

Response ID ANON-4HTY-R8X2-W

Submitted to **Banning UK sales of ivory**

Submitted on **2017-12-24 20:08:54**

Introduction

1 Are you replying as:

An organisation

2 Are you UK based?

Yes

If no, please provide detail.:

Organisation details

1 What is your email address?

Email:

actionforelephants@gmail.com

2 What is your organisation?

Organisation:

Action For Elephants UK

3 Please select which of the following you or your organisation primarily represents from the list below.

Non-governmental organisation

Other:

4 Are you or your organisation directly or indirectly involved in sale of items containing ivory?

No

5 Would you like your response to be confidential?

No

If you answered yes to this question please give your reason.:

Consultation questions

1 Do you agree with the proposed ban?

Other (please specify)

Do you agree with the proposed ban?:

We are in full support of a total ban, with the provisos detailed below.

Action for Elephants UK (AFEUK) is very pleased that now, 7 years after the government pledged to ban the UK ivory trade in its 2010 election manifesto, this consultation has finally been launched. It is high time for the government to take unequivocal and committed action to close this trade that perpetuates demand for ivory and the ongoing decimation of elephants.

Closing legal domestic ivory markets is a vital part of the strategy of demand reduction and eliminating the economic value of ivory, which are essential to combat and remove the incentives for poaching. At CoP17, in September 2016, CITES adopted a demand reduction strategy for the first time and passed a resolution, signed by the UK, to move to close domestic ivory markets contributing to illegal trade.

We have seen the current UK laws that attempt to regulate the ivory trade fail dismally. A thriving illegal trade in ivory exists under the cover of legal trade, and only a full ban will close the loopholes. Ivory sellers, whether market traders or high-end auction houses, sell ivory without the required paperwork. Investigations have shown that the UK market is open to abuse and has quantities of illegal ivory circulating.

The antiques trade believes that there is sufficient expertise within the industry to ensure that any illegal pieces are identified and removed from sale. But a recent study found a significant number of auction houses where this was not the case, and also found 'widespread flouting of the law'. By its own admission, BADA says 'antique dealing is one of the few occupations that has no fixed system of training'. A project commissioned by the House of Commons states that the UK

ivory laws have 'enormous scope for fraud'. This situation is compounded by the fact that the police and the courts have insufficient resources to monitor the trade or prosecute all cases where the law is broken.

The antiques trade has used a questionable report to support its view that there isn't a problem with new or illegal ivory in the antiques market. The TRAFFIC report they frequently cite concluded that following examination of 3,000 pieces of ivory, only one was considered to be past the cut-off date of 1947. However, the methodology is deeply flawed: not one piece of ivory in their sample of 3,000 pieces was bought or carbon dated, pieces were examined online, through windows, in markets and shops. We do not think this report deserves serious credence.

Regulations and partial bans have demonstrably failed to keep illegal ivory out of the market. The only logical and viable option for contributing to demand reduction is a total ban of the ivory trade. Any kind of partial ban will send the message that trading ivory remains acceptable and that ivory is a desirable commodity with intrinsic monetary value. It would also fly in the face of abundant evidence that any legal trade, no matter how well regulated, is rife with loopholes for illegal (newly poached) ivory to enter the market. A partial ban is also in opposition to the global consensus that all domestic ivory markets contribute to poaching and the illegal wildlife trade.

The total ban we seek is aimed at ending all commercial trade in ivory and removing its economic value; we do not advocate the destruction or removal of any legitimate ivory pieces.

While we will always aspire to a total ban on ivory sales with no exemptions, we recognize that some exemptions may be a necessary compromise. We spell out below our stance on such exemptions and how they might be applied in practice.

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

Yes

If yes, please provide evidence.:

In the past, a ban on ivory trade led to the stabilization of elephant numbers, and it is reasonable to expect to see the same – and, with time, an increase in numbers – if all ivory trade is shut down.

The ivory ban by the Convention on International Trade in Endangered Species (CITES) was imposed in 1989 due to the decline in elephant numbers (from 1.2m in 1979 to 600,000 in 1989). A study by Lemieux and Clarke found the international ban on ivory had been successful in reversing the decline in elephant numbers; where there were failings it was found to be in countries with easy access to markets unregulated by CITES. The study found that these markets allow a loophole which poachers, traffickers, carvers and traders exploit.

However, the success of the 1989 ban was short-lived, and in 2002 and 2008 CITES allowed 'one off' sales of stockpiled ivory to Japan and China. This led to a huge increase in demand, largely from the newly affluent Chinese middle classes, who saw ivory as a desirable, high-status commodity. Poaching soared to keep pace with demand, and the legal and illegal markets in ivory flourished across the world.

In their study in 2016, Hsiang & Sekar found 'that a singular legal ivory sale corresponds with an abrupt, significant, permanent, robust, and geographically widespread increase in the production of illegal ivory through elephant poaching, with a corresponding 2009 increase in seizures of raw ivory contraband leaving African countries. The sudden 2008 increase in poaching does not correspond with any abrupt and systemic change in China's or Japan's affluence or influence in elephant range states, as measured by numerous covariates. Our results are most consistent with the theory that the legal sale of ivory triggered an increase'. Hsiang himself admitted that 'We now have pretty striking evidence that these sales can be catastrophic. It backfired in a very bad way.'

Elephants are a highly intelligent, sentient keystone species. 'A keystone species is an organism that helps define an entire ecosystem. Without its keystone species, the ecosystem would be dramatically different or cease to exist altogether.' Elephant activities make significant contributions to the development and management of ecosystems, landscapes and other species. As such the conservation and preservation of this species has far-reaching benefits to the habitat and ecosystems they occupy.

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

Yes

If yes, please provide evidence.:

Please see response to Q2;

it is clear that the CITES ban of 1989 had a beneficial impact on the recovery of elephant numbers, and it is to be expected, by analogy and experience, that any such ban on ivory trade today would achieve the same. Since elephants are a keystone species, it is clear that saving elephants means conserving a much wider network of species, both plant and animal, whose survival depends on elephants.

We believe that the success of the CITES ban – which catastrophically was undermined by the 'one-off' sales of ivory in 1999 and 2008 – proves that global bans on ivory trade do work, and that implementing a ban today would lead to a decline in poaching and help to stabilize decimated elephant populations.

It should be noted that only the US has currently implemented a similar ban to that proposed for the UK. The ban has not been in place for a sufficiently long time for data to be collected and analysed.

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

Yes

If yes, please provide evidence.:

Please see response to Q2

Elephants are an iconic species which make a significant contribution to the tourism industries of African countries. A recent study found that a single elephant is worth 76 times more alive than dead. Therefore, reducing the decline in elephant numbers (which can be achieved through market restriction) has the potential to support and enhance the economies of many African countries.

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

Yes

If yes, please provide evidence.:

Mugisha & Infield's study in 2011 found 'Both biological diversity and cultural diversity are essential to human well being, and their loss increases vulnerability to change, locally and globally. Both types of diversity face common threats, including globalization, homogenization, land use change, technological innovation, and the growing separation between people and nature. Efforts to conserve both culture and nature will be strengthened by integration.' Given the potential that elephant conservation has to support and grow African economies through tourism, it therefore has the potential to improve the quality of lives of local people.

There is also significant evidence that armed terrorist and criminal groups help to fund their operations by smuggling elephant ivory. Removing the demand and market for ivory will help to deplete resources for these groups. Any efforts to combat terror activities are of benefit culturally and socially.

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

Yes

If yes, please provide evidence.:

Per DEFRA's impact assessment, any costs to antiques dealers as the result of a ban will be their one-off loss in re-sale value of any ivory items in their possession.

Individuals who possess ivory items will not be affected by the ban insofar as they can keep those items and hand them on; they simply will not be able to sell them. The ban does not require destruction of any ivory items.

Certain specific exemptions will include musical instruments and museum pieces.

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

Yes

Value :

Volume:

If yes, please provide evidence.:

Between 2010 and 2015 more than 36,000 legal ivory items were exported from the UK, according to legal ivory exports recorded on the trade database maintained by CITES.

Definite numbers for ivory items for sale in the UK were not available to this group and cannot be submitted. However, a recent study found that in terms of auction house sales, ivory comprises an insignificant proportion: ivory lots formed less than 1% of the total number of lots for sale. The report says:

'It is clear the volume and value of ivory pieces sold by each auction house is a very small part of their business. Therefore, tough new restrictions on the UK ivory trade, up to and including a complete ban, cannot seriously be described as a threat to the survival of any auction house.'

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

Yes

If yes, please provide evidence.:

A recent study found that 'out of 232 auction houses surveyed in late 2016-early 2017, ivory lots formed only 0.70% of the total number of lots for sale. An update in Spring 2017 involving 301 auction houses found a similar figure of 0.76%'.

The study also tried to locate any establishments that dealt fully or mainly in items containing ivory, and found none.

It is clear that ivory sales comprise only a very small percentage of auction houses' business. An ivory ban would not put any auction house or antiques dealer out of business.

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

No

Please provide evidence to support your view.:

AFEUK aspires to a full ban on ivory sales within the UK. However, we acknowledge the government's preferred option which contains limited exemptions and

offer comments on the form and nature of such exemptions.

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

Yes

Please provide evidence to support your view.:

Scope of exemption for musical instruments:

Musical instruments which are at least 100 years old (which should be a rolling date, terminating in 2047) containing ivory that is less than 20% of the item by volume and less than 200 grams in weight. This would allow instruments to be taken abroad, bought or sold. Each instrument would need to have proof of provenance and an MIC certificate already required under DEFRA rules.

A separate item-specific exemption may be needed for some instruments such as pianos and bagpipes which may contain up to 270 grams of ivory by weight, but less than 20% by volume.

10a. If this category of exemption were implemented as you suggest, what proportion of the existing trade in items containing ivory would you expect to be exempt from the ban? Please provide evidence.:

We are aware of a survey conducted by the Musicians' Union which could provide insight into the percentage of instruments that would be included in the exemption. However, this information has not been made public.

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

Not Answered

If yes, please provide evidence.:

We are aware of a survey conducted by the Musicians' Union which could provide insight into the percentage of trade in instruments. However, this information has not been made public.

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

No

Please provide evidence to support your view.:

AFEUK aspire to a full ban on ivory sales within the UK. However, we acknowledge the government's preferred option which contains limited exemptions and offer comments on the form and nature of such exemptions.

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

Yes

Please provide evidence to support your view.:

We would like to see a total ivory ban, with a de minimis exemption which is less than 200 grams in weight and less than 5% of the item by volume. We would like to see a ban that stops all ivory items being bought and sold in the UK.

This exemption should apply only to items that are at least 100 years old, on a rolling basis (this being the generally recognised criterion for classifying an antique).

We believe there should be a separate exemption and de minimis for musical instruments.

Any ban should not require the destruction of any ivory product. Family heirlooms and historic items which are made from ivory or contain ivory should be allowed to be passed down to family members, or given to museums, but they will not be able to be bought, sold or traded for goods in kind.

13a. If this category of exemption were implemented as you suggest, what proportion of the existing trade in items containing ivory would you expect to be exempt from the ban? Please provide evidence.:

There are no studies/surveys that have collected data on this at this moment.

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

Please provide evidence to support your view.:

See above (13) for specific de minimis amounts.

16 How should the de minimis exemption operate in practice?

Please provide detail here.:

The success of the ban and new regulations will depend on effective policing and enforcement. It is vital that the government provide adequate training and resources to accurately monitor and evaluate items that are offered for sale.

A national registration database should be created and registered items (at the point of sale) should be issued with a unique reference number. The registration procedure should include a photograph, a description of the item (with any identifying characteristics) and a statement of historic value by an independent qualified expert.

The national register should be updated with every subsequent re-sale and ownership details. DEFRA should maintain the register and work closely with law enforcement agencies to detect and eliminate any fraudulent activity.

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

No

Please provide evidence to support your view.:

The majority of musical instruments would not fall within the de minimis exemption we propose (5% volume; see q. 13) and therefore musical instruments should be covered in a separate exemption class with a 20% de minimis.

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

Please provide evidence to support your view.:

This category should apply only to legitimate acquisitions by museums. We envisage that the remit for authorising exempt objects would fall on the Department for Digital, Cultural, Media and Sports. The criteria should be similar to the Waverley Criteria used for the export of historically important objects and a similar committee of independent expertise should be created to authorise exemptions.

We believe that the exemption for items of historical or cultural value should be merged with the museum exemption to create a single class of exemption of 'items of significant historical value' and that these can only be sold to museums.

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

N.A. The data are not available for this type of sale and currently there do not appear to be any criteria to determine historical or cultural value for items in the general market, as opposed to museums and similar institutions.

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

Please provide detail here.:

We strongly disagree with this exemption (see Q17). We recommend that this category is changed to 'items of significant historical importance' and that these can only be sold to museums.

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

No

Please provide evidence to support your view.:

We do not agree with this category as it's too vague and would create an enormous loophole for people to sell ivory and would be impossible to enforce. We believe that items of significant historical interest should be registered to museums only (see Q20).

We recommend that this category is changed to 'items of significant historical importance' and that these can only be sold to museums.

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

No

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

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

No

Please provide evidence to support your view.:

AFEUK aspires to a full ban on ivory sales within the UK. However, we acknowledge the government's preferred option which contains limited exemptions and offer comments on the form and nature of such exemptions.

Museums should be allowed to acquire, display, and exchange collections around the world, so items can travel and be saved for posterity.

We agree, per IFAW, that:

'Saving items of significant historical importance through museums should be verified through a radiocarbon dating test and then approved by an independent expert panel of key museum experts to determine if the item is of significant historical interest. Defra would need to develop criteria to assess individual items and

make sure that only items which are of significant historical importance can be sold to museums and saved for the nation.'

A system of registration and licensing should be introduced to validate and approve museums and similar institutions that may wish to use the exemption for items of historic and cultural value. The validation process should be such that only bona fide institutions are included on the register as legitimate entities for the benefit of the proposed legislation. Such a system would help to ensure that new 'museums' of dubious nature do not spring up to take advantage of this exemption.

The Department For Digital, Culture, Media and Sport would need to develop criteria for assessing individual items and to make sure that only items deemed to be of significant historical importance can be bought or sold and saved for the nation.

22 Do you think we should consider any other exemptions to this ivory ban?

No

Please provide evidence to support your view.:

We believe that exemptions should apply as narrowly as possible, and solely according to the criteria specified above. The aim of the ban is not only to prohibit all trade in ivory but also to divest it of any commercial value, so it will no longer be seen as something to covet.

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

No

If yes, please provide evidence.:

N.A. The exemptions being proposed have not been considered as distinct groups and therefore data on scale, value and volume are not collated to reflect the classes of exemptions.

26 Do you think that it should be for those involved in the sale to demonstrate that an item falls into an exempted category?

Yes

Please provide evidence to support your view.:

The onus is on the seller to demonstrate that their item meets the criteria for an exempted category. Provenance and proof of age of any item for sale are required from the seller.

How might this be enforced?:

The enforcement of such exemptions should be carried out by the police and the WCU.

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

Yes

Please provide evidence to support your view.:

DEFRA is the government agency concerned with the trade of endangered species, and should be responsible for coordinating enforcement of the ban, along with a panel of independent experts from accredited institutions.

Policing of the ban should be carried out by the National Wildlife Crime Unit, the Border Force, and other specialist wildlife crime agencies and regular law enforcement resources. The enforcement agencies should be sustainable and sufficiently funded and resourced to enable them to carry out this task.

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

Yes

Please provide evidence to support your view.:

It should be a criminal offence to be found in breach of the ban. We believe that this and other breaches of wildlife law should be treated as serious crimes and that penalties should reflect the seriousness of such offences, including mandatory custodial sentences for all but the most minor breaches. We believe that fines alone do not provide a sufficient deterrent and that offenders should be made an example of with custodial sentences that should be proportionate with the crime. (For instance, we do not think that a 14-month sentence for being found in possession of rhino horns, elephant tusks and hippo teeth sends the right message at all - given the highly lucrative nature of such trade, short sentences such as this and low fines will not deter criminals.)

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

Yes

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

This ban is long overdue. It was promised by the government in election manifestos in 2010 and 2015, and it has gained overwhelming support from the public as well as conservationists. Elephants have reached a critical crossroads in their millennia of existence on earth, when their numbers are being exterminated by poaching faster than their reproductive cycle allows them to be replaced – this puts them on a path to extinction. It has been amply demonstrated that elephants are a keystone species necessary for the healthy functioning of entire ecosystems.

Beyond this are the moral arguments which compel us to take responsibility for one of the worst episodes of species destruction in history – all for the sake of

coveting ivory. This ban will send the unequivocal message: trade in ivory is dead, never to rise again.

To save this remarkable species requires unity of action from all countries, primarily with shutting down ALL domestic ivory markets, legal and illegal. This will cut off demand which will lead to a decline in poaching. The UK has made international commitments to that goal, and this ban is an opportunity to turn those pledges into action and for the UK to take a global leadership role in saving this species.

This ban will also offer the opportunity for museums to promote an understanding of ivory and its trade through the centuries, and to relegate such trade to history once and for all. The Chinese government included an educational element in their ban, and similarly in the UK every opportunity should be taken to educate people about the destructive nature of the ivory trade and its detrimental impact on elephant populations.

DEFRA should also produce clear guidelines for the general public and the professional trade on what is and what is not permissible. The US Fish and Wildlife Service introduced a section on their website to help educate people about the US ban, and DEFRA should consider providing a similar service as well as other informational resources.

The following references have been used in answer to the questions above.

1. 'Ivory: The Grey Areas'

<http://nebula.wsimg.com/6f0b004320ee4728dbddf1b283dd4ec?AccessKeyId=2128905E8DEC809DE8B5&disposition=0&alloworigin=1>

2. British Antiques Dealers Association - <http://www.bada.org/index.pl?id=2210>;

3. The Ivory Project - <http://www.port.ac.uk/school-of-law/research/the-ivory-project/>

4. Lau, W., Crook, V., Musing, L., Guan, J., Xu, L., 2016, A Rapid Survey of UK Ivory Markets, Traffic Report

5. Lemieux A. M., Clarke R. V. , 2009, The International Ban on Ivory Sales and its Effect on Elephant Poaching in Africa, Brit J Criminol 49, 451-471

6. Hsiang, S., Sekar, N, 2016, Does Legalization reduce Black Market Activity? Evidence from a Global Ivory Experiment and Elephant Poaching Data

7. <https://www.theguardian.com/environment/2016/jun/13/legal-ivory-sale-drove-dramatic-increase-in-ivory-poaching-study-shows>

8. <https://www.nationalgeographic.org/encyclopedia/keystone-species/>

9. <http://www.savetheelephants.org/about-ivory-2-3-2/importance-of-ivory/>

10. 'The ivory trade isn't just a disaster for elephants. It threatens our future too' by Ian Redmond.

<https://www.theguardian.com/commentisfree/2016/aug/12/ivory-trade-ivory-forests-forest-poachers>

11. <https://blogs.scientificamerican.com/extinction-countdown/elephants-are-worth-76-times-more-alive-than-dead-report/>

12. Mugisha, K., Infield, M., 2011, Rethinking Protected Areas in a Changing World: Proceedings of the 2011 George Wright Society Conference on Parks, Protected Areas, and Cultural Sites

13. Christy, B., 2015, 'How Killing Elephants is Financing Terror in Africa', National Geographic

14. <https://eia-international.org/uk-largest-supplier-worlds-ivory-markets>

15. 'Ivory: The Grey Areas'

<http://nebula.wsimg.com/6f0b004320ee4728dbddf1b283dd4ec?AccessKeyId=2128905E8DEC809DE8B5&disposition=0&alloworigin=1>

16. 'Ivory: The Grey Areas'

<http://nebula.wsimg.com/6f0b004320ee4728dbddf1b283dd4ec?AccessKeyId=2128905E8DEC809DE8B5&disposition=0&alloworigin=1>

17. The Waverley Criteria are: • Is it so closely connected with our history and national life that its departure would be a misfortune? • Is it of outstanding aesthetic importance? • Is it of outstanding significance for the study of some particular branch of art, learning or history?

18. 'Public urged to show support for UK ivory ban to protect elephants as Government launches consultation'

<http://www.ifaw.org/united-kingdom/news/public-urged-show-support-uk-ivory-ban-protect-ivory-forests-forest-poachers>

19. 'Man jailed after rhino horns and elephant tusks are found in attic'

<https://www.theguardian.com/uk-news/2017/nov/10/man-jailed-after-rhino-horns-and-ivory-tusks-found-in-attic>

Please upload here any evidence you have referred to in any of your answers.:

No file was uploaded

Consultee Feedback on the Online Survey

1 Overall, how satisfied are you with our online consultation tool?

Satisfied

Please give us any comments you have on the tool, including suggestions on how we could improve it. :