

Implementing the Ivory Act

Consultation response

May 2021

[Wildlife and Countryside Link](#) (Link) is the largest environment and wildlife coalition in England, bringing together 58 organisations to use their strong joint voice for the protection of nature.

Introduction

- We welcome this consultation from the Department of the Environment, Food and Rural Affairs, and the proposals it advances to implement the Ivory Act.
- We have provided responses to the questions where the expertise of our members can add relevant evidence and suggest useful enhancement to the core proposals. Our responses to consultation questions include:
 - A reminder of the democratic and ecological imperatives to swiftly implement the Ivory Act, after years of delay.
 - A concern that the registration proposals for sets of ivory pieces could open the door to laundering of individual pieces.
 - A request for the implementation of the Ivory Act to be adequately resourced, including administration and enforcement.

Response to consultation questions

Question 2: Do you agree with the proposed approach to commencing the Act?

- Yes. We welcome the intention expressed in the consultation to lay implementing secondary legislation before Parliament 'as soon as possible' after this consultation closes. It is important to highlight how delayed implementation of the Ivory Act has been. Thirty months on from Royal Assent, enforcers are still not able to use the Act to tackle the trade in ivory.
- A key reason has been attempts by some members of the antiques industry to challenge the Ivory Act in the courts. Their main challenge was dismissed by the Court of Appeal in May 2020.¹
- The Ivory Act was first proposed in the 2015 Conservative Party Manifesto. It was introduced by the Government and passed by Parliament three years later. A further three years on from that, with legal challenges at last exhausted, there is democratic imperative to act swiftly to put the will of Parliament into practice and to commence the Act.
- There is also an ecological imperative to commence the Act as soon as possible. The latest estimates suggest that around 15,000 elephants are killed every year for their ivory.² The Ivory Act was introduced by the UK Government to set a global lead in tackling this trade, to prevent elephants from going the way of the rhino. This lead cannot be set whilst the Act remains un-

¹ <https://eia-international.org/blog/court-verdict-on-uk-ivory-act-appeal-recognises-country-as-a-leader-against-illegal-trade/>

² <https://www.nature.com/articles/s41467-019-09993-2>

implemented. Each month of further delay costs the lives of individual elephants, risking the viability of the three elephant species.

Question 3: Do you agree with the proposed approach to the group registration process?

- We are concerned by the proposal to allow a 'set' of objects (including sets of up to 20 distinct objects) to be considered as a single item and to be registered as such.
- This opens a route to laundering illegal ivory products, by disguising them amongst exempted objects.
- Section 3.13 of the consultation paper, which goes into further detail on registration, seems to suggest that such a set of objects could be photographed as a set (as an 'entire single item') within the registration process, rather than as individual pieces.
- Illegal ivory could readily be concealed in such a collective photo, especially considering such photos could cover up to 20 separate pieces of ivory. Earth League International has highlighted the growing trend in China of new ivory being artificially aged with tea and 'blended' with older ivory pieces to avoid detection.³
- The registration process must be cognisant of the high probability of such practices being adopted to disguise new ivory in the UK. Requiring each item of ivory, even if part of a wider set, to be photographed and registered individually – rather than being lost amidst a whole set - will make it easier to detect any such attempted deceptions.
- Sets could still benefit from registration discount fees (as proposed by section 3.17 of the consultation document), preventing legitimate dealers with sets from bearing undue costs whilst still allowing scrutiny of each and every ivory piece.
- Guidance should also be provided to govern the size and quality of all photographs. Allowing blurry and indistinct images to be submitted could also make it easier for a piece of new ivory to be disguised and registered as an antique item.

Question 9: Do you agree with the rationale for not providing exemptions from fees?

- Yes, we agree that there should be no exemption from registration fees. The fees have been set at low levels to encourage compliance, and it is difficult to imagine that the sums involved (£20-£50) will prove impossible to meet for commercial dealers, who have made an active choice to deal these items. Any exemptions from the fee will carry an additional admin cost for the Animal and Plant Health Agency (APHA), reducing their ability to carry out their core administration functions.
- More widely, we would like to stress the need for APHA's administration to be well-resourced. If implementation of the Ivory Act is to be effective, registration administrators should have the resources they need to run a robust scheme, and to spot and highlight concerns. If the initial registration fees prove too low to fund the operation of the registration the Government should consider increasing fees, or even supporting the costs from general funds. This applies also to

³ <https://earthleagueinternational.org/wp-content/uploads/2015/12/EAL-BLENDING-IVORY-Report-Dec2015.pdf> (p27)

the bodies enforcing the Act, including the National Wildlife Crime Unit and the Border Force CITES team.

- Tackling the ivory trade is a Government priority, and benefits from widespread parliamentary and public support. After years of delay, it would be unacceptable for resourcing constraints to further delay the effective implementation of the Ivory Act.
- The importance of having robust structures in place for Ivory Act implementation is increased by the expected extension of the Act to cover other ivory-bearing species.⁴ The work of APHA, the National Wildlife Crime Unit and the Border Force CITES team will be substantial, and resourcing needs to match increasing workload.

Question 12: Do you agree that the proposed list of ‘prescribed institutions’ will be sufficient to provide advice for this exemption?

- The 13 museums named in this consultation are all well qualified to provide advice on historic objects, but this list of 13 should not be seen as exhaustive. As stated above, there is a risk that new pieces of ivory will be disguised as exempt ivory and effectively laundered through the registration system. As such, institutions with particular experience of dealing with illegal ivory trade, and of exposing disguised items, may need to be consulted alongside historic ivory experts when deception is suspected.

For questions or further information please contact:

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This response is supported by the following Link members:

Wild Justice

FOUR PAWS

Badger Trust

IFAW

Whale and Dolphin Conservation

⁴ [https://www.wcl.org.uk/docs/Defra%20call%20for%20evidence%20-%20Link%20non-
elephant%20ivory%20bearing%20species%20response.pdf](https://www.wcl.org.uk/docs/Defra%20call%20for%20evidence%20-%20Link%20non-
elephant%20ivory%20bearing%20species%20response.pdf)