



Ivory Bill

Factsheet – Existing regulations and UK ivory ban comparison

29 June 2018

Existing regulations on ivory

International

Current restrictions concerning commercial activities in ivory are applied internationally through the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), an international conservation agreement which aims to ensure that trade in endangered species does not threaten their survival. The Convention entered into force in 1975 and the UK ratified it in 1976.

CITES has restricted international commercial trade in new ivory, except in exceptional circumstances, from Asian elephants and African elephants since they were first listed on CITES in 1975 and 1976 respectively.¹ This means that, CITES does not restrict commercial trade in older ivory, which was taken from Asian elephants before 1975 or from African elephants before 1976. The commercial trade in older ivory allowed under CITES may concern raw ivory – i.e. tusks or parts of tusk – or items made of or containing ivory.

CITES regulates international trade in ivory, but does not regulate domestic markets within states or markets within regional trading groups, for example the European Union (EU). The Convention therefore permits Parties to adopt stricter measures to regulate wildlife trade. This allows for the subsequent layers of regulations at EU and domestic levels outlined below.

¹ Asian elephants were listed on CITES Appendix I (which, of the three CITES appendices, places the tightest restrictions on international trade) in 1975. African elephants were first placed on CITES in 1976, when the Ghanaian population was placed on Appendix III. As the African elephant became increasingly threatened, the entire population of the species was uplifted to Appendix I in 1990. It should be noted that the EU Wildlife Trade Regulations use the date a species was added to Appendix I when applying their restrictions. These EU Regulations therefore ban commercial use in new ivory from Asian elephants since 1975 and from African elephant since 1990. It is the dates associated with the EU Wildlife Trade Regulations, as directly applicable to the UK, which are referenced in the explanatory notes and other documents relevant to the Bill.

European Union

The CITES Convention is implemented in the UK and other EU Member States through the EU Wildlife Trade Regulations. These regulations place restrictions on intra-EU trade, and imports to and exports from EU Member States from/to third countries. They also apply to Member States automatically as they are directly applicable in domestic legislation, although each Member State must have their own domestic legislation which outlines enforcement provisions such as appropriate sanctions. The EU Wildlife Trade Regulations implement CITES in a stricter manner than is required by the Convention. The EU Commission has also issued non-binding guidance recommending that Member States suspend re-export² of raw ivory of any age.

An exemption exists under the regulations which allows commercial activities in 'worked' ivory items made prior to 1947 to take place without any certificate. Commercial activities in worked ivory items made after 1947 are allowed subject to a commercial use certificate being issued for that item. The 1947 date is used as this is 50 years prior to the EU Wildlife Trade Regulations coming into force. Worked items are defined as specimens that were significantly altered from their natural raw state for jewellery, adornment, art, utility or musical instruments and clearly fall within one of the aforementioned categories and require no further carving, crafting or manufacture to effect their purpose. They are commonly referred to as 'antiques'. The EU Wildlife Trade Regulations, therefore, allow commercial activities in antique ivory to continue within the EU and, if the item is made prior to 1947, these activities are not subject to any registration or certification process.

The EU Wildlife Trade Regulations make provision for Member States to introduce stricter measures on commercial trade in wildlife. The UK's Ivory Bill is made in line with this provision.

UK

The EU Wildlife Trade Regulations are directly applicable to the UK and the enforcement provisions concerning the EU Regulations are implemented in the UK by the UK Control of Trade in Endangered Species (Enforcement) Regulations 1997 (COTES). The UK has a policy which bans the commercial use of raw ivory regardless of age and this ban will continue to apply alongside the Ivory Bill.

The UK is a Party to CITES in its own right and will continue to be bound by the obligations of the Convention on exiting the EU. The UK government proposes to ensure continued compliance with CITES on EU exit, through converting the EU Wildlife Trade Regulations into a UK-specific regime under the powers set out in the European Union (Withdrawal) Bill.

² The term 're-export' is used as the ivory would have already been imported to an EU Member State from its country of origin, i.e. a country with elephant populations.

The UK ivory ban will introduce additional controls to those set out in the existing EU Wildlife Trade Regulations and CITES convention. The Ivory Bill will go much further to restrict commercial trade by prohibiting the commercial use of ‘worked’ or ‘antique’ ivory items regardless of their age, with the exception of items meeting one of the five categories of exemption. This will mean that the current date-based (1947) restrictions on antique ivory will become obsolete in the UK. In line with recommendations made in response to the consultation, “backstop dates” are applied to the exemptions included within the Ivory Bill. Dates were recommended to make sure modern ivory items are not permitted under the exemptions and that the UK ivory ban for those items is at least as strong as or stronger than existing regulations.

The EU Wildlife Trade Regulations will continue to apply to the import and export of ivory to and from the UK, and alongside the exemptions to the ivory ban. As a result, if the owner of an item of pre-1947 worked ivory wishes to sell it, or engage in another form of commercial use with it, to a third country, they must: i) ensure the item satisfies the conditions of an exemption under the Ivory Bill; and ii) ensure it meets existing requirements under the EU Wildlife Trade Regulations on the import and export of ivory, obtaining all necessary CITES permits before commercial trade takes place. The restrictions on displaying ivory for commercial purposes, as stipulated under the EU Wildlife Trade Regulations, will also continue to apply alongside the ban. Finally, as the Ivory Bill addresses commercial activities concerning ivory, existing restrictions will continue to apply to non-commercial activities in ivory.

Summary table: the UK Ivory Bill and existing regulations

	CITES	EU Wildlife Trade Regulations	UK Ivory Bill
Extent	Restricts international trade in CITES listed species, including African and Asian elephants and their parts and derivatives, which includes ivory.	Restricts intra-EU trade in species and imports to and exports from the EU to third countries. These are directly applicable to the UK.	Prohibits commercial activities in ivory in the UK subject to five clearly defined exemptions. This extends to activities taken in the UK to buy or hire or offer to sell, buy or hire ivory to an EU Member State or a third country.
Interdependencies	Permits Parties to adopt stricter measures to regulate trade. The EU Wildlife Trade Regulations and the Ivory Bill fall within scope of this provision.	Allows Member States to introduce stricter measures, the UK's Ivory Bill falls within scope of this provision.	Complements CITES and the EU Wildlife Trade Regulations. Exports and imports of exempted ivory to/from the UK must be compliant with both the Ivory Bill and the EU Wildlife Trade Regulations. The EU Wildlife Trade Regulations will continue to apply to the commercial display of and non-commercial dealings in ivory.
“Antique” ivory	Allows any ivory acquired before 1975 (for Asian elephants) or 1976 (for African elephants) to be commercially traded.	Allows for intra-EU commercial activities in pre-1947 ‘worked’ ivory without a certificate. Post-1947 worked ivory may be traded on a case by case basis.	Bans commercial activities in ivory of all ages, subject to narrow exemptions for registered or certified items.
Raw elephant ivory i.e. tusks and pieces of tusk	The Convention applies equally to both raw and antique ivory. Pre-1975/76 raw ivory may be traded.	The EU Commission recommends that Member States suspend re-export of raw ivory of any age.	The UK already has a policy which effectively bans all commercial activities in raw ivory of any age. This ban will remain.



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