



Department
for Environment
Food & Rural Affairs

Consultation on extending the Ivory Act to other species

July 2021

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Non-Elephant.Ivory@defra.gov.uk

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Introduction

1. We are launching this consultation to seek your views on whether the Government should bring forward legislation to extend the ban on the commercial dealing of elephant ivory in the UK to other ivory bearing species (non-elephant ivory).
2. In the 25 Year Environment Plan, the UK government committed to providing international leadership in protecting and improving international biodiversity and undertaking action to protect endangered species¹. The UK is a world leader in animal protection, and it is our priority to protect the planets most endangered species. In line with this the Ivory Act 2018 received Royal Assent on 20 December 2018. When commenced, it will ban dealing of items made of, or containing elephant ivory, regardless of their age. Dealing means the sale, purchase or hire, and offering to sell, purchase or hire. The ban will apply to dealings taking place within the UK and to exports from and imports into the UK for commercial purposes.
3. Section 37 (2) of the Ivory Act provides a power to amend the scope of the Ivory Act by regulations to include ivory from another animal or species. During the Parliamentary passage of the Ivory Bill, the government committed to gather evidence on this issue and published a call for evidence in May 2019². The summary of responses to the call for evidence was published in November 2020³.
4. The responses to the call for evidence indicated that the circumstances in relation to the UK market for ivory from each of the species under consideration differ from those relating to elephant ivory and from each other.
5. There were some strong sectoral views that the evidence for extending the ban to other species does not support such action. However, the evidence provided indicated that the species most at risk and likely to benefit from a ban is the hippopotamus. Evidence was also submitted to support taking action on a precautionary basis in relation to certain other species listed in the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) (narwhal, killer whale, sperm whale and walrus). In response to the views expressed and evidence submitted in the call for evidence we are consulting on three options

¹ <https://www.gov.uk/government/publications/25-year-environment-plan>

² <https://consult.defra.gov.uk/communications/non-elephant-ivory-trade/>

³ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/933922/non-elephant-ivory-trade-summary-of-responses.pdf

including two to extend the ban in dealing in ivory to other species. The options we are consulting on are to:

- Option 1 - Extend the Act to hippopotamus ivory.
- Option 2 - Extend the Act to ivory from five CITES listed species (hippopotamus, narwhal, killer whale, sperm whale and walrus).
- Option 3 – Do nothing and continue to apply current international and domestic conservation rules.

Scope

6. The species in scope of this consultation are:
- common hippopotamus (*Hippopotamus amphibius*)
 - killer whale, also known as orca (*Orcinus orca*)
 - narwhal (*Monodon monoceros*)
 - sperm whale (*Physeter macrocephalus*)
 - walrus (*Odobenus rosmarus*)

Extent

7. The power to extend the Ivory Act to other species is a devolved matter and is therefore exercisable by the appropriate national authority in Wales, Scotland and Northern Ireland. Defra is consulting on behalf of the devolved administrations, with their agreement. As such, the consultation covers the whole of the UK. Subsequently it may be possible for the UK Government to legislate for the devolved administrations, with their consent.

Responding to this consultation

8. This consultation will run for eight weeks. This is in line with the Cabinet Office's 'Consultation Principles' which advises government departments to adopt proportionate consultation procedures. The consultation opens on 17 July 2021 and closes on 11 September 2021.
9. Please respond to this consultation:
- a. Via the Citizen Space consultation hub, at:
<https://consult.defra.gov.uk/communications/extending-the-ivory-act-to-other-species> ;
 - b. By email, to Non-Elephant.Ivory@defra.gov.uk; or

- c. In writing to Consultation on extending the Ivory Act to other species,
Consultation Coordinator, Defra, 2nd Floor, Foss House, Kings Pool, 1-2
Peasholme Green, York, YO1 7PX

Question 1: What is your name?

Question 2: What is your email address?

Question 3: What is your organisation?

Question 4: Would you like your response to be confidential? A) Yes/No B) If Yes please give your reason

After the consultation

10. A summary of responses to this consultation will be published on the government website at: www.gov.uk/defra. An annex to the consultation summary will list all organisations that responded but will not include personal names, addresses or other contact details.
11. Defra may publish the content of your response to this consultation to make it available to the public without your personal name and private contact details (e.g. home address, email address, etc).
12. If you click on 'Yes' in response to the question asking if you would like anything in your response to be kept confidential, you are asked to state clearly what information you would like to be kept as confidential and explain your reasons for confidentiality. The reason for this is that information in responses to this consultation may be subject to release to the public or other parties in accordance with the access to information law (these are primarily the Environmental Information Regulations 2004 (EIRs), the Freedom of Information Act 2000 (FOIA) and the Data Protection Act 2018 (DPA)). We have obligations, mainly under the EIRs, FOIA and DPA, to disclose information to particular recipients or to the public in certain circumstances. In view of this, your explanation of your reasons for requesting confidentiality for all or part of your response would help us balance these obligations for disclosure against any obligation of confidentiality. If we receive a request for the information that you have provided in your response to this consultation, we will take full account of your reasons for requesting confidentiality of your response, but we cannot guarantee that confidentiality can be maintained in all circumstances.
13. If you click on 'No' in response to the question asking if you would like anything in your response to be kept confidential, we will be able to release the content of your response to the public, but we won't make your personal name and private contact details publicly available.

14. Defra may share your response, where appropriate, with the Devolved Administrations, and the Digital, Data and Technology Services team.
15. There may be occasions when Defra will share the information you provide in response to the consultation, including any personal data with external analysts. This is for the purposes of consultation response analysis and provision of a report of the summary of responses only.
16. This consultation is being conducted in line with the Cabinet Office “Consultation Principles” and be found at:
<https://www.gov.uk/government/publications/consultation-principles-guidance>.
17. If you have any comments or complaints about the consultation process, please address them to: Consultation Coordinator, Defra, 2nd Floor, Foss House, Kings Pool, 1-2 Peasholme Green, York, YO1 7PX Or email:
consultation.coordinator@defra.gov.uk

Context

Non-elephant ivory trade levels and value of ivory in the UK

18. The level of commercial imports and re-exports of ivory from the species in scope of the consultation are very low. Between 2009 - 2019 fewer than 100 items of non-elephant ivory from these species were imported into the UK, and fewer than 500 items were re-exported from the UK for a commercial purpose (see Annex A for a full breakdown of these data). Research from Two Million Tusks also suggests that domestic trade in items from these species is low with a total of 1389 items sold between 2013 – 2019 from a sample of 131 UK Auction Houses. The most common ivory traded in the UK from the species in scope of the consultation is marine ivory (this could include ivory from narwhal, walrus, killer whale or sperm whale). See Annex B for a full breakdown of these data.
19. Based on research undertaken by Two Million Tusks, Narwhal and walrus ivory tend to fetch the highest prices at UK antique auction houses, with an average value of £4,941 and £4,038, respectively (based on a sample of 131 UK Auction House sales between 2013 - 2019). Ivory from hippopotamus, whale species and marine species (unidentified ivory that could include ivory from narwhal, walrus, killer whale or sperm whale) fetched much lower prices on average. See Annex B for the full breakdown of these data.

20. Between 2014 – 2019 there have been seizures of illegal imports into the UK of 4 walrus tusk/teeth, 6 hippopotamus teeth and 1 cetacean tooth indicating that the UK plays some, albeit small part, in the illegal trade of ivory from walrus, hippopotamus and cetaceans.
21. In addition to illegal import seizures, domestically between 2017 - 2019 there were 14 seizures of narwhal ivory, 2 of hippopotamus ivory and 2 of whale ivory within the UK.
22. Despite the low levels of known commercial dealing in these ivories it is clear that there is a market in the UK, both legal and illegal, for the trade in all of these species. Such markets may be contributing to the allure of ivory from these species or may be being used to facilitate illegal trade.

Hippopotamus

Conservation status

23. Hippopotamus are defined as Vulnerable by the International Union for Conservation of Nature's (IUCN) Red List of Threatened Species and IUCN estimate the population to be 115,000-130,000.
24. Hippopotamus are threatened by a demand for their teeth (ivory), meat and skin as well as the impacts of habitat loss and degradation.
25. Recent population trends reported by IUCN Red List show that out of the 38 countries hippopotamus occupy 16 show declines in population numbers, 9 have populations with trends unknown, 9 have populations that are stable, and a further 4 have populations that are increasing. IUCN Red List assessment concludes that overall population levels have remained stable over the last eight years.
26. Hippopotamus's sedentary nature coupled with their dependence on water make them easier to hunt and more susceptible to poaching.

Trade in hippopotamus ivory

27. IUCN report that the trade in ivory is a key threat to this species. Hippopotamus are the most at threat species from the trade in their ivory after the elephant. Evidence submitted in response to the call for evidence suggests that a total of 771,000 kg of hippopotamus ivory has been traded internationally from 1975 to 2016. This equates to around 147,000 hippopotamuses; more than the number of hippopotamus remaining.

28. There is evidence of illegal activity in range countries (countries that are the natural occupancy for these species)^{4,5} and seizures of hippopotamus ivory indicate that there are illegal markets for hippopotamus ivory. This illegal activity may explain at least some of the discordance in the trade data of hippopotamus ivory⁶.
29. Research by Traffic in 2021⁷ recommended measures that would help to clarify the impact of this illegal activity. These include greater consistency in following the guidelines for submitting annual reports to CITES, and further investigations into the discrepancies within CITES trade data.
30. Hippopotamus also seem especially vulnerable to declines associated with illegal and unregulated hunting in areas affected by conflict.

Substitution for elephant ivory

31. Hippopotamus and elephants occupy the same geographic range so the infrastructure, trade routes and trade networks are already in place to support illegal trade in hippopotamus ivory.
32. Some conservation NGOs have suggested that there is a risk that the demand for elephant ivory could be displaced to hippopotamus as stricter elephant ivory bans are put in place across the world. There is some evidence to suggest that this happened in the early 1990s following the introduction of the 1989 CITES global elephant ivory ban^{8, 9}. The high degree of similarity between hippopotamus ivory and elephant ivory, coupled with the fact that hippopotamus ivory commands a relatively low price, is

⁴ EAGLE (Eco Activists for Governance and Law Enforcement) [January Briefing (2019) Accessed at: <http://www.eagle-enforcement.org/data/files/eagle-briefing-january-2019-public.pdf>

⁵ EAGLE (Eco Activists for Governance and Law Enforcement) Annual Report (2018) Accessed at: <http://www.eagle-enforcement.org/data/files/eagle-network-annual-report-2018.pdf>

⁶ Andersson, A. & Gibson, L. (2017) Missing teeth: Discordances in the trade of hippopotamus ivory between Africa and Hong Kong, *African Journal of Ecology*, vol 56, issue 2, pp. 235–243

⁷ TRAFFIC – Moneron, S. & Drinkwater, E. (2021) The Often Overlooked Ivory Trade: A Rapid Assessment of the International Trade in Hippo Ivory Between 2009 and 2018. TRAFFIC International, Cambridge, United Kingdom. Accessed at: https://www.traffic.org/site/assets/files/14405/the_often_overlooked_ivory_trade.pdf

⁸ Knights, P., Hofford, A., Andersson, A., & Cheng, D. (2015) The illusion of control: Hong Kong's 'legal' ivory trade. San Francisco, USA, WildAid

⁹ TRAFFIC - Williamson, D. F. 2004. Tackling the Ivories: The Status of the. US Trade in Elephant and Hippo Ivory. TRAFFIC North America. Washington

easier to obtain, transport and carve, could result in increased trade in hippopotamus ivory as a substitute with the incentive to poach hippopotamus being higher.

33. Research by TRAFFIC concluded that annual trade quantities of hippopotamus ivory generally appeared to decrease between 2009 and 2018, and one-off increases in 2015 and 2018 may be explained as a result of stockpiled ivory sales. The reasons for this trend is difficult to ascertain.

Uses of hippopotamus ivory

34. Hippopotamus ivory is commonly carved into sculptures, trinkets, figurines and other ornaments and is considered a luxury good in Southeast and East Asia. It features in traditional African tribal art. Hippopotamus ivory has also been used in historical pieces such as walking cane handles, dagger hilts and netsuke (small carved ornaments worn as part of Japanese traditional dress).

Arctic species (narwhal and walrus)

Conservation status

35. Narwhal is assessed as being of Least Concern and walrus as Vulnerable under the IUCN Red List Assessment.
36. Narwhal population trends are not well understood. IUCN Red List notes that there are a total of 12 subpopulations and that for the six subpopulations for which there is some information on trend, one is thought to be increasing and five are likely stable. IUCN Red List notes that walrus population trends are unknown.
37. Narwhal and walrus are legally hunted in some range countries by indigenous people, there is also a small annual sport hunt of walrus in Canada. Range countries that continue to allow indigenous people to hunt these species in the main undertake regular population estimates, set quotas on levels of harvesting permitted, have licencing/certification requirements for ivory trade and have management plans for these species in place.
38. However, TRAFFIC state that the lack of long-term data, and poor quality of information on population estimates for walrus makes it difficult to determine whether the harvest and resulting legal international trade will affect the overall conservation of the species.

Trade in arctic species ivory

39. Evidence from TRAFFIC suggests that the trade in ivory from walrus and narwhal is not currently negatively impacting their survival. Reports by TRAFFIC concluded that there is no indication that the international legal trade is currently a threat to the

conservation of narwhals. While there have been incidences of illegal trade of walrus and narwhal ivory overseas, a report by TRAFFIC concluded that the levels of illegal hunting or illegal trade of narwhal and walrus ivory are not at a point that would cause concern for the conservation of these species^{10, 11}.

40. The IUCN Red List states that the future of walrus is uncertain; with global warming and concomitant sea ice declines, walrus population harvest levels could have an important influence on future abundance. The TRAFFIC report also warns that the effects of climate change means that the hunting of narwhal needs to be better monitored and regulated. Taken together this suggests that a precautionary approach to the trade in ivory from narwhal and walrus may be warranted.
41. Evidence suggests that for the period 2005 – 2014 the global trade to four East Asian markets – mainland China, Hong Kong, Japan and Taiwan of both walrus and narwhal raw tusks represented 41% of the global market for walrus and 28% of the global market for narwhal¹².
42. Research suggests that narwhal ivory and walrus ivory are the most valuable types of ivory (of those in scope of this consultation) in the UK with the highest average prices fetched at antique auction houses. The research also suggests that walrus ivory is one of the more common types of ivory auctioned in the UK (see Annex B).

Uses of Arctic species ivory

43. Narwhal and walrus are harvested for food by indigenous communities in Canada, Greenland and Alaska (walrus only). The sale of any tusks makes a secondary, but important, contribution to the livelihoods of some indigenous communities. Trade in narwhal and walrus ivory is considered of important economic value to indigenous communities.
44. Common uses and trade for these ivories include carvings, musical instruments and tusks in natural form. The tusks of male narwhal are considered a valuable economic commodity that is an important source of income for some Arctic coastal indigenous

¹⁰ TRAFFIC Breaking the Ice: International Trade in Narwhals, in the Context of a Changing Arctic.
https://www.traffic.org/site/assets/files/2528/breaking_the_ice_report.pdf

¹¹ TRAFFIC Hauling Out: International trade and management of walrus.
<https://www.traffic.org/publications/reports/hauling-out-international-trade-and-management-of-walrus/>

¹² WWF and TRAFFIC (2016) Analysis of international trade in narwhal and walrus ivory – unpublished data

communities and is most commonly used as a decorative piece, usually as a whole unworked tusk.

45. Walrus ivory was used over the past 1,000 years as a medium for producing decorative solid carvings in Europe – examples include the Lewis Chessmen, dating from the 12th Century. Walrus ivory was frequently used to make handles for knives and bladed weapons (such as swords and daggers), with examples cited made from walrus ivory originating from the Arctic, Europe, Russia, Turkey and Iran from the 4th to the 19th century. It was also used by sailors to make “scrimshaw” (used to describe the decorated, etched or carved whale and walrus bone or teeth that were worked on by whaling mariners in the 18th and 19th centuries, in both the Pacific and Atlantic oceans).
46. In Japan walrus ivory has been carved into traditional handicrafts and sculptures, including netsuke, ojime and obidome (small carved ornaments worn as part of Japanese traditional dress).

Whales (sperm whale and killer whale)

Conservation status

47. IUCN Red List assessment categorises sperm whale as Vulnerable and killer whale as Data Deficient.
48. The major historical threat responsible for decline in sperm whale was industrial commercial whaling. As there has been a global moratorium on commercial whaling since the 1985/1986 whaling season this is no longer a significant threat, with populations recovering across much of their former range. Similarly, the IUCN Red List assessment considers that killer whales are numerically abundant (at least tens of thousands of mature individuals) and very widely distributed, and although the IUCN Red List classifies them as Data Deficient the assessment states there is insufficient evidence to categorise them as threatened.

Trade in whale ivory

49. The low levels of trade in recently acquired whale ivory together with the fact that whales are not hunted specifically for their ivory, suggests the trade in ivory is not a direct threat to these species.
50. There are some anecdotal accounts of sperm whale and killer whale teeth being salvaged from beached whales suggesting that there is some demand for ivory from whale species.
51. The UK plays a very small role in the international market of ivory from these species. Levels of legal imports and re-exports for commercial purposes of ivory from

these species is very low (see Annex A). Whale ivory does feature in the UK domestic market and is more common than hippopotamus ivory – see Annex B, however, the majority of legitimate commercial trade of ivory from these species in the UK is likely to be in antique or CITES pre-Convention¹³ items.

Uses of whale ivory

52. Sperm whale ivory has historically been used to make “scrimshaw” (decorated, etched or carved whale and walrus bone or teeth that were worked on by whaling mariners in the 18th and 19th centuries, in both the Pacific and Atlantic oceans).
53. Fijians produce sperm whale teeth necklaces, worn with the curved teeth pointing upwards – known as tabua when threaded on a cord. Tabua is often gifted at ceremonies such as weddings and births and is amongst other things a symbol of status and wealth. Tabua is still important in modern day Fijian society.

Current policy and legislation on the commercial dealing of non-elephant ivory

54. The five ivory bearing species in scope of this consultation are subject to a range of international agreements and domestic legislation. This section summarises the legislation and policy on the commercial dealing in ivory from these species in the UK.

International Treaties

Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)

55. There are restrictions on international trade in ivory under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), an international conservation agreement which aims to ensure that international trade in endangered species does not threaten their survival. A total of 183 countries, including the UK, are Parties to CITES.

¹³ Ivory taken from the animal before the date that the species was first listed on one of the CITES appendices

56. All the species in scope of this consultation are covered by CITES. CITES species are listed in three Appendices, according to the degree of protection the Parties to the Convention agree that they need:
- Appendix I includes species threatened with extinction. Trade in specimens of these species, such as ivory, is permitted only in exceptional circumstances.
 - Appendix II includes species not necessarily threatened with extinction, but in which trade must be controlled in order to avoid utilization incompatible with their survival.
 - Appendix III contains species that are protected in at least one country, which has asked other CITES Parties for assistance in controlling the trade.
57. The CITES-listing status of the species considered in this consultation are as follows:
- Sperm whale CITES Appendix I - listed in Appendix II in 1979 and uplisted to App I in 1981
 - Narwhal CITES Appendix II - listed in Appendix III in 1975 and uplisted to Appendix II in 1979
 - Hippopotamus CITES Appendix II – listed in Appendix III in 1976 and uplisted to Appendix II in 1995
 - Walrus CITES Appendix III - listed in 1975
 - Killer whale CITES Appendix II - listed in 1979
58. Parties to CITES can adopt stricter domestic measures than those required by CITES.

The International Convention for the Regulation of Whaling

59. The purpose of the International Convention for the Regulation of Whaling (ICRW) is to “provide for the conservation of whale species and populations and thus make possible the orderly development of the whaling industry”. The UK is a Party to ICRW. A global moratorium on commercial whaling has been in place since 1982 (with effect from the 1985/1986 season) and is binding on those Parties who agreed it. Iceland and Norway whale commercially under their respective reservation and objection to the moratorium¹⁴, but they do not hunt sperm or killer whales. Since Japan ceased to be a party to ICRW, Japan has been whaling commercially, although not these species.

¹⁴ The UK has objected to Iceland's reservation

Convention on the Conservation of Migratory Species of Wild Animals

60. The Convention on the Conservation of Migratory Species of Wild Animals (CMS) is an environmental treaty under the aegis of the United Nations Environment Programme. The UK is a Party.
61. CMS aims to conserve terrestrial, aquatic and avian migratory species throughout their range. Appendix I lists endangered migratory species. The Convention prohibits their taking (with limited exceptions) and provides for other conservation measures (e.g. habitat protection). Appendix II lists migratory species that need or would significantly benefit from international agreements or co-operation; and the Convention provides for Range States to conclude legally binding Agreements or politically binding Memoranda of Understanding (MOUs)
62. Sperm whale is listed on CMS Appendices I and II. Killer whale and Narwhal are listed on CMS Appendix II

Domestic policy and legislation

63. CITES is implemented through the UK Wildlife Trade Regulations¹⁵ in Great Britain (GB) and through the EU Wildlife Trade Regulations¹⁶ in Northern Ireland. These sets of regulations implement CITES in a stricter manner than is required by the Convention. The regulations list species in four Annexes (Annexes A to D) according to the degree of protection needed. If a person wishes to trade in a specimen listed in the Annexes then they will need the appropriate documents to do so.
64. The following ivory bearing species are listed in Annex A:
 - Killer whale - except those taken by the people of West Greenland under licence, which are treated as Annex B¹⁷
 - Narwhal - except those taken by the people of West Greenland under licence, which are treated as Annex B¹⁶
 - Sperm whale

¹⁵ The UK Wildlife Trade Regulations comprise the retained EU law version of Council Regulation (EC) No 338/97 and implementing regulations. These have been amended, including by the Environment and Wildlife (Miscellaneous Amendments etc.) (EU Exit) Regulations 2020 (SI 2020/1395).

¹⁶ The EU Wildlife Trade Regulations comprise Council Regulation (EC) No 338/97 and implementing regulations.

¹⁷ The exemption does not apply to meat products

65. A permit is needed for the introduction (import) into GB or NI as the case may be of any ivory from Annex A specimens in the scope of this consultation. A number of conditions must be met before an import permit is issued by the UK Management Authority (the Animal and Plant Health Agency (APHA)). The conditions include the Management Authority being satisfied that the specimen will not be used for primarily commercial purposes, and the Scientific Authority (the Joint Nature Conservation Committee (JNCC), which is the UK Scientific Authority for fauna) having advised that the import:
- would not have a harmful effect on the conservation status of the species or on the extent of the territory occupied by the relevant population of the species; and
 - is taking place for certain purposes (relating to the advancement of science; essential biomedical purposes; breeding, research, or education with conservation aims) or for other purposes which are not detrimental to the survival of the species.
66. A certificate is also needed for the re-export of an Annex A specimen. A number of conditions must be met. These include the applicant showing that the specimen had previously been legally introduced, and APHA being satisfied that there are no factors relating to the conservation of the species which militate against the permit being issued.
67. The commercial use of an Annex A specimen is only permitted with a commercial use certificate issued by the relevant Management Authority under the applicable regulations. There is, however, no requirement to obtain a commercial use certificate for Annex A specimens which fall within the definition of “worked specimens that were acquired more than 50 years previously”¹⁸, that is worked ivory items produced before 3 March 1947.
68. Different rules apply to captive bred specimens. Specimens of Annex A-listed species are treated as if they were Annex B-listed specimens if they were bred in captivity. Under certain conditions, these captive-bred Annex A specimens may be used commercially, provided that a commercial use certificate has been issued by the relevant Management Authority under the applicable regulations.
69. The following ivory bearing species are listed in Annex B:
- Hippopotamus
 - Walrus

¹⁸ See Article 2(w) of Regulations 338/97

70. Specimens of killer whale and narwhal taken by the people of West Greenland under licence, are also treated as Annex B.
71. A permit is needed for the import of an Annex B specimen and various conditions must be met. These include the Scientific Authority (JNCC, for the UK) having advised that the import would not have a harmful effect on the conservation status of the species or on the extent of the territory occupied by the relevant population of the species.
72. A certificate is also needed for the re-export of an Annex B specimen and a number of conditions must be met. These include the applicant showing that the specimen had previously been legally introduced, and APHA being satisfied that there are no factors relating to the conservation of the species which militate against the permit being issued.
73. In certain circumstances, the conditions for issuing import or re-export permits for Annex A and B specimens are less strict. For example, certain conditions do not need to be met where a specimen:
- falls within the definition of “worked specimens that were acquired more than 50 years previously” (import, re-export)
 - is a dead specimen, part or derivative, and the applicant provides documentary evidence that it was legally acquired before the Convention became applicable to it (re-export).
74. In respect of enforcement there are provisions in the Control of Trade in Endangered Species Regulations 2018 (COTES)¹⁹ and the Customs and Excise Management Act 1979.

The Conservation of Habitats and Species Regulations 2017

75. The Conservation of Habitats and Species Regulations 2017 as amended deals with the conservation of natural habitats and of wild fauna and flora in England and Wales²⁰.

¹⁹ SI 2018/703, as amended by [the Environment and Wildlife \(Miscellaneous Amendments etc.\) \(EU Exit\) Regulations 2020](#) (SI 2020/1395).

²⁰ The Conservation of Habitats and Species Regulations 2017, as amended, apply in England and Wales, and in relation to certain reserved and excepted matters in Scotland and Northern Ireland. With regards to devolved matters, the applicable regulations are the Conservation and (Natural Habitats & c.) Regulations 1994 (for Scotland) and the Conservation (Natural Habitats & c.) (Northern Ireland) 1995.

76. Under these Regulations, it is an offence for any person to be in possession of or to control, transport, sell or exchange, or offer for sale or exchange anything derived from or any part of a cetacean species (this includes ivory from killer whales, sperm whales and narwhal) taken from the wild. The regulations also set out circumstances where a licence may be granted to permit these activities²¹. The applicable regulations for devolved matters in Scotland are the Conservation (Natural Habitats & c.) Regulations 1994 and for Northern Ireland the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995.
77. Equivalent provisions apply to the UK offshore marine area through the Conservation of Offshore Marine Habitats and Species Regulations 2017²².

The Wildlife and Countryside Act 1981

78. The Wildlife and Countryside Act lists cetaceans (this includes killer whales, sperm whales and narwhal), and walrus, in Schedule 5. Under the legislation it is an offence to sell, offer or expose for sale, possess or transport any live or dead animal of a species listed in Schedule 5 or any part of, or anything derived from, such an animal (including ivory). Similarly, it also makes it an offence²³ to publish, or cause to be published, any advertisement likely to be understood as conveying that a person buys or sells, or intends to buy or sell, any part of those species (including ivory). Substantial amendments to the Wildlife and Countryside Act mean there are different versions of the relevant provisions: those that extend to England and Wales and those that extend to Scotland²⁴.
79. In Northern Ireland the equivalent regime is set out in the Wildlife (NI) Order 1985, however, Schedule 5 (animals which are protected at all times) of the 1985 Order does not include the killer whale, sperm whale and narwhal.

²¹ By way of example, in England, Natural England issues a CL07 licence which allows specified persons to lawfully sell and offer for sale dead specimens and/or derivatives (this would include ivory) of cetaceans (this includes killer whales, sperm whales and narwhal) where this is for the purposes of science or education and the ivory was legally taken from the wild before 30 October 1981. In Wales, Natural Resources Wales can grant licences to allow the lawful possession or sale or exchange of European Protected Species and UK Protected Species, which includes all species of whale and walrus.

²² In particular, see regulations 45, 46 and 55

²³ This provision does not apply in Scotland.

²⁴ In England, a person will not be committing one of these offences where the CL07 licence applies. This requires that the specimen or derivative of the Schedule 5 species, including ivory and including walrus parts, was legally taken from the wild before 30 October 1981. In Wales, a person will not be committing an offence if Natural Resources Wales has granted a licence for a specified purpose.

Proposed policy options

80. We are consulting on three options, as follows:
- Option 1 - Extend the Act to hippopotamus ivory.
 - Option 2 - Extend the Act to ivory from five CITES listed species (hippopotamus, narwhal, killer whale, sperm whale and walrus).
 - Option 3 –Do nothing and continue to apply current international and domestic conservation rules.
81. Options 1 and 2 seek to go significantly further than the current legislation set out above by extending the Ivory Act to certain other ivory bearing species. When commenced, and if we subsequently decide to extend the Act, there will be a ban on dealing of items made of, or containing ivory, regardless of their age, from the species added to the Act. Dealing means the sale, purchase or hire, and offering to sell, purchase or hire. The ban would apply to dealings taking place within the UK and to exports from and imports into the UK for commercial purposes.
82. Such a ban would be subject to the following five narrow and carefully defined exemptions:
- Pre-1947 items containing less than 10% ivory by volume.
 - Pre-1975 musical instruments containing less than 20% ivory.
 - Portrait miniatures made before 1918 and no more than 320 cm².
 - Sales and exchanges to and between accredited museums. This applies to museums accredited by Arts Council England, the Welsh Government, the Scottish Government or the Northern Ireland Museums Council in the UK, or, for museums outside the UK, the International Council of Museums.
 - Pre-1918 items of outstanding artistic, cultural or historic value and importance.
83. Options 1 and 2 aim to protect and enhance the conservation status of these species, acting in a precautionary manner where appropriate. The extension of the ban would also have the potential to help:
- Reduce opportunities for the laundering of poached ivory from these species by passing it off as being legally sourced, or an antique.
 - Reduce the opportunity for elephant ivory to be laundered under the guise of other ivory bearing species.
 - Reduce the allure of ivory and stop ivory being seen as a commodity for financial gain or a status symbol.
 - Mitigate the risk that global bans on the trade in elephant ivory lead to displacement onto other ivory bearing species.

To achieve this we would close the UK market by banning domestic sales, imports, and exports of these ivories thus reducing demand from the UK market and supply to foreign markets.

Option 1 – Extend the Ivory Act to include ivory from hippopotamus

84. This option would extend the Ivory Act to hippopotamus ivory. It would ban the dealing of worked items made of, or containing ivory, unworked whole teeth and tusks, and pieces of unworked raw ivory, from hippopotamus, regardless of their age.
85. The hippopotamus is the species most at risk from the trade in its ivory apart from the elephant. This option would see the UK diverge from international rules on the international trade in hippopotamus by introducing stricter controls on commercial dealing and closing the UK market to this trade.
86. Closing the legal hippopotamus ivory market in the UK would end any opportunities for the laundering of poached hippopotamus ivory by passing it off as being legally sourced, for example it being a legitimate antique. It would also significantly reduce the scope for potential displacement to hippopotamus from elephant ivory in the UK, as global elephant ivory bans are put in place.
87. This option would help stop hippopotamus ivory being viewed as a commodity for financial gain or a status symbol and would also prevent potential displacement of demand for ivory to hippopotamus from elephant ivory, as global elephant ivory bans are put in place.

Option 2 - Extend the Ivory Act to ivory from five CITES listed species (hippopotamus, narwhal, killer whale, sperm whale and walrus)

88. This option would extend the Ivory Act to the five CITES listed ivory bearing species (hippopotamus, narwhal, killer whale, sperm whale and walrus). It would ban the dealing of worked items made of, or containing ivory, unworked whole teeth and tusks, and pieces of unworked raw ivory, from these species, regardless of their age.
89. This option would see UK controls on commercial dealing and closing the UK market to this trade.
90. Closing the legal ivory market for these species in the UK would end any opportunities for the laundering of poached ivory from all of these species by passing it off as being legally sourced, for example it being a legitimate antique.
91. Acting on the five ivory bearing CITES listed species (hippopotamus, walrus, narwhal, sperm whale and killer whale) will send a clear message that the UK considers that these species, already recognised internationally through their CITES listing as requiring protection in terms of their international trade, should not be further exploited from the trade in their ivory.

92. This option would help stop ivory being viewed as a commodity for financial gain or a status symbol and would also prevent potential displacement of demand for ivory to these other species from elephant ivory, as global elephant ivory bans are put in place.

Option 3 – Do nothing and continue to apply current international and domestic conservation rules

93. Under this option, we would continue to enforce domestic and internationally agreed rules on the commercial dealing of ivory from all of the species in scope of the consultation (hippopotamus, killer whale, narwhal, sperm whale and walrus) and would continue to offer the protections described in the above section on ‘Current policy and legislation on the commercial dealing of non-elephant ivory’.
94. This option could be considered as maintaining the current balance between the conservation and livelihood benefits regulated trade brings and the need to ensure that this does not negatively impact on the survival of these species.
95. However, this option does not help alleviate the threat to these species from the trade in their ivory particularly for hippopotamus; and for other species such as narwhal and walrus, that the cumulative impacts of other threats such as climate change may make the trade in their ivory unsustainable in the future.

Summary of economic impacts of policy options

96. The costs of the proposed measures are relatively small. UK trade and commercial dealing of items made of non-elephant ivories is limited. We estimate that only about 1% of ivory items are made of ivories from five CITES listed species (hippopotamus, narwhal, killer whale, sperm whale and walrus) in the UK.
97. The Equivalent Annual Net Direct Cost to Business (EANDCB) of banning the trade of hippopotamus ivory (Option 1) is £6,143. The Equivalent Annual Net Direct Cost to Business (EANDCB) of banning the trade of ivories from the five CITES listed species (hippopotamus, narwhal, killer whale, sperm whale and walrus) (Option 2) is £273,298.
98. In addition, we expect individuals to have to bear some costs because owned ivory items that will not be able to be sold will lose value. We estimate that there are approximately 26,400 items made of, or containing, non-elephant ivory and 1,349 items made of, or containing, hippopotamus ivory in UK households. It has not been possible to monetise the potential loss in value of these items.

99. On the other hand, the potential benefits of the measure are very significant. Evidence suggests that that banning legal ivory trade can exert downward pressures on ivory prices internationally. This reduces the incentives to poach animals for their ivories and in case of hippopotamus should put pressure on the destabilising forces involved in poaching, which funds armed conflict, undermines economic stability and the tax-base, and reduces the effectiveness of UK foreign aid. Protecting these ivory bearing species can also have large positive impacts on biodiversity since large mammals are often vital to their ecosystems. The measure would likely benefit the UK's international reputation in conservation and help continue the UK's leading role in preserving international biodiversity.

Question 5: We set out three options above. We would like to understand your preferred option and the reasons for that preference. Please state your preferred option and why:

- A. Option 1 - extend the Ivory Act to include ivory from hippopotamus.**
- B. Option 2 - extend the Ivory Act to include ivory from five CITES listed species (hippopotamus, narwhal, killer whale, sperm whale and walrus).**
- C. Option 3 – do nothing and continue to apply the current international and domestic conservation rules**
- D. Other: Please suggest any alternatives.**

Please add any comments on your preferred options, including any reasons for your preference.

Question 6. Do you have any alternative options to those proposed which could encompass different species? If so please provide the evidence to support this alternative, including any reasons for your preference?

Question 7: Do you have additional information or evidence on the potential impacts of the proposed extension of the Ivory Act on these species as set out in options 1 and 2?

- A. Option 1 potential impacts information or evidence**
- B. Option 2 potential impacts information or evidence**

Question 8: Do you have additional information or evidence on potential barriers to implementation for options 1 and 2?

- A. Option 1 potential barriers to implementation information or evidence**
- B. Option 2 potential barriers to implementation information or evidence**

Annex A - Data on the levels of trade of ivory from other ivory bearing species

CITES trade statistics for between 2009 – 2019²⁵. They show the number of ivory items imported and re-exported to and from the UK across the species in scope of this consultation.

Species	Total number of items of ivory imported to the UK for a commercial purpose	Total number of items of ivory re-exported from the UK for a commercial purpose
Hippopotamus	7	25
Killer whale	0	0
Narwhal	6	27
Sperm whale	5	198
Walrus	81	247

²⁵ Derived from the CITES Trade Database, UNEP World Conservation Monitoring Centre, Cambridge, UK.

Annex B – Data derived from a data set of non-elephant ivory items sold in the UK between 2013 – 2019 submitted by a Two Million Tusks

The number of sales of non-elephant ivory between 2013-2019 from a sample of 131 UK Auction Houses

Species	Number of sales	Percentage of total sales of non-elephant ivory
Hippopotamus	56	4%
Marine ²⁶	630	45%
Narwhal	78	6%
Walrus	477	34%
Whale	148	11%
Total	1389	100%

²⁶ Unidentified ivory from marine species likely to be from cetacean species and walrus

The value of sales of non-elephant ivory between 2013-2019 from a sample of 131 UK Auction Houses

Ivory from	Number of lots up for sale	Number of lots where price information is available	Lowest price fetched	Highest price fetched	Average price (rounded to the nearest £)
Hippopotamus	56	26	£60	£2,800	£706
Marine	630	354	£20	£20,000	£644
Narwhal	78	48	£180	£36,000	£4,941
Walrus	477	271	£20	£548,750	£4,038
Whale	148	102	£40	£11,000	£785