Regulatory Policy Committee

Prohibiting the commercial dealing of ivory in the UK

Department for Environment, Food and Rural Affairs

RPC rating: fit for purpose

Description of proposal

The measure concerns a ban on ivory sales in the UK and the prohibition of the import and export of ivory for sale. The ultimate policy aim is to end the poaching of elephants. The Department states that UK leadership in this area would help to encourage other countries to close their markets, and that it would reduce demand for ivory and therefore the incentive to poach.

Currently, the trade in ivory is controlled by international conventions, which are implemented in the UK through EU Wildlife Trade Regulations. However, the Department states that illegal international trade and poaching of ivory has increased since 2007, and that UK Government intervention is necessary because international and domestic markets are not factoring in the total value of elephants to society or long-term conservation.

The Department proposes a ‘total’ ban on ivory sales in the UK, and to prohibit the import and export of ivory for sale to and from the UK. Notwithstanding, following consultation stage feedback, the Department proposes the following exemptions to mitigate potentially disproportionate impacts to business:

- a musical instrument exemption with a 20% volume limit and a 1975 backstop;
- a “de minimis” exemption where the ivory is incidental and integral to the item, with a 5% threshold by volume and 1947 backstop;
- an express exemption for portrait miniatures;
- an exemption for sales to/between museums that are accredited by the UK Arts Councils (UK), or the International Council of Museums (internationally); and
- an exemption for rarest and most important items of their type with a fixed backdrop of 100 years before the Act comes into force, and which will be assessed by a pool of specialists before exemption permits are issued.

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Impacts of proposal

Costs

Business

Using data from the Annual Business Survey (ABS) and other sources, the Department estimates that 1712 antique dealers, 770 street stalls and 1,000 auction houses could be affected by the proposal. Not all businesses that deal in antiques will sell ivory products, but the Department assumes that all these businesses would incur 30 minutes staff time cost of familiarisation. Based upon an hourly rate of pay of £11.34 from the ONS Annual Survey of Hours and Earnings, and an adjustment for non-wage labour costs, this amounts to an aggregate one-off cost of around £0.02 million.

The main costs to business are as follows.

Antique dealers and street stalls. There is a one-off cost to antique dealers and street stalls relating to stocks of items containing worked ivory that could no longer be sold. Based upon two studies of ivory lots in auctions conducted by *Two Million Tusks*, the Department assumes that sales of ivory-containing objects amount to around 1 per cent of the total value of antiques sales. This figure is applied to an estimate of the value of total stocks and work in progress (£230 million for antique dealers and £20 million for street stalls) to arrive at a one-off cost of £2.5 million.

There would also be an on-going cost from sales that can no longer go ahead. This is estimated drawing upon ABS estimates of gross value added (GVA). The Department states that GVA represents the turnover of UK businesses in the sectors defined, less the cost of goods and services consumed in the production process. The same 1 per cent assumption above is applied to the GVA data (£275 million for antique dealers and £74 million for street stalls) to arrive at a cost of £3.49 million each year, or £30.04 million over ten years in present value terms.

Auction houses. Auction houses would incur an on-going cost relating to lost commission on sales that can no longer go ahead. The Department reports that the ABS does not contain an appropriate GVA sub-category for auction houses. The Department, therefore, uses an estimate of sector turnover from the British Art Market Foundation (BAMF), updated to 2017 prices, of £3.34 billion. The Department assumes that GVA as a proportion of turnover is the same as in the retail antiques sector (26.6 per cent), giving a GVA figure of £887 million. Using a 2014 BAMF report, information provided by BAMF during the consultation and the studies referred to above, the Department's best estimate is that 0.55 per cent of this relates to sales of objects made entirely from or containing ivory. This give a cost estimate of £4.88 million each year, or £42.01 million over ten years in present value terms.

The Department expects the exemptions to mitigate some of these costs but, due to data limitations, it has not been possible to monetise this effect. The IA provides a discussion of the impact of the exemptions, largely drawing upon British Antique Dealers Association (BADA) analysis provided in response to the Department's consultation (paragraphs 110-113).

Overall, the estimated cost to business over ten years is £74.6 million in present value terms. This equates to an Equivalent Annual Net Direct Cost to Business (EANDCB) of £7.4 million.

Individuals

The IA also describes costs to private individuals and households that own items made of or containing ivory. According to the BADA, there are over two million items made of ivory or with an ivory component in British homes. Except in relation to the listed exemptions, ending the trade in products containing ivory would eliminate the legal financial value of such assets and represent an overall loss of wealth to British households. The IA states that estimating such losses would be very difficult in view of major uncertainties relating to the resale value of such items, the potential for re-purposing, date of potential future resale and the alternative value to owners of retaining the items (paragraph 124). The Department, therefore, does not monetise this loss of wealth.

Enforcement

Under the proposal, businesses and individuals wishing to sell items under the exemptions will need to register the details of the item online and submit evidence to a database about the item and transaction. The seller will need to submit sufficient evidence that demonstrates to an enforcement agent on sight that their item does qualify for an exemption. The IA states that Government will incur costs in the set up and administration of the system. This will include a new IT system, including a payments facility and publicly accessible database, administrative support and staff resource to carry out regular spot checks of items to test for compliance, plus any follow-up. The Department states that these costs will be passed on to putative sellers. These costs have not been estimated in the IA but the Department explains that they would be incurred only if the seller deemed that the value of the potential sale was at least equal to the cost involved. Since it has not been possible to monetise the benefit to business of the exemptions themselves, these costs have not been 'netted off' this benefit. The Department considers that the combined effect of the exemptions and the accompanying compliance regime will not increase the direct cost to business (paragraph 119). This appears to be reasonable.

Benefits

The IA provides a discussion of the benefits of the proposal (paragraph 62 to 68). This refers to a strong reputational benefit to the UK in showing international leadership, increasing the likelihood that other countries would act to undermine the incentives and opportunities for elephant poaching, and benefits to UK citizens from the knowledge that the UK is playing its part to bring an end to the illegal trade in ivory. The Department also refers to indirect gains to UK eco-tourism businesses, particularly those specialising in safaris, as they stand to benefit from the increased awareness of, and interest in, elephants that a ban would potentially bring, and to businesses that could seek new opportunities to provide substitutes to ivory. The Department is unable to monetise these benefits.

Quality of submission

The RPC welcomes the Department's previous engagement with the RPC on the issues of 'substitutability' or 'adaptability', whereby antique sellers adjust over time to selling non-ivory containing items, and is pleased that the IA follows the RPC's advice by treating these impacts as indirect (page 17 of the IA).The RPC further welcomes the Department's consultation of a variety of the relevant literature on ivory, the illicit ivory trade and the current poaching crisis, as well as its' comparative discussion of other countries' policy responses.

As described above, the Department uses GVA data to calculate the lost profit to businesses resulting from the ban on the sale of ivory (pages 21-24). Since GVA includes compensation of employees as well as profit, any direct mitigation of the impact on profit through a reduction in compensation of employees should be accounted for in the EANDCB. The Department does not address this issue in the IA. This is a difficult methodological area and the RPC is currently developing its approach to the use of GVA data as a measure of business profit. The ban on ivory appears to involve a small contraction of an existing (antiques) market, with the very large majority of businesses, in the antique shop sector, being micro-businesses. It seems unlikely, therefore, that there would be a significant immediate reduction in compensation of employees (e.g. reduction in staff or hours worked). Adjustment in compensation of employees might happen over time and could, therefore, be considered indirect. On this basis, GVA would seem to reasonably reflect the impact effect on business, at least for antique shops. For auction houses, it may be the case that labour costs adjust more automatically with sales and that a different approach might, therefore, be appropriate. This should be addressed by the Department (see comment below). The Department's overall approach, however, appears to be reasonable.

The IA would benefit significantly from addressing the points below.

Justification of use of Gross Value Added (GVA) data, particularly to measure lost profit to business. The Department should provide an explicit justification for why GVA is a reasonable measure of impact on profit in this case, and why this applies to auction houses as well as antique shops (see comments above).

It would also be helpful if the Department addressed how far ivory sales in the data used are sales to other sellers and, therefore, whether double-counting is potentially an issue. In terms of NPV and wider impacts, the IA could also discuss the likely (in)elasticity of demand for ivory-containing items and the potential significance of loss of consumer surplus.

Impacts on individuals and households. The Department's assessment of the loss of wealth to individuals with items containing ivory (page 27) does not appear to be proportionate to the scale of this impact, with an estimated "*over two million items made of ivory or with an ivory component… in British homes*" (paragraph 124). The Department's assessment of these impacts is, therefore, not fit for purpose, and should be strengthened significantly.

Enforcement costs. The IA would also benefit from further assessment of the costs associated with ensuring compliance with the exemptions, and any wider enforcement costs. For example, it would appear proportionate for the Department to provide an estimate of the cost of setting up and administering the system referred to on page 26.

*Benefits***.** The Department describes anticipated benefits of the proposal at pages 16-17. These include "…*UK citizens whose welfare will be enhanced from the knowledge that the UK is playing its part to bring an end to the illegal trade in ivory*…" and "*A strong reputational benefit to the UK in showing international leadership*…". The IA's assessment of benefits would benefit significantly from discussing in more detail the likely effectiveness of the proposal in reducing trade in new ivory, in the light of previous experiences.

Consultation responses. The Department states that the "…*overwhelming majority of respondents supported the implementation of a ban*." (page 4). The IA would benefit significantly from including a summary of responses from businesses negatively affected by the proposal, such as antique dealers and auction houses, and how the Department has considered these in its IA.

Familiarisation costs. The Department states that "*the time required for familiarisation will be 30 minutes per business"* (page 20). As a one-off cost, even a significant increase in the assumed time spent on familiarisation would not affect the rounded EANDCB. However, considering the potential complexity to be interpreted by businesses, particularly concerning the 'carefully targeted exemptions' within the legislation, the IA would benefit from providing evidence to support this assumption.

Small and micro-business assessment (SaMBA). The Department explains that survey evidence suggest that all antique dealers are small or micro businesses and that two large auction houses account for 53 per cent of the auction market. The Department addresses why an exemption would not be justified. The SaMBA would benefit from discussing possible mitigation measures, e.g. production of guidance material.

Exemptions. The Department states that it "… *would not expect a large volume of (ivory) items to be sold by business to museums, so this exemption is unlikely to reduce the cost to business significantly*." The IA would benefit from providing some indicative estimates of the scale of the impact of this and other exemptions, or at least a justification for this assumption.

Post implementation review (PIR). The Department should set out its plans to review/evaluate the ban, particularly how any unintended consequences would be investigated.

Departmental assessment

Equivalent annual net direct cost to business (EANDCB)	£7.4 million

Business net present value	-£74.6 million
Overall net present value	-£74.6 million

RPC assessment

Classification	To be determined once the framework rules for the current parliament are set
Small and micro business assessment	Sufficient

Anthony Browne, Chairman