



Department  
for Environment  
Food & Rural Affairs

# Banning UK sales of ivory

October 2017



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# Summary

<p><b>Topic of this consultation</b></p>	<ul style="list-style-type: none"> <li>• Proposal to implement 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, 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.</li> <li>• Call for evidence on the impacts of the proposed ban, including on elephant conservation and the natural environment, economic impact, cultural impact, and on businesses;</li> <li>• Seek views on the scope of the proposed exemptions, and how they could operate; and</li> <li>• Seek views on how this ban should be enforced.</li> </ul>
<p><b>Scope of this consultation</b></p>	<p>This consultation aims to address proposed measures to ban UK sales of ivory and to prohibit the import and export of ivory for sale to and from the UK, where such sales could contribute either directly or indirectly to the poaching of elephants.</p>
<p><b>Geographical scope</b></p>	<p>The proposals would extend and apply to the UK, including Scotland, Wales and Northern Ireland.</p>
<p><b>To</b></p>	<p>This consultation has particular relevance to:</p> <ul style="list-style-type: none"> <li>• Individuals or groups with an interest in elephant conservation</li> <li>• Individuals or businesses who buy, sell, import and export ivory</li> <li>• Individuals who own ivory goods and may have an interest in buying/selling them in the future</li> <li>• Associations or organisations representing businesses or individuals who buy and sell ivory</li> <li>• Businesses or organisations with a commercial interest in the preservation of elephants.</li> <li>• Governments who are considering measures to restrict their own domestic ivory markets</li> </ul>

<b>Body responsible for the consultation</b>	This consultation is being carried out by Defra's International Team on behalf of the UK government.
<b>Duration</b>	Consultation starts: 6 October 2017 Consultation ends: 29 December 2017
<b>Enquiries</b>	During the consultation, if you have any enquiries or wish to receive hard copies of the documents, please contact:  ivoryconsultation@defra.gsi.gov.uk
<b>How to respond</b>	Written responses can be submitted to:  International Team – Ivory consultation Area 1E Nobel House 17 Smith Square London SW1P 3JR Email: <a href="mailto:ivoryconsultation@defra.gsi.gov.uk">ivoryconsultation@defra.gsi.gov.uk</a>  Or completed online via <a href="https://consult.defra.gov.uk/international/banning-uk-sales-of-ivory">https://consult.defra.gov.uk/international/banning-uk-sales-of-ivory</a>  Responses must be submitted by 29 December 2017.
<b>After the consultation</b>	Following the consultation period we will summarise the responses and place this summary on our website at <a href="http://www.gov.uk/government/publications?publication_filter_option=consultations">www.gov.uk/government/publications?publication_filter_option=consultations</a> .  Copies of responses will be made available to the public on request. If you do not want your response – including your name, contact details and any other personal information – to be publicly available, please say so clearly in writing when you send your response to the consultation. Please explain why you need to keep details confidential. We will take your reasons into account if someone asks for this information under freedom of information legislation. But, because of the law, we cannot promise that we will always be able to keep those details confidential. Please note, if your computer automatically includes a confidentiality disclaimer, this will not count as a confidentiality request.
<b>Compliance with Consultation Principles</b>	This consultation is in line with the government's Consultation Principles. This can be found at <a href="http://www.cabinetoffice.gov.uk/resource-library/consultation-principles-guidance">www.cabinetoffice.gov.uk/resource-library/consultation-principles-guidance</a> .

# Part 1: Context

It is difficult to imagine an animal more internationally recognised and revered than the elephant. Since 2006, however, the total number of elephants in Africa has decreased by approximately 21% with numbers of savanna elephants alone declining by 30% (equal to 144,000 elephants) between 2007 and 2014, primarily due to poaching.<sup>1</sup> This poaching is driven by consumer demand for ivory and speculative acquisition of ivory.<sup>2</sup>

If current rates of poaching continue, elephants could become extinct within decades in some African countries, meaning that future generations of children might only see these majestic creatures alive in zoos. Currently, Asian elephants are listed as endangered on the IUCN red list of threatened species<sup>3</sup> while African elephants are classified as vulnerable<sup>45</sup>. This is a high price to pay for ornaments and other decorative items.

Their decline in the wild also has a detrimental impact on the natural environment where they live. They are often defined as a “keystone” species, meaning that they affect an entire ecosystem. If keystone species become extinct, this would likely lead to an irreparable change to their environment. Elephants support the ecosystems where they live by dispersing seeds crucial for new plant and tree life to grow, in forested areas they create gaps in the canopy encouraging tree regeneration and in the savannahs they clear tree and shrub species, allowing grass to grow that in turn provides food for other species.

Their decline would also deprive some of the poorest countries in the world of their natural resources. This could affect economic growth and sustainable development as wild elephants generate tourism revenue and also bring in funding for wider conservation projects.

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<sup>1</sup> <http://www.greatelephantcensus.com/blog/2016/8/31/press-release-great-elephant-census-final-results>

<sup>2</sup> UNODC World Wildlife Crime Report, 2016, [http://www.unodc.org/documents/data-and-analysis/wildlife/World\\_Wildlife\\_Crime\\_Report\\_2016\\_final.pdf](http://www.unodc.org/documents/data-and-analysis/wildlife/World_Wildlife_Crime_Report_2016_final.pdf),

<sup>3</sup> Choudhury, A., Lahiri Choudhury, D.K., Desai, A., Duckworth, J.W., Easa, P.S., Johnsingh, A.J.T., Fernando, P., Hedges, S., Gunawardena, M., Kurt, F., Karanth, U., Lister, A., Menon, V., Riddle, H., Rübél, A. & Wikramanayake, E. (IUCN SSC Asian Elephant Specialist Group). 2008. *Elephas maximus*. The IUCN Red List of Threatened Species 2008: e.T7140A12828813.  
<http://dx.doi.org/10.2305/IUCN.UK.2008.RLTS.T7140A12828813.en>. Downloaded on **04 July 2017**.

<sup>4</sup> Blanc, J. 2008. *Loxodonta africana*. The IUCN Red List of Threatened Species 2008: e.T12392A3339343.  
<http://dx.doi.org/10.2305/IUCN.UK.2008.RLTS.T12392A3339343.en>. Downloaded on **04 July 2017**

<sup>5</sup> There are two species of elephants – the African Elephant (*Loxodonta Africana*) and the Asian Elephant (*Elephas Maximus*). There are two subspecies of African elephant, the bush elephant and the forest elephant. There are three subspecies of Asian elephant, the Indian, Sumatran and Sri Lankan elephants.

Poaching also has a wider impact due to the corruption and fraud that surrounds the movement of illegally sourced wildlife products into legal markets. A permit can transform contraband worth millions of pounds into legitimate merchandise in legal ivory markets. Transnational trade continues to grow at rates exceeding our collective ability to regulate, allowing wildlife products to be laundered through legal markets, increasing the demand and subsequent price for ivory products.<sup>6</sup>

Urgent and decisive action needs to be taken to combat this problem. The government is proposing a total ban on UK sales of ivory, and the import and export of ivory for sale to and from the UK, where such sales could contribute either directly or indirectly to ivory poaching, with some narrowly defined exemptions.

Action is required to help protect this iconic species, to help conserve the ecosystems where they live, and to make sure that future generations inherit a world with elephants. This ban would send the clearest possible signal that the UK does not tolerate the poaching of elephants for their ivory and demonstrates that we are world leaders in the fight against the ivory trade.

We recognise, however, that there should be some narrowly defined exemptions to a ban. Such exemptions would be permitted when it would be understood that both the continuation of sales of certain categories of items will contribute neither directly nor indirectly to ivory poaching, and the intrinsic value of that item is not due to its ivory content.

Some other countries have already taken action to restrict their domestic markets. We believe that our action will go further, and could make our rules amongst the toughest in the world.

### **Other countries' restrictions**

Some other countries have already taken action to restrict their domestic markets. The United States has imposed a federal, 100 year rolling ban, with a “de minimis” exemption for items containing less than 200g ivory, and comprising less than 50% ivory by value and volume, and for musical instruments containing ivory. Some states, including California and New York, have also applied stricter regulations, such as a 5% de minimis threshold in California.

China has also announced its intention to ban all ivory trade and processing activities by the end of 2017, although it is expected will continue to permit the transport, gifting and display of ivory, and the auction of ivory “relics”.

France is proposing 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.

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<sup>6</sup> Defining transnational organized wildlife crime [https://www.unodc.org/documents/data-and-analysis/wildlife/WLC16\\_Chapter\\_1.pdf](https://www.unodc.org/documents/data-and-analysis/wildlife/WLC16_Chapter_1.pdf). Downloaded on 11 July 2017

## Current rules

Currently, the international trade in ivory is controlled by rules set by the Convention on the International Trade in Endangered Species (CITES). These rules are implemented in the UK through EU Regulations. The Animal Plant and Health Agency (APHA) is the UK's CITES Licensing Authority.

Traders must apply to APHA for the appropriate permits or certificates if they want to:

- import or (re-) export items containing ivory from/to a country outside the European Union
- use ivory in commercial activities<sup>7</sup> within the EU.

The UK's policy is not to issue documents authorising the sale of, or other commercial trade in, raw African Elephant ivory of any age.

At the moment, for worked ivory items produced before 3 March 1947, traders do not have to apply to the APHA for certificates to authorise trade in ivory within the UK or other EU countries, but a permit is needed to import/re-export ivory outside the EU.<sup>8</sup>

And already, for worked ivory items produced on or after 3 March 1947, commercial use within the UK or other EU countries is only permitted with a commercial use certificate granted by a Member State Management authority (for the UK, this will be the APHA). Issuance of certificates is subject to case-by-case assessment. Under CITES, there has been a ban on international commercial trade in ivory since 1990.

Our proposed ban would seek to go significantly further. We propose to prohibit ivory sales in the UK, and to prohibit the import and export of ivory for sale to and from the UK. By sales we mean the sale, offer of sale, purchase, offer to purchase, keeping for sale and transporting for sale. Imports and exports for sale will also cover intra-EU trade to and from the UK.

A ban should not be seen in isolation, but as part of a comprehensive response to protect elephants from extinction. The UK is already a leader in protecting and conserving

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<sup>7</sup> 'Commercial use' covers purchase, offer to purchase, acquisition for commercial purposes, display to the public for commercial purposes, use for commercial gain and sale, keeping for sale, offering for sale or transporting for sale

<sup>8</sup> Worked specimens is defined as specimens that were significantly altered from their natural raw state for jewellery, adornment, art, utility, or musical instruments, more than 50 years before the entry into force of this Regulation and that have been, to the satisfaction of the management authority of the Member State concerned, acquired in such conditions. Such specimens shall be considered as worked only if they are clearly in one of the aforementioned categories and require no further carving, crafting or manufacture to effect their purpose;

elephants. We work with international partners, including through CITES to protect elephants.

At the 17th Conference of the Parties to CITES, which took place in Johannesburg in 2016, there was also a clear direction to close national ivory markets where these fuel poaching and illegal trade and to take decisive action to strengthen National Ivory Action Plans which help combat ivory trafficking in key markets.<sup>9</sup> The conference also voted against a resumption of trading in modern day ivory, in line with domestic UK action.

The UK has also supported the Illegal Wildlife Trade conferences in London in 2014, Kasane in 2015 and Hanoi in 2016, and looks forward to welcoming global leaders back to London in 2018. We also fund a number of projects overseas through our Illegal Wildlife Trade Challenge Fund which aim to halt habitat loss, as well as training anti-poaching rangers in key African states. The Darwin Initiative funds projects to support biodiversity and protect endangered species.

We believe that only a total ban of ivory sales that might contribute either directly or indirectly to the poaching of elephants will meet our commitments to protecting elephants. It would also close loopholes in current legislation which present opportunities to launder poached ivory through legal markets.

The UK has been at the forefront of driving global efforts to safeguard the world's most vulnerable species and we will remain committed to protecting global wildlife for generations to come. Renewed UK leadership in this area and a commitment to close all legal ivory markets would help reduce the price of ivory and thus the incentive to poach, helping to prevent the killing of thousands of elephants per year.

## What do we hope to achieve?

By banning the sale of ivory in the UK, as well as prohibiting the import and export of ivory for sale to and from the UK, including intra-EU trade to and from the UK, we will send a global signal that trading ivory is not acceptable. We will send a strong signal that the UK does not condone continued demand for ivory.

While there have been global efforts to ban the trade of new ivory, for example the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) has banned the trade in new ivory from Asian elephants since 1975 and from African elephants since 1990, global trade in older ivory continues to be widely permitted. Other countries have also taken steps to ban the sale of ivory and ivory products within their domestic markets. Ivory is still, however, seen by many as a desirable commodity, and connotations of luxury and quality help to maintain a high price for both legal and

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<sup>9</sup> Res Conf 10.10 (Rev CoP17): <https://cites.org/sites/default/files/document/E-Res-10-10-R17.pdf>.

illegally-sourced ivory.<sup>10</sup> The legal trade continues to incentivise poaching by creating a demand for new ivory products and can also provide a way to launder fresh ivory from illegally killed elephants.

We believe that the legal market presents opportunities for criminals to launder recently poached ivory as old ivory products. We want to remove any possibility that this could happen by placing very strict restrictions on what may be legally traded within the UK. Part of this will be to prevent items being exported from the UK to “demand” markets: those which are also destinations for newly poached and illegally-sourced ivory. This will prevent products from the UK contributing to markets which create a demand for ivory, driving poaching and the illegal trade in ivory. Sales of ivory products, including larger items of solid ivory, present a risk in terms of opportunity to pass off illegally-sourced ivory as legitimate.

Statistics from the Elephant Trade Information System signify that the illicit ivory trade and the weight of ivory involved are now three times greater than in 1998<sup>11</sup>.

## Proposal:

The purpose of this consultation is 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 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 impacts of the proposed ban, including on elephant conservation and the natural environment, economic impact, cultural impact, and on businesses;
- Seek views on the scope of the proposed exemptions, and how they could operate; and
- Seek views on how this ban should be enforced.

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<sup>10</sup> TRAFFIC’s data show that since 2011, the average price of ivory by weight in physical markets in China has been around 30 yuan/g (4.5 USD/g), [An act to save African Elephants - A ban on commercial ivory trade in China: A feasibility study briefing \(PDF, 6 MB\) by Xu, Y.; Xiao, Y.; Guan, J. and Lau, W. \(2016\). WWF and TRAFFIC, Beijing, China.](#)

<sup>11</sup> UNEP, CITES, IUCN, TRAFFIC (2013). *Elephants in the Dust – The African Elephant Crisis. A Rapid Response Assessment*. United Nations Environment Programme, GRID-Arendal. [www.grida.no](http://www.grida.no).

## Part 2: Proposals

### What are we proposing?

We are proposing to implement a total ban on ivory sales<sup>12</sup> in the UK that could contribute either directly or indirectly to the continued poaching of elephants, and to prohibit the import and export of ivory for sale to and from the UK, including intra-EU trade to and from the UK.

A total ivory ban would prevent anyone in the UK from buying, selling, importing or exporting ivory for sale unless the items was subject to an exemption. We are proposing four categories of exemptions that will need to be strictly defined and enforced to prevent exploitation. These are:

- Allowing the continued sale of musical instruments which contain ivory.
- Allowing the continued sale of items which contain a small percentage of ivory, and where the ivory is integral to the item - a “de minimis” exemption.
- Allowing the continued sale of items which are of significant artistic, cultural and historic value.
- Allowing the continued sale of ivory to museums, and between museums.

Further information about these exemptions and how they would work in practice is set out later in the consultation document. Even with these exemptions, we believe that our rules will be amongst the toughest in the world.

Our proposed changes will not affect the right to own, gift, receive, bequeath or inherit ivory, as existing rules in respect of this specific area will continue to apply. You would not, however, be allowed to sell those products in the UK, and we will not issue export permits to allow them to be sold in legal markets in the EU or third countries.

We also do not intend this policy to affect the display of ivory and ivory products in, for example, museums, galleries, stately homes or other similar places, or the ability of musicians to travel abroad with their instruments, including for concerts, where this is currently permitted.

We have previously considered a date-based restriction rather than a total ban, for example a ban on sales of all items of worked ivory produced after 1947. We believe, however, that a total ban has significant advantages over a date-based restriction in terms

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<sup>12</sup> By sales we mean the sale, offer of sale, purchase, offer to purchase, keeping for sale and transporting for sale.

of enforcement as all items containing ivory will be illegal to sell, regardless of their age, unless proven otherwise. Therefore enforcement authorities will be able to assume such an item if offered for sale is illegal unless proof that it meets one of the categories of exemption can be provided. The responsibility for providing this proof will rest entirely with the owner, or putative seller. Under a date-based restriction, it would be necessary to date *all* items to determine if they are permissible. To do so is a difficult and often inaccurate process, requiring the views of antique specialists and potentially even carbon dating technology.

Carbon dating techniques have limited application due to the volume of the sample required, which on smaller or finer items would destroy and/or devalue the item. It would also impose a greater burden on enforcement authorities. Even then, technology struggles to date such items to a particular year, meaning it is difficult to date items to such a level of accuracy to know for certain that an item was created in a particular year.

Under our proposals the underlying principle is that sales of ivory are banned, unless an exemption applies. We believe it would be easier to demonstrate that an item falls into an exempted category rather than on the right side of a date-based restriction, making our proposals easier to understand and easier to enforce should enforcement bodies need to prove that an item fell outside one of the limited exemptions.

Our proposed changes will apply to ivory from all populations of elephants, covering both African and Asian elephants.

## **Q1. Do you agree with the proposed ban?**

## **How are we proposing to make changes?**

### **The current legislative base**

The UK is already bound by international rules on the trade of ivory, through CITES. This is an international conservation agreement which aims to make sure that trade in endangered species does not threaten their survival. The convention entered into force in 1975 and was ratified by the UK in 1976.

CITES is implemented in the European Union primarily through Council Regulation (EC) No. 338/97 on the protection of species of wild fauna and flora by regulating trade, and Commission Regulation (EC) No. 865/2006, which lays down the detailed rules concerning implementation of Council Regulation No. 338/97. Together these regulations establish the legal framework within which the UK must implement its CITES obligations.

The EU regulations are directly applicable in all member states. However there are certain areas, such as enforcement, where the EU regulations require national measures, or where member states retain the power to adopt additional measures. These are currently

enacted in UK law by the Customs and Excise Management Act 1979, the Control on Trade in Endangered Species (Enforcement) Regulations 1997 and the Control on Trade in Endangered Species (Ports of Entry) Regulations 1985, and by various Statutory Instruments amending the COTES Regulations. Defra and its Executive Agency, the Animal and Plant Health Agency are the UK CITES Management Authority and are responsible for ensuring that CITES is properly implemented in the UK through a licensing regime.

Rules on the ivory trade in the UK are derived from EU regulations, which contain rules on when permits or certificates will be required for trading in ivory and set out conditions that must be satisfied before such documents may be issued. Member state management authorities are responsible for applying these rules.

## **Proposed changes**

We propose to implement the described ban on the sales of ivory through primary legislation, as soon as Parliamentary time allows. We will continue to have regard to our EU obligations for such time as we are a member of the EU, recognising that EU law allows for the adoption of stricter measures than those contained in the EU Wildlife Trade Regulation for the purposes of environmental protection.

## **Part 3: Impact and call for evidence**

Before we take any action, we want to fully understand the potential beneficial and adverse impacts to individuals, businesses and the natural environment, including species conservation, and any other affected sectors. We welcome evidence of the impact our proposals could have in these areas, particularly evidence on the scale of the impact. We welcome evidence on whether you consider any action is required to mitigate any adverse impacts or if there are additional actions that could be taken to increase beneficial impacts.

### **Conservation:**

Banning the sale of ivory in the UK will send a strong message that the lives of elephants are worth more than furniture or ivory carvings. We believe that elephants are most valuable alive in the wild.

We believe elephants have an intrinsic value which warrants robust efforts to protect them. Future generations, both in the UK and abroad, should live in a world where elephants are not confined to history.

This is unsurprising in view of the widespread membership amongst the UK population of conservation charities and organisations concerned with endangered species - and elephants in particular. The British public donates generously to wildlife conservation charities, with the ten highest earning wildlife and conservation charities in the UK raising

£329 million in June 2017.<sup>13</sup> Every year 25 million people visit zoos, aquariums and wildlife parks across the British Isles,<sup>14</sup> and many more enjoy wildlife documentaries.

Beyond their intrinsic value, elephants play a critical stabilising ecological role: by controlling and creating habitats for other wildlife to flourish; and by dispersing undigested seeds and nuts that enrich the soil and provide food for smaller animals and birds, and maintain plant diversity.

Such ecological and cultural value also provides tangible economic benefits to African and Asian countries as the presence of wild elephants supports tourism. Research into the relationship between visitor expenditure and elephant populations suggests that around £25 million in economic benefits each year has been lost because of the effects of poaching on tourism, especially in the savannah areas of east, southern and west Africa, where elephants are most visible.<sup>15</sup>

Closing the legal ivory market in the UK will end opportunities for criminals to use it to launder recently poached ivory by passing it off as antique, so therefore legal. We will play our part in the global movement to take action on the ivory trade, encouraging other countries to take action, reducing demand and depriving poachers of their market.

We need, however, more evidence from consultation respondents to measure the scale of the economic, environmental and cultural benefits of our proposed ban, as well as evidence on the wider impact similar bans have had to curtail the illegal trade in ivory.

**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?**

**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?**

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

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<sup>13</sup> [http://www.charitytrends.org/SearchTool\\_Step1.aspx?reset=true](http://www.charitytrends.org/SearchTool_Step1.aspx?reset=true)

<sup>14</sup> <https://biaza.org.uk/>

<sup>15</sup> R. Naidoo et al, Estimating the economic losses to tourism in Africa from the illegal killing of elephants, *Nature Communications* (2016)

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

### UK business

The UK is the largest importer and exporter of art and antiques in Europe and a global centre for trade in art and antiques. Information collected for the purposes of permitting show that ivory has been used for a diverse range of purposes. Our proposed measures will, we estimate, affect fewer than 5,000 UK businesses in the art and antiques sector. The measures will also affect individuals who own ivory or items containing ivory, as they would no longer be able to sell these items unless they were proven to fall into one of the categories of exemption. Some (professional) musicians who use musical instruments such as pianos with ivory keys, violin bows with ivory, and bagpipes with ivory, may also be affected, as they would require certification to sell these instruments. They are not designed to prohibit the display of ivory products by, for example, museums, where this is currently permitted.

Based on information on sector turnover and the proportion of items for sale that contain ivory, we estimate that there will be some financial impact to the UK economy of banning the sale of worked ivory. An Impact Assessment to accompany this consultation document will set out the case for the ban and outline the potential effects on business. This consultation will help us better understand the type and scale of these effects and will inform an updated Impact Assessment.

The proposed changes will affect all businesses and individuals buying and selling ivory (including import, export or re-export). The impact is likely to cover the following major elements:

- All businesses that sell or may be expected to sell ivory, would need to familiarise themselves with any changes to regulations. This would represent a one off cost.
- Antique dealers and any other businesses that hold residual stocks of items containing ivory at the point at which these new measures come into effect would no longer be able to sell these items unless they qualify for an exemption. This loss of inventory would be a one off cost for these businesses. There might also be an annual ongoing cost from no longer being able to sell and profit from these items.
- Auction houses that sell ivory items might lose commission revenue. This would be an annual on-going cost.
- Individuals who own or inherit items containing ivory will not be able to sell these items unless they qualify for an exemption. This could represent a one off cost.

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

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

**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?**

## **Exemptions**

We accept that there are some categories of items containing ivory which should be subject to some strictly limited exemptions, such as where it is understood that both the continuation of sales of those categories will not contribute either directly or indirectly to ivory poaching and the intrinsic value of that item is not due to its ivory content. These exemptions would apply to domestic sales, imports, exports, and re-exports, including to the EU. They will need to be strictly defined and enforced to prevent exploitation.

## **Musical instruments**

Other countries that have restricted their markets have exempted the sale of musical instruments from these restrictions – this includes the United States federal ban.

**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?**

## **De minimis**

Other countries have also created exemptions for items which contain only a small proportion of ivory – a “de minimis” exemption. This recognises that in some items the

ivory content is incidental to the attraction and value of the item. For such items the ivory content is also likely to be integral, meaning it could not be removed and refashioned. Items in this category could be pieces of antique, ivory-inlaid furniture. A de minimis exemption would prohibit items that are solid ivory, or comprised largely of ivory.

The United States has, for example, imposed a federal, 100 year rolling ban, with a de minimis exemption for items containing less than 200g ivory, and comprising less than 50% ivory by value and volume. Some individual states have stricter regulations, for example California has a de minimis threshold of 5% by volume.

**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?**

## **Items of significant artistic, cultural or historical value**

An exemption for items of genuine artistic, cultural or historic value would recognise that some items which contain, or are made of ivory, are significant for other reasons. Items in this category could be exempted from a ban because their value lies in their artistry, cultural significance or historic provenance, as opposed to their ivory content. Any exemption of this kind would need to be strictly defined to ensure that only the rarest and most important items are exempted.

It would also need to be subject to robust and transparent oversight and control, for example through a certification scheme administered by a panel of licensed specialists.

**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?**

## **Allowing the continued sale of ivory to museums.**

While we are clear that our proposed ban would not impact the display of items by museums, or prevent museum-to-museum loans, we recognise that there may be some cases where museums may want to sell or exchange items containing ivory to/with other museums. We also recognise that there may be some items owned by private individuals that are of such importance they may be valuable to museums. As such we could continue to allow sales between, or to, museums under the proposed ban.

**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.**

## **General questions on exemptions**

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

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

## Part 4: Enforcement

### Enforcing the ban

The current rules around the trade of ivory are complex. By implementing a total ban on sales which might contribute either directly or indirectly to the poaching of elephants we will be able to provide more clarity about what is and is not allowed. This, we believe, will be easier to enforce.

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

**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?**

**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?**

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