect elephant conservation and the natural environment, including wider species conservation?

A number of respondents provided evidence by reference to academic and other published materials. Below are some examples of the arguments put forward in evidence provided in support of the proposed ban on ivory sales:

- The illegal hunting of elephants for ivory is causing a rapid decline in their populations. Due to corruption and other factors a legal trade is not viable.¹
- Banning domestic trade is an important means of complementing other measures to prevent poaching and limiting demand for ivory. Doing so can lower the costs of law enforcement to prevent the trafficking and laundering of illegal ivory.²
- The announcement of one-off legal sale of stock-piled ivory in 2008 corresponded with an abrupt ~66% increase in illegal ivory production across two continents; a possible ten-fold increase in its trend and an estimated ~71% increase in ivory smuggling from Africa. This increase in elephant poaching likely originated with this legal sale, demonstrating that a partial legalisation of banned goods does not necessarily reduce black market activity.³
- The CITES ban on the international trade in ivory succeeded in reversing the decline in the African elephant population but that some countries continued to lose elephants. Coordinated action is required to tackle domestic ivory sales.⁴

Below are some examples of the arguments put forward in evidence provided in opposition to the proposed ban:

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.

² Harvey, R. (2015). Preserving the African elephant for future generations. *South African Institute of International Affairs*, July.

³ Hsiang, S., & Sekar, N. (2016). Does legalization reduce black market activity? Evidence from a global ivory experiment and elephant poaching data (No. w22314). *National Bureau of Economic Research*.

⁴ 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.

- The protection of endangered species and the preservation and presentation of “antique” works of art made of or containing ivory are not mutually exclusive; pre-convention works of art made of or containing ivory offer no threat to species threatened with extinction.⁵
- Despite the 1989 global ivory trade ban, poaching has continued: more than half of Tanzania’s elephants have been killed for their ivory since 2007. The popular narrative blames criminal poaching and terrorism, but elephant hunting in Africa is also a result of human-elephant conflict, traditional hunting practices and the effect of exploitation and criminalisation. Regulation — not prohibition — of the ivory trade is the best way to stop uncontrolled poaching.⁶
- The evidence supports the view that the CITES trade ban resulted in a reduced ivory market and lower levels of elephant poaching. There is little evidence, however, that the 1999 southern African ivory auctions stimulated ivory demand or elephant poaching. Ivory demand and elephant poaching in a particular country are more likely to be related to wildlife management practices, law enforcement and corruption than CITES listings. Elephant conservation would be better served by a legal ivory trade than by a trade ban, however until demand for ivory can be restrained it is premature for CITES to permit ivory sales.⁷

A number of respondents stated that there was no evidence of a link between the trade in antique ivory works of art and elephant conservation.

Q3. Do you have any evidence to present on the impact of bans in other countries or jurisdictions on elephant conservation and the natural environment, including wider species conservation?

A number of respondents provided evidence in response to this question. Some examples of arguments submitted are:

- Exports of ivory items from the UK to the US dropped significantly following the US’s federal ban on ivory sales.⁸
- There is increasing recognition within the international community of the need to end commercial trade in ivory to send a strong and clear message that the trade in ivory from any source is unacceptable. The International Union for the Conservation

⁵ Levy, M. P. (2018). Works of art and ivory: what are the issues?. *Curator: The Museum Journal*, 61(1), 47-60.

⁶ Somerville, K. (2016). *Ivory: Power and poaching in Africa*. Oxford University Press.

⁷ Stiles, Daniel. "The ivory trade and elephant conservation." *Environnemental Conservation* 31.4 (2004): 309-321.

⁸ Environnemental Investigations Agency. (10 August, 2017) UK is the largest supplier to the world’s ivory markets. Retrieved from <https://eia-international.org/uk-largest-supplier-worlds-ivory-markets>

of Nature and the majority of African countries with elephant populations have called for the closure of domestic ivory markets. In September 2017, the United Nations General Assembly urged Parties to implement the decision adopted by the Conference of Parties to CITES in 2016, recommending that all governments close legal domestic ivory markets, as a matter of urgency, if these markets contribute to poaching or illegal trade.⁹

- A one off sale of legal ivory corresponded with an increase in illegal ivory production and an increase in ivory smuggling from Africa. A partial legalisation of a banned commodity does not necessarily reduce black market activity, and was likely to have resulted in an increase in elephant poaching to meet renewed demand.¹⁰
- A survey of physical retail outlets in New York City, San Francisco, and Los Angeles in 2006/2007 found that 16,758 ivory items for sale. A similar survey after the US's federal sales ban in 2016 found just 489 items for sale. Stricter regulations and enforcement may be responsible for that change.¹¹
- A temporary ban on ivory imports into China could lead to greater speculation, increased value of ivory stocks and so provide an incentive for continued or even increased poaching.¹²
- The CITES ban successfully reversed the decline in the continent's elephant population.¹³

Q4. Do you have any evidence to present on how protecting elephants through the proposed ban would be economically beneficial?

Arguments put forward in evidence provided in response to this question included:

- The lost economic benefits that poached elephants would have delivered to African countries via tourism is modelled to be ~USD \$25 million annually. The lost benefits exceed the anti-poaching costs necessary to stop elephant declines across the continent's savannah areas (although not currently in the forests of central Africa).¹⁴

⁹ Hepworth, R. & Jones, M. (6 November, 2017). What has the EU got to do with elephant protection? *New Europe*. Retrieved from <https://www.neweurope.eu/article/eu-got-elephant-protection/>

¹⁰ Hsiang, S., & Sekar, N. (2016). Does legalization reduce black market activity? Evidence from a global ivory experiment and elephant poaching data (No. w22314). *National Bureau of Economic Research*.

¹¹ Kramer, R., Sawyer, R., Amato, S., & LaFontaine, P. (2017). The US elephant ivory market: A new baseline. *TRAFFIC, Washington, DC*.

¹² Somerville, K. (2016). *Ivory: Power and poaching in Africa*. Oxford University Press.

¹³ 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.

¹⁴ Naidoo, R., Fisher, B., Manica, A., & Balmford, A. (2016). Estimating economic losses to tourism in Africa from the illegal killing of elephants. *Nature communications*, 7, 13379.

- The primary economic value of elephants, apart from ivory sales, comes from tourism, which can bring considerable sustainable income to African countries.¹⁵
- Elephants are considered one of Africa's 'Big 5' safari animals, and are a big draw for international and national wildlife tourists and deliver significant financial benefits to local stakeholders.¹⁶
- Elephants are recognised as a highly mobile and widely distributed mammal that play crucial ecological and economic roles in savanna and forest landscapes.¹⁷

Q5. Do you have any evidence to present on how protecting elephants through the proposed ivory ban would be culturally beneficial?

Some responses to this question emphasised the need to stop elephants becoming extinct for the sake of future generations. Others reasons given included elephants' intelligence, their cultural importance both in range state countries, and in the UK and internationally through art, novels, and films. Some respondents cited a TNS survey from December 2017, showed that 85% of those questioned thought selling of ivory in the UK should be banned.

On the other hand, a number of respondents stated that the ban would cause cultural damage to the UK as important pieces of art and antiques would not be preserved if they could not be traded.

Examples of the arguments put forward in evidence in response to this question include:

- Modern conservation reflects a conservation ethic which integrates aesthetic and moral values of nature and natural landscapes with the wise use of natural resources for the benefit of "mankind".¹⁸
- The Uganda Wildlife Authority (UWA) piloted the integration of local cultural values into the design and management of two national parks. Integrating values of local importance, rather than emphasising economic and scientific values, can reduced conflicts and increase interest in and support for parks.¹⁹

¹⁵ 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.

¹⁶ Di Minin, E., Fraser, I., Slotow, R., & MacMillan, D. C. (2013). Understanding heterogeneous preference of tourists for big game species: implications for conservation and management. *Animal Conservation*, 16(3), 249-258.

¹⁷ Lindsay, K., Chase, M., Landen, K., & Nowak, K. (2017). The shared nature of Africa's elephants. *Biological Conservation*, 215, 260-267.

¹⁸ Infield, M., & Mugisha, A. (2013). Culture, values and conservation: a review of perspectives, policies and practices. *Fauna & Flora International, Cambridge UK*, 2.

¹⁹ Mugisha, A., & Infield, M. (2012). The Role of Cultural Values in the Management and Conservation of Rwenzori and Lake Mburo National Parks in Uganda. In *Rethinking Protected Areas in a Changing World*,

Q6. Do you have any evidence on how our proposed ban would affect the arts and antiques sectors, or individuals who own ivory items?

Of those who opposed the ban, many stated that there would be an adverse financial effect on the arts and antiques sectors through reduced trade. Private individuals could lose the value of their ivory items, and for some this could have significant financial implications. A number of respondents believe the proposed ban would amount to an infringement of property rights.

Individual antique dealers provided much of the evidence in response to this question. They estimated the extent to which their business would be effected, but noted that this would be dependent on the scope of the exemptions.

The Association of Art and Antique Dealers (LAPADA), which represents over 500 art and antique dealers, provided evidence from a survey of its members which found that many would be adversely affected by a ban without 'reasonable exemptions for art and antiques'. Off these, a number could go out of business.

Other respondents, in response to this and other questions, argued that the arts and antiques trade would be robust in the face of the ban as ivory sales represent only a small proportion of their total annual sales. A number referenced the report by Two Million Tusks, 'Ivory: The Grey Areas'²⁰, which surveyed UK auction houses and found that ivory items represented less than 1% of the total number of lots auctioned.

The British Antique Dealers' Association (BADA) estimate there being in excess of two million ivory items in British homes, whose owners could suffer a financial loss from a total ban.²¹ Respondents from across the arts and antiques sectors expressed concern at the effect on their trade should the ivory sales ban extend to pre-1947 pieces.

Other respondents submitted evidence that since France's Environment Minister announced proposals for a ban, the market for ivory works of art in France has ground to a halt, and that, as of March 2017 French antique dealers reported that current uncertainty left the market in a weakened state.²²

Proceedings of the 2011 George Wright Society Conference on Parks, Protected Areas, and Cultural Sites (pp. 244-251). Hancock, Michigan: George Wright Society.

²⁰ Two Million Tusks: The Grey Area:

https://docs.wixstatic.com/ugd/e50900_416fd8e2f74443afbf223dc1a6d3f2ea.pdf?index=true

²¹ Taken from: Collins, A., Cox, C., & Pamment, N. (2017). Culture, conservation and crime: regulating ivory markets for antiques and crafts. *Ecological Economics*, 135, 186-194.

²² Levy, M. P. (2018). Works of art and ivory: what are the issues?. *Curator: The Museum Journal*, 61(1), 47-60.

On the other hand, evidence from an online survey of antiques dealers was also provided with which found that many businesses are not dependent on sales of items containing ivory.²³

UK business

Q7. Do you have any evidence about the value, or number, of sales of items containing ivory in the UK?

No comprehensive figures about the value, or number, of sales of items containing ivory in the UK.

In its response, the British Art Market Federation (BAMF), set out that “In 2014, 3,081 lots were sold at Christie’s, Sotheby’s and Bonhams (major London auction houses) that were either made of ivory or had ivory elements. These ranged from antique Chinese works of art, European furniture and musical instruments to tableware. The value of these individual sales came to a combined total of just over £6 million. Eight regional UK auction houses recorded the sale of 3,770 lots for a total value of £1.1 million in the same year.”

BADA reported that 70% of its members would be affected if a ban without exemptions were introduced, of which 51 dealers would be severely damaged or put out of business.

Piano Auctions, auctioneers of pianos and keyboard instruments, said that in the last financial year it offered 461 pianos and keyboard instruments for sale, of which 281 had ivory keys, and 25 were post-1947. These instruments accounted for 61% of its annual turnover.

Examples of other evidence submitted in response to this question include:

- In 2016-2017, Two Million Tusks, an anti-ivory trade campaign group, contacted 232 auction houses and found concluded that ivory sales accounted for only 0.7% of the total number of lots for sale. Another study reviewed every auction held by a leading regional auction house from 2014 to 2016, and found that lots containing ivory formed only 1.49% of total sales. The price of the vast majority (91%) of ivory pieces sold at auction was £400 or less.²⁴
- A rapid survey conducted by Traffic, a wildlife trade monitoring network, in April 2016 of 13 antiques shops and antique markets in London’s Kensington Church Street and Mayfair showed that antique ivory items were available in all shops and markets surveyed. A wide range of ivory items were offered for sale including

²³ Cox, C. (2016). The elephant in the sales room: ivory and the British antiques trade. *International Journal of Cultural Property*, 23(3), 321-334.

²⁴ Alexandra, J., Ravular, L., Laan, S, & Matthews, P. (2017). Ivory: The Grey Areas. *Two Million Tusks*. Retrieved from https://docs.wixstatic.com/ugd/e50900_416fd8e2f74443afb223dc1a6d3f2ea.pdf?index=true

statues, household goods, jewellery and personal items. No raw or new ivory was discovered being offered for sale, and only one ivory item seen was reportedly produced post-1947.

- Traffic also found that, when compared to a similar survey from 2004 there appears to have been a reduction in the total number of stalls in London markets offering ivory items for sale, from ~640 stalls in 2004 to 200 in 2016, and the total number of items for sale had also declined from ~6,000 items in 2004 to 3,200 in 2016. The report said that declines in the number of physical stalls displaying and offering ivory items for sale might be explained in part by the high number of online sales, which was not an option in 2004.²⁵

Q8. 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?

Responses to this question came mainly from representatives of the art and antique trade. BAMF stated that very few, if any, of their members could be described as ‘specialising’ in the sale of ivory objects. BADA stated that whilst a large proportion of their members handle antique items containing ivory, only a few can be said to be specialising in the sale of works of art made exclusively from ivory. LAPADA said that it “has no members that specialise in works made from or containing ivory.” It emphasised, however, that there are significant numbers of antiques and works of art made from, or containing ivory, which are not traded for their ivory content, but for their rarity, artistic attributes and/or craftsmanship.

The Music Industries Association, a trade body representing UK businesses making and selling musical instruments and associated products, said that “about 300 music shops in the UK repair, maintain or sell older pianos that may have ivory keys. This does not make the shop a specialist in ivory, but it is part of their business.”

The aforementioned Two Million Tusks report was cited by a number of respondents in response to this question, along with a 2005 report, “The Ivory Markets of Europe”.²⁶ This report found 8,325 ivory items for sale in the UK, and found more outlets in the UK alone selling ivory than any of the entire regions previously investigated (Africa, South and South East Asia, East Asia).

²⁵ Lau, W., Crooks, C. V., Musing, L., Guan, J., & Xu, L. (2016). *A rapid survey of UK ivory markets*. TRAFFIC.

²⁶ Martin, E. B., & Stiles, D. (2005). *The Ivory Markets of Europe*. *Care for the Wild International*.

Exemptions

Over 1,700 respondents said that they did not consider government should create any exemptions to the sales ban. These respondents did not further engage with questions on the individual exemptions, but they have been recorded in the following statistics as being opposed to each of the proposed categories of exemption.

Musical instruments

Questions 9 – 12 sought views and evidence on a musical instrument exemption. The questions asked:

Q9. Do you agree that the government should include an exemption to allow the continued sale of musical instruments containing ivory? Please provide evidence to support your view.

Q10. Do you have a view on what the scope of this exemption should be? Should it be qualified, or refined, further than proposed?

Q10 (a). 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.

Q11. Do you have any evidence about the current trade in musical instruments for professional use made wholly, or partially, of ivory?

16.9% (1,791) of respondents expressed support for the musical instruments exemption, 50.2% (5,335) expressed opposition to the exemption, and 32.9% (3,497) did not express a definitive opinion.

Those in favour of the musical instrument exemption generally argued that their sale does not contribute to the illegal ivory trade. Reasons given included that musical instruments are no longer made with ivory and that the ivory in existing musical instruments is incidental, either by volume, weight, or to the value of the instrument. Those respondents in favour of this exemption said that instruments containing ivory were not valued for their ivory content, but for their craftsmanship and musical quality. The principal purpose of a musical instrument is to be used for performance, rather than to be traded for profit, and that professional musicians tend to buy one, or a small number of instruments, throughout their career.

Also referenced in support of this exemption was the effect not having it would have on professional musicians, and those who deal in musical instruments. The Musicians Union noted “many musicians use their instruments as an investment for their retirement”.

Some respondents said that the exemption was important to protect the UK’s cultural heritage.

Of those opposed to this specific exemption, a number thought that musical instruments should be covered by the de minimis exemption as, with very few exceptions, they contain only a small proportion of ivory by volume – e.g. the ivory veneer on a piano’s keys, or the ivory frog of a violin bow. Another common argument was that there is no longer any need for musical instruments to contain ivory, and the ivory in musical instruments could not be replaced with alternative materials.

As each exemptions, some respondents were concerned that the exemption would provide a loophole to allow the continued laundering of ivory and poaching of elephants. A number of respondents questioned why musical instruments should be exempt as opposed to other categories of items, such as portrait miniatures or furniture.

Respondents put forward a number of suggestions for the scope of the exemption. The inclusion of a “backstop date”, before which the instrument must have been made to be exempt was a common suggestion. Suggested dates included 1900, items over 100 years old, 1947, 1975, and 1989. Rationales were given for why these dates should be used:

- A combined response from eight conservation NGOs²⁷ suggested a backstop date of 1975, arguing 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.” 1975 is the date that Asian elephants were first listed on CITES.
- 1900 is a date suggested as a “backstop” for a number of the exemptions.
- Items over 100 years was suggested as this is a commonly used timeframe for the definition of an antique. The United States has also imposed a federal 100 year rolling ban on ivory sales.
- 1947 was suggested by a number of respondents as, under EU Regulations worked ivory items produced before 3 March 1947 do not require certificates to authorise trade within the UK or other EU countries. This date, therefore, is known to those familiar with current regulations.

²⁷ The Environmental Investigation Agency, Stop Ivory, The David Shepherd Wildlife Foundation, The Wildlife Conservation Society, The Zoological Society of London, Born Free Foundation, Natural Resources Defense Council and Tusk Trust.

- 1989 was proposed by representatives of the music industry. This is the date that African elephants were listed under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) appendix I. (Asian elephants were listed under CITES in 1975) .There has been a ban on international commercial trade in all elephant ivory since 1990, when this listing came into effect.
- A number of respondents also stated that the “backstop date” should be when the proposed ban is implemented.

Some respondents, primarily from the music industry, believed that there should be an exemption for musical instruments without a volume or weight threshold. They suggested that a definition of a musical instrument alone would be sufficient, such as ‘musical Instruments and their associated accessories’.

Others suggested that a de minimis threshold should be included within the exemption so that only musical instruments containing either less than a certain amount of ivory by volume or weight should be exempt. Other respondents were concerned about the damage that could be caused to an instrument when calculating its ivory content.

A reoccurring theme was that whatever the scope of the exemption, it needed to be tightly defined and strictly enforced to make sure that it does not contribute to the continued poaching of elephants.

The Musicians Union had surveyed members and were not able to find evidence of an instrument that contained more than 300 grams by weight or 20% by volume of ivory – although they were aware of a theorbo (an instrument of the lute family) from 1670 that contained more than 300 grams of ivory. Some respondents pointed out that, depending where a de minimis level were set, many bagpipes may not fit within such an exemption, often being carved from larger pieces of ivory. The Northumbrian Pipers’ Society said that many of the earliest known sets of Northumbrian Pipes are made mainly of ivory.

De minimis

Questions 12 – 16 sought views and evidence on a de minimis exemption, an exemption for items which contain only a small proportion of ivory.

Q12. Do you agree that the government should include a de minimis exemption to an ivory ban? Please provide evidence to support your view.

Q13. Do you have any views on what the scope of this exemption should be? Should it be qualified, or refined, further than proposed?

Q13 (a). 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.

Q14. What thresholds of ivory content should be set for a de minimis exemption, by either percentage, volume or weight? What evidence do you have for this?

Q15. Do you think that a de minimis exemption could also capture the majority of musical instruments containing ivory?

Q16. How should this exemption operate in practice?

20.8% (2,210) of respondents expressed support for the de minimis exemption, 47.2% (5,011) expressed opposition, and 32% (3,402) did not express a definitive opinion.

Many respondents in favour of this exemption argued that the sale of items with only a low ivory content, such as inlaid furniture, does not contribute directly or indirectly to the continued poaching of elephants. Such items are not celebrated for their ivory content, whereas solid or primarily ivory items are desired to the illegal trade in modern ivory, and are vulnerable to re-carving. For some the inclusion of the exemption would make the proposals more proportionate and would help protect cultural heritage.

Those opposed to this exemption suggested that it would be impractical to enforce as it would be difficult to accurately assess the amount of ivory in an item without damaging it. Many opposed to the exemption on the grounds that any exemption could be turned into a loophole to allow the continued sale of ivory and fuel the trade. A number of respondents said that ivory should be completely 'de-commercialised'.

There were a broad range of views on what the threshold for a de minimis exemption should be, as well as whether the threshold should be predicated on the volume, weight and/or value of the ivory content of an item.

The majority of responses from NGOs favoured a combination of both volume and weight thresholds. This would mean that large items with a low proportion of ivory by volume, but a large amount of ivory by weight, could not be sold.

A number of respondents were in favour of the exemption being measured only by volume. Concern was expressed that calculating the weight of ivory in an object, when the ivory is integral to the object, is very difficult.

Under the US's federal regulations, a threshold on the financial value of the ivory content is also applied. Very few respondents explicitly suggested a value threshold, although more did suggest that a UK de minimis exemption mirrored US rules.

A number of respondents said items with a small amount of ivory by weight, but not by volume (e.g. Japanese netsuke), should be considered under the exemption. They believed it unfair that such items could not be exempt while large items, comprising of a small amount of ivory by volume, but relatively large by weight, would be exempt.

The majority of responses that addressed this issue, including those both from the arts and antiques sectors and NGOs, stated that the de minimis exemption should only apply to items in which the ivory is integral to the item, and could not easily or practically be removed. There were, however, responses that called for items made wholly of ivory but part of a bigger set to be exempted. One example was a sewing kit containing an ivory spool: the spool alone would not fall below a de minimis exemption, but considered as part of the wider set it could.

Suggestions for the volume threshold ranged from 0% to 100%. Representatives of the arts and antiques sector argued that the exemption should apply where an object is not predominantly made of ivory, a 50% threshold. This is the threshold used in the federal regulations in the United States. Some argued that this threshold fits the explanation in the consultation document that the exemption should apply to items not made "of solid ivory or comprised largely of ivory". It was argued that there is no evidence to demonstrate that items with less than 50% ivory are purchased with a view to re-carving. A number of responses from those in the arts and antiques sector linked the exemption to that for items of artistic, cultural or historical significance: a high de minimis threshold would limit the amount of objects that would have to be considered under this latter exemption.

Also commonly suggested was a 20% threshold by volume - the level used in New York State. A number of respondents who supported a 20% threshold suggested that if less than a fifth of an object were comprised of ivory, it is unlikely to be desired for its ivory content. The combined response from eight conservation NGOs, however, called for the de minimis threshold to be set at 5% by volume.

There were calls from respondents from a range of sectors to combine the de minimis threshold with a "backstop" date. 1947 was suggested by a number of respondents, including conservation NGO WWF and members of the arts and antiques sector. Also commonly suggested was 1900. Arguments put forward for these dates were similar to those put forward for it in relation to the musical instruments exemption.

A number of different suggestions were put forward as to how the exemption could operate in practice. Suggestions included measuring the surface area of an object, calculating by the amount of ivory by sight, having trade through registered dealers, using precedence where the government provides examples of items that fit within the exemption, using a registration scheme, using certificates or permits, using self-certified statements confirming that the item being sold falls within the exemption, and issuing guidance.

Items of significant artistic, cultural or historical value

Q17. Do you agree that the government should include an exemption to our ban to allow the continued sale of items containing ivory of artistic, cultural, or historic significance? Do you have any evidence to support your view?

Q18. What do you think the scope of this exemption should be? How should artistic, cultural, or historic significance be defined?

Q18 (a). 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.

Q19. How do you think such an exemption should operate in practice?

Stop Ivory campaign response

The Stop Ivory campaign response comprised 39,485 identical emails. The response expressed opposition to the proposed exemption for items of artistic, cultural or historic value, saying the exemption would be vague subjective and complicated to administer and enforce. It said the exemption could be used as a loophole for the illegal ivory trade.

15.6% (1,659) of respondents expressed support for the exemption for items of artistic, cultural or historic significance, 52.4% (5,563) expressed opposition, and 32% (3,401) did not express a definitive opinion.

Arguments in support of this exemption included that it is essential to protect and preserve items of artistic, cultural or historical significance, and the preservation of such items is important to maintaining our cultural heritage. It was also argued that such an exemption would acknowledge that there is a distinction between a market for ivory as a commodity and the market for works of art that are sought for their cultural, artistic or historical significance. Respondents said that the market for these types of art does not contribute to elephant poaching.

There were a number of views put forward by those opposed to the exemption. These included that the wording as set out in the Consultation Document is too subjective and that this exemption would be too impractical to enforce. Some respondents also said that it would be complicated to establish criteria to define the exemption. Others said that it is important to change attitudes to ivory, but this exemption would help maintain the image of ivory as a luxurious commodity. This could fuel the trade in ivory as a commodity. Others believed that the cost of enforcing an exemption on these grounds would be too high.

Others argued that if a piece of art was of such artistic, cultural or historical value it should belong in a museum, so therefore the museums exemption was sufficient for such items. Respondents in favour of this exemption argued that museums do not have the resources to acquire, house or maintain all such items.

A wide range of responses were put forward as to what the scope of the exemption should be. These included that it should be applied to all items containing ivory produced before a set date: 1947, 1900 or over 100 years old. Another suggestion was that the exemption should apply to items of museum quality, and that this term could be used to define or assess items. A number of respondents stated that they believed the exemption should only consider historical significance and others, particularly those less inclined to this exemption believed it would be acceptable only if it had a similar scope to the Waverley Criteria, as used to assess whether an item should be barred from export as a national treasure.

In terms of the implementation of this exemption, many suggested a certification system, with which potential sellers would be required to comply. A number of respondents suggested that a panel of specialists should be set up to assess if an object met the exemption. Views differed as to whether these specialists should include those from arts/antique trade, or whether it should be limited to specialists from museums, universities and other eminent collections. Other ideas included accreditation of relevant institutions to make decisions on whether an item should be exempted, which could include museums, academic bodies or art galleries with the relevant specialist knowledge, or that certain auction houses or antique dealers could be given licences to sell items under this exemption.

Allowing the continued sale of ivory to, and between museums

Q20. Do you agree that the government should include an exemption to allow continued sales of items containing ivory to museums or between museums? Please provide evidence to support your view.

Q21. Should any other form of institution/s or organisation/s be covered by this exemption? If so, please state which and provide evidence for your view.

25.6% (2,717) of respondents expressed support for the exemption for museums, 41.1% (4,363) expressed opposition, and 33.4% (3,543) did not express a definitive opinion.

Many respondents in favour of this exemption said it was important to protect cultural heritage. It was also argued that museums played an important role in conserving pieces for educational and research purposes. A number of respondents said that museums were

unlikely to buy items that would contribute, either directly or indirectly, to the continued poaching of elephants. The National Museums Directors' Council stated that "Ivory has played a major part in artistic creation in Europe, Asia and Africa for millennia, and this must not be erased or forgotten."

Arguments against the exemption included that any exemption could provide a loophole for the continued trade in ivory and that items containing ivory should be loaned, donated or bequeathed to museums, but sales should not be permitted.

Some respondents questioned why museums should be treated differently to private collections.

Many respondents said it was essential that museums were tightly defined to make sure the exemption was not exploited by people seeking to buy and sell ivory. A number of suggestions were put forward for how this could be done including using a definition such as those in tax law, only exempting museums over a certain age, making museums apply for a licence to buy ivory and limiting the exemption to accredited museums. A number of respondents suggested using Arts Council England's accreditation scheme, and those of the equivalent bodies in Scotland, Wales and Northern Ireland.

Some said the exemption should only apply for items that would be used for educational purposes. Similarly, some suggested whenever ivory was displayed it should be accompanied by a warning sign, like those on cigarette packets, detailing the effects of elephant poaching.

Some respondents also that other organisations should be included in this exemption such as the heritage sector, art and antique dealers, and publicly funded galleries.

General questions on exemptions

Q22. Do you think we should consider any other exemptions to this ivory ban? Please provide evidence.

Portrait miniatures

Portrait miniatures were common between the 17th and 19th centuries and were commonly painted on wafer-thin slivers of ivory. Until the invention of a synthetic substitute and the advent of photography, portrait miniatures on ivory existed in large numbers.

In response to question 22, 346 respondents said that portrait miniatures should be exempt. Conservation NGOs WWF and the International Fund for Animal Welfare (IFAW) said that they would be content for portrait miniatures to be exempted from the sales ban, on the grounds that they do not fuel the continued poaching of ivory. Other reasons given for why they should be exempt included that they were valued for their artistry rather than

their ivory content, for their historical and cultural value, that they would be easy to define and enforce as a category, that they comprise one of the largest categories of antique objects that contain ivory, and that although they contain a lot of ivory by volume, they do not by weight and so will not be re-carved.

A few respondents called for Japanese netsuke to be exempt as they contain only a small amount of ivory by weight (although are generally solid ivory).

Other items containing ivory that respondents suggested should be exempt included, scientific instruments, weapons, armour, antique fans, nutmeg graters, religious artefacts, billiard balls, items for scientific or educational purposes, chess sets, ivory that comes from elephants that died naturally and all items produced before a certain date.

Q23. Do you have any evidence on the scale, in terms of value and/or volume, of any of these exemptions?

A number of respondents provided evidence on the scale of the portrait miniature market in the UK. BADA carried out a review of items containing ivory for sale on www.the-saleroom.com. In a 21 day period between 8 and 28 February 2017 it found there were 98 lots containing portrait miniatures. 47% of these lots were valued under £100 and 30% were valued at £101 - £200. BADA stated that the lots displayed on the site are for the most part from the lower priced end of the marketplace.

BADA also conducted a study of www.onlinegalleries.com on 14 December 2017. For the most part the lots displayed on the site were from the higher priced end of the market. As far as it was aware, all objects offered for sale were from dealers who have an office or gallery in the UK, or who take part in UK antiques fairs.

Sotheby's said that approximately 7% of the objects containing ivory it offered for sale in the UK in 2016 and 2017 were portrait miniatures. In terms of other evidence put forward, one antique dealer said that one in five pieces of furniture they sell contained a small amount of ivory, and other respondents listed the value of their personal collections, and thus the financial impact on them if they were unable to sell them.

Enforcement

Enforcing the ban

Respondents were asked for their views about enforcement and compliance, and evidence they could provide as to effective systems. We did not put forward a proposed model, so responses were very varied.

Q24. Do you have any views as to which public body should be responsible for enforcing the ban?

There were a broad range of views, but many respondents said they were content with the bodies currently enforcing the existing regulations. Some respondents thought the funding for the bodies should be increased.

Other suggestions for bodies that could enforce the ban included the Department for Culture, Media and Sport, HM Revenue and Customs, Ministry of Defence, Home Office, Arts Council England, a trade body, the CITES Secretariat, animal welfare groups and trading standards. It was also suggested that the Partnership for Action against Wildlife Crime should be consulted for ways in which other stakeholders could contribute.

Q.25. Do you have any views as to the sanctions that should be applicable to those found to be in breach of this ban?

Again a number of respondents stated they were content with the current sanctions under current regulations.

Suggestions for sanctions that should be applied included, prison sentences, fines and asset seizures. A number of respondents said that the sanctions should be as strict as possible, and others called for sanctions more severe than those under current regulations.

Conservation NGOs broadly indicated that they are happy with the current sanctions under the Control of Trade in Endangered Species Regulations (COTES), however they are concerned that courts are not currently using maximum sentences.

It was suggested that sentencing guidelines should differentiate between personal, one-off sales and professional traders, with the latter being subject to stricter penalties as they should have a better understanding of the relevant law.

Q.26. Do you think that it should be for those involved in the sale to demonstrate that an item falls into an exempted category? Do you have any evidence to support this? How might this be enforced?

Many respondents agreed that responsibility for demonstrating that an item falls in an exempted category should lie with the seller or those involved in the sale. There were, however, concerns raised that this could be impractical and overly bureaucratic.

A number of different systems for proving compliance with the ban were suggested, including certification schemes, licencing, accredited institutions, ivory passports, a national ivory database and registered dealers. Many suggested that those wishing to sell an item must be able to demonstrate its provenance to prove that it was legally acquired.

A number of respondents suggested that a self-registration scheme would be effective, and other suggested that art and antique dealers had sufficient knowledge to be able to determine whether an item fell into one of the exempted categories. Others, however, emphasised their concern around any model of self-assessment as they did not believe it would be sufficiently robust. They believed that the government or an independent body should oversee items that are exempted.

A number of respondents emphasised the importance for the government educate and raise awareness amongst the public about the new regulations, this could include guidance on the Defra website and examples of items that would fall within the de minimis exemption.

Q27. Do you have any other comments about this proposed ivory ban?

Issues raised in response to this question included that the ban would infringe on property rights, concerns that the proposed ban could have a negative effect on other ivory bearing species, a suggestion for a VAT surcharge to be applied to all exempted items, calls for the regulations to be implemented through secondary legislation, and calls for the exemptions should be reviewed every five years to check if they are not inadvertently contributing to elephant poaching.

Part 2: Policy statement

Having considered the evidence available, including responses to this consultation, the government confirms it will proceed with a ban on commercial activities concerning ivory in the UK that could directly or indirectly fuel the poaching of elephants. We intend the UK's ivory sales ban to be amongst the toughest in the world, demonstrating that the UK does not consider commercial trade in any ivory that could fuel poaching to be acceptable.

By commercial activities, we mean:

- (a) buying, selling or hiring ivory
- (b) offering or arranging to buy, sell or hire ivory
- (c) keeping ivory for sale or hire;
- (d) exporting ivory from the United Kingdom for sale or hire;
- (e) importing ivory into the United Kingdom for sale or hire.

This will be a ban, with limited exemptions, on the commercial activities concerning items made of, or containing ivory; within the UK, to and from the EU, and their import to, or re-export from the UK. The government intends to allow the following narrow exemptions to this ban, for items that are not considered to fuel the continued poaching of elephants.

This ban on commercial activities will not affect the right to own, gift, inherit or bequeath ivory where that is currently allowed.

To implement this ban effectively will require primary legislation to be brought into force.

Exemptions

The government intends to exempt a narrow range of items containing ivory from the sales ban. We consulted on four broad categories of exemptions. These broad categories have now been refined and narrowed as follows:

1) De minimis

Items with an ivory content of less than 10% by volume, and which were made prior to 1947, will be exempted from this ban on commercial activities.

A 10% by volume de minimis threshold will mean the UK has amongst the toughest approaches to this category of exemption internationally. We believe that 10% both meets the need for a strong threshold and will be practical to enforce.

To fall within this exemption items must have been made prior to 1947. This date is already well-known by those familiar with the EU Wildlife Trade Regulations with as the date from which ivory items currently require a CITES certificate in order to be sold.

2) Musical instruments

Musical instruments with an ivory content of less than 20%, and which were made prior to 1975, will be exempted from this ban on commercial activities.

An exemption for musical instruments with less than 20% ivory by volume will cover the vast majority of commonly used and traded instruments.

1975 is the date at which Asian elephants were first listed under CITES. We have opted for a later date than that applied to the de minimis exemption in recognition that many instruments, such as pianos and violin bows, continued to be made using ivory into the late 20th century. Many of these instruments will be in current use by professional musicians.

We do not intend to affect the commercial use or performance using musical instruments that may not meet this exemption.

3) Portrait miniatures

Portrait miniatures produced prior to 100 years before the coming into force of this ban will be exempted for commercial activities.

Portrait miniatures are recognised as being a discrete category of item which, although often painted on thin slivers of ivory, are not valued for their ivory content. Portrait miniatures were painted on ivory primarily between the 17th and 19th centuries.

Whilst we did not consult on an exemption for portrait miniatures, a number of respondents from the antiques sector, the public and some conservation NGOs, indicated that they believed this exemption would be proportionate and justified. We agree with this assessment as we do not believe that sales of portrait miniatures fuel, directly or indirectly, the continued poaching of elephants.

Portrait miniatures must have been produced at least 100 years prior to this sales ban coming into force.

4) The rarest and most important items of their type

Items made of, or containing, ivory, which are assessed as of outstandingly high artistic, cultural or historical value, and are an example of the rarest and most important item of their type, will be exempted from this ban on commercial activities. This is because we recognise that there is a, fairly small, number of ivory items that are of outstandingly high

artistic, historic or cultural significance and that may be assessed as being rare and important examples of their type, e.g. in their particular category of function, artistic or historical period etc. We do not believe that such items contribute directly or indirectly to the continued poaching of elephants.

We will empower a limited number of institutions, such as selected museums, to provide advice to the Animal and Plant Health Authority on whether an item should be exempted under this category. This is because we believe it is critical assessments are made by specialists in their fields, and those who have the greatest knowledge and professional experience in their particular field.

We will also provide statutory guidance to participating advisory institutions on the criteria that items falling under this exemption must meet. This guidance will draw on existing criteria used by government to assess works of art for pre-eminence and national significance.

Items exempted under this category must have been produced at least 100 years prior to this sales ban coming into force.

5) Museums

Commercial activities which includes sales, loans and exchanges to, and between, museums accredited by the Arts Council England, the Welsh Government, Museums and Galleries Scotland or the Northern Ireland Council of Museums will be exempted from this ban. These accredited museums will also be permitted to sell to, or buy from, non-UK museums accredited by the International Council of Museums.

We do not intend, through our ban on ivory sales, to affect the display of historic, artistic and cultural items to members of the public by accredited museums. Accredited museums play a vital role in protecting the nation's cultural heritage, and in making our heritage accessible to the public, and as such will be permitted to purchase items that do not meet any of the listed exemptions, but are in line with their acquisitions and ethical policies. Museums accredited by the four UK bodies listed above must abide by strict codes of ethics and standards of governance, including acquisitions policy.

Compliance

The government intends to introduce a system for compliance with this ban on ivory commercial activities based on a registration model. This would be administered by the Animal Plant and Health Authority (APHA). We will introduce a new online system to handle the majority of registrations, and provision will be made for those unable to use an online system. This online database will be accessible by government, the regulatory body and the Police.

Owners with items they wish to sell and which they consider meet the exemption criteria under the de minimis, musical instruments or portrait miniatures categories, will be required to register their items via an online system. In doing so, they will be deemed to have confirmed that, to the best of their knowledge, the item in question meets the relevant category of exemption, and will have submitted information or evidence about the item— for example photographs or evidence of its age. Owners will be required to pay a small fee for registration. Owners will receive confirmation that this registration has taken place, including a reference number. Buyers, or others involved in the sale of an item, can ask for proof that an item has been registered.

If an individual wishes to sell an item to an accredited museum, they will be required to register the item, and the relevant institution will be required to confirm that it intends to purchase the item. Payment of a small fee will be required.

If an owner of an item of ivory believes it would qualify for the rarest and most important items of their type exemption, they too will first be required to register details of this item with the APHA. The APHA will seek the advice of an institution with recognised specialism in the relevant field to assist it in deciding whether the item meets this exemption. Drawing on the advice of relevant specialists, the APHA will decide whether to issue a permit for sale to the owner. The owner will be required to pay a fee.

The ban will build upon, rather than replace, current CITES rules. No item that cannot be sold now, will be permitted to be sold after the ban is implemented. Items that currently need a certificate to be sold, imported or re-exported under the EU Wildlife Trade Regulations will continue to require one. This will be in addition to having to comply with the ban.

Enforcement

The Secretary of State will nominate an existing regulatory body to enforce this ban. This regulatory body is expected to work closely with the police, including the National Wildlife Crime Unit and Border Force. The regulatory body will be given powers necessary to enable it to detect and pursue illegal sales and non-compliance. The regulatory body will have the power to issue civil penalties for breaches of the sales ban, including infractions of the compliance regime. Spot checks will also be made against the database of registered items. The regulatory body will also work with antiques traders and others who

will be most affected by this ban to ensure that they are able to comply with the new regulations, and avoid breaches.

The police and customs officers will also use their powers to investigate and charge those that fail to adhere to the ban.

Offences

The government intends to create new offences under this ban. A person in breach of the prohibition could receive either a civil sanction or criminal sanction, depending on the nature of the breach. If a person receives a civil sanction, they could still be subject to a criminal prosecution if they do not comply with the civil sanction.

The following three categories of offences will apply to the commercial use of ivory:

- 1) engaging in a commercial activity without meeting an exemption
- 2) improperly or falsely registering an item for exemption from sale
- 3) causing or facilitating the sale of ivory or other commercial activities

Sanctions

The government intends to introduce a mixed regime of civil and criminal sanctions to be applicable to breaches of this ivory commercial activities ban.

Criminal sanctions for failing to adhere to the ban will be consistent with existing offences concerning for ivory under the Control of Trade in Endangered Species (COTES) Regulations. Those found guilty of a criminal offence under these measures may be liable to a fine and/or a maximum prison sentence of up to five years.

Civil sanctions will consist of: stop notices, monetary penalties, enforcement undertakings and enforcement cost recovery notices. The type and level of civil penalty applied will be dependent on the type and severity of the offence.

How our ivory sales ban will compare internationally

Some other countries have already taken action to restrict their domestic markets. As the key points from these measures show, the UK's proposed ban will be the toughest in Europe and amongst the toughest in the world.

The United States has imposed a federal, 100 year rolling ban, meaning that any ivory item older than 1918 can still be sold, with the cut-off year rising annually. There is also a "de minimis" exemption for items containing less than 200g ivory, and comprising less than 50% ivory by value and volume, and for all musical instruments containing ivory. Some states have applied stricter regulations, such as a 5% de minimis threshold in California.

China has banned all ivory trade and processing activities from the end of 2017, although continues to permit the transport, gifting and display of ivory. The auction of ivory "relics" is permitted. The Law of the People's Republic of China on Protection of Cultural Relics defines relics as "valuable works of art and handicraft articles dating from various historical periods." No cut-off date is specified.

France has a ban on post-1947 items totally or partly composed of ivory, but with exemption for some musical instruments and pre-1975 items containing less than 200g of ivory. Any ivory item older than 1947 could still be sold.

In October 2017, the EU launched a consultation on whether it should take further restrictive measures against the ivory trade. The EU is yet to put forward specific proposals to ban or restrict the ivory trade.

Glossary

APHA

The Animal Plant and Health Authority, the UK's CITES Licensing Authority.

CITES

Convention on International Trade in Endangered Species of Wild Fauna and Flora.

EU Wildlife Trade Regulations

The legislation that implements the provisions of CITES in all EU member states.

COTES

The Control on Trade in Endangered Species Regulations. These Regulations make provision for the enforcement of the EU Wildlife Regulations in UK law, including specifying the applicable sanctions.

“De minimis” exemption

Items which contain only a small proportion of ivory.

Netsuke

Small Japanese carved statues.

NGO

Non-governmental organisation.

Portrait Miniatures

Portrait miniatures are small portable portraits. They were common between the 17th and 19th centuries and were commonly painted on wafer-thin slivers of ivory.

The Waverley Criteria

A criteria used to advise whether a cultural object intended for export is a national treasure.

Dates

3 March 1947

This the date from which ivory items currently require a CITES certificate in order to be sold under EU Wildlife Trade Regulations.

1975

The date that Asian elephants were listed in CITES appendix I.

1989

The date that CITES members voted to move African elephants to CITES appendix I, the listing took effect in 1990.

Website links

Below are links to the websites of museum accreditation bodies.

[Archives and Libraries Division, Welsh Government](#)

[Art Council England](#)

[Museums and Galleries Scotland](#)

[Northern Ireland Council of Museums](#)

[International Council of Museums](#)