

BIDDING AGAINST SURVIVAL

THE ELEPHANT POACHING CRISIS AND THE ROLE OF AUCTIONS IN THE U.S. IVORY MARKET



INTERNATIONAL FUND FOR ANIMAL WELFARE





Bidding Against Survival: The Elephant Poaching Crisis and the Role of Auctions in the U.S. Ivory Market

No one would mistake the sound of an auctioneer's gavel for a poacher's rifle shot, but the distance between the two is closer than most of us realize...

African elephants are facing the biggest crisis in their five million year history, with tens of thousands killed each year to feed ravenous demand in Asia, the United States, and elsewhere. In this market, price tags are as deadly as bullets, and as the bidding for ivory tusks and carvings skyrockets, we must extend the fight to save these regal animals beyond Africa's savannahs and jungles – to our own shores, where the illegal ivory trade has established a firm outpost.

At the International Fund for Animal Welfare, one of our most important goals is to protect elephants for generations to come. We approach this from multiple angles: protecting key habitats like Amboseli National Park in Kenya, caring for individual animals, training wildlife rangers, and other measures that spotlight *African* solutions. But in our ever-more globalized economy, it is not enough to focus on one continent; we must ensure that consumers around the world are not driving the demand for elephant tusks, rhino horns, tiger skins, and the other tragic commodities that comprise the illegal wildlife trade. It takes decisive action at all levels to counteract the poachers and traffickers who are pushing Earth's most iconic species toward extinction. This is why IFAW has also spent significant energy and resources on educating consumers and businesses, advocating for strong international and domestic trade rules, and working with law enforcement officials to safeguard our planet's irreplaceable natural heritage.

There is hope amidst the destruction, as 2013 and 2014 have been years of unprecedented action to combat the brutal and widespread poaching epidemic. Where there was weak law enforcement and weaker laws, there are now signs that governments around the world are waking up to the raw fact that poaching exacts a toll beyond nature's ability to cope. In the United States, the Obama Administration has already taken serious steps—last November's U.S. Ivory Crush, in Denver, Colorado, put wildlife crime and the illegal ivory trade in the spotlight, and a new National Strategy to Combat Wildlife Trafficking has been

created with the involvement of seventeen federal agencies—and crucial moves are ahead, most notably tighter federal oversight of our domestic ivory market.

Ivory's history in the United States is long and convoluted. American craftsmen have used the material for centuries in everything from billiard balls to piano keys to jewelry, making this country one of the world's largest ivory consumers. But in 1989 the United States was also a driving force behind the international CITES ban on most commercial ivory, and has, in the years since then, been diligent in policing its borders and contributing to conservation efforts in Africa. Yet, even now, smugglers bring a large amount of illicit ivory to our shores each year—thousands of tusks and carvings annually, according to an IFAW analysis of government data—and our domestic markets are largely ignored and unregulated, allowing traffickers to "launder" recently-poached ivory by selling to unsuspecting retailers and consumers. IFAW wanted to see just what rules (spoken or unspoken) govern real-world sales of these grisly totems. The report in your hands is the result of months of undercover investigations, internet data mining, and scrutiny of the U.S. auction industry, and shows that most of the trade in this country is unfettered by common-sense standards of proof. Simply put, the current system does not include sensible precautions—retailers assume that they are blameless because they have not been required to show otherwise.

As the regulatory landscape changes (the U.S. Fish & Wildlife Service is crafting new directives for ivory sales, imports, and exports) many businesses will be forced to reassess their assumptions, and we suspect that many will come to realize the role they have been playing, however inadvertently, in the poaching crisis. We are *so close* to meaningful change, and the auction and retail sector can also play a key role in conservation and educational efforts by following the lead of other socially-conscious businesses and embracing the new rules to set an example for global action. IFAW looks forward to working with these businesses toward that change.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Flocken".

JEFF FLOCKEN REGIONAL DIRECTOR—NORTH AMERICA

Executive Summary

Once numbering in the millions, Africa's elephant population has plummeted to 500,000 or less as poachers kill tens of thousands for their tusks every year. The global illegal ivory trade, increasingly dominated by organized criminal syndicates and militant groups, is at its highest level in two decades.

Despite this gruesome trade's origins in Africa and consumer locus in Asia, the United States is still the world's second-largest retail market for elephant ivory, with a substantial percentage of illicit products: According to U.S. government officials, "significant amounts of recently acquired ivory are smuggled into the United States and laundered into the antique market." U.S. Fish and Wildlife Service (FWS) data show that businesses and individuals in the United States import and export a significant amount of legal and illegal ivory—and indicate that the auction industry is a noteworthy player in international ivory commerce.

The International Fund for Animal Welfare (IFAW) conducted this investigation of U.S. ivory auctions in order to better understand the market forces driving the elephant poaching crisis. We also examine the implications of new federal regulations proposed by FWS in early 2014, which would (among other things) tightly restrict sales of non-antique ivory, and put the burden of proof on the seller to show the required documentation—a bar that many in this sector do not currently reach. Auction houses and antiques dealers have resisted these proposed rules, claiming their industry is not part of the illegal trade and would be unduly burdened. We already know that the broader U.S. market helps drive illegal poaching, but the most recent studies of the U.S. ivory market have not covered the auction sector. This project seeks to help fill that information gap.

The investigation included two complementary components: Undercover investigators personally attended a sample of live auctions and/or auction previews in February, March, and April 2014; and IFAW monitored online ivory auctions during the nine-week period from February 25 to April 29, 2014. Through our in-person investigations, online data collection, and a supplementary survey sent to selected auction houses, we

gathered qualitative information (such as the demographics and motivations of buyers, as well as the policies and practices implemented by the auctioneers regarding ivory sales) and quantitative data on inventory size, final sale prices, and more.

Even before the government's new conservation efforts were launched, public education about wildlife products and potential trafficking violations was already in short supply. Only a few auctioneers and galleries offering ivory for sale online posted information about shipping policies or existing ivory regulations. The two aggregator websites we investigated, LiveAuctioneers.com and AuctionZip.com, had *no* educational materials or guidelines posted for selling or shipping ivory, and even in cases where websites included ivory notices, these were frequently tucked away on difficult-to-find pages. Alternative terms like "ox bone," "faux ivory," and "carved bone" make internet listings even more conducive to illegal trade, and this strategy is likely to increase as stricter regulations regarding ivory sales are put into place.

The results of our investigation were startling. There is a great deal of ivory available at auctions in the United States (LiveAuctioneers.com, alone, may have annual ivory sales of \$13 million), but almost none of the businesses surveyed were able to provide any documentation on the provenance of their products. Just as troubling, auction house owners and staff have a vague and confused understanding of the current (and proposed) FWS rules, and a common attitude evinced by many of these businesses was to place any legal responsibilities upon the customer. Dealers are often unsure as to what the new regulations are, when they will start to be implemented, and what will be allowed or prohibited regarding ivory sales. This has serious implications for compliance and enforcement efforts going forward.

Conclusions

- The scale of ivory trade in auctions, the confusing rules and regulations, and the suspect nature of a significant portion of ivory auction commerce, all contribute to making the auction industry a potential cover for illegal ivory trade.

- The recent proposal announcement to ban ivory sales still allows for the sale of antiques as long as proper documentation is available. This investigation shows that, in most cases, no such documentation is presented.
- The new proposed rules will require auction houses and galleries to carefully consider which ivory items to purchase or accept for consignment. Even before the new FWS administrative actions were in place, expert auctioneers and appraisers advised that documentation and paperwork regarding ivory and other endangered wildlife products are essential when determining whether to reasonably proceed with an auction.
- People in every auction investigated (including the owners, employees, and customers) seemed to have different understandings and interpretations of how the ivory rules work and chose a different way to comply.
- Most live auctions attended were very professional and well-staffed events. However, despite being aware of ivory regulations, most auction houses also chose to ignore or did not understand how to operationalize state or federal rules. Staff interviewed reiterated in several cases that the auction houses were not responsible for the provenance of their items and, if the buyers were not happy, as one put it, “they are always welcome to bring the item back.”
- Because most auction houses do not have any documentation for the ivory items they sell, auction staff generally date their pieces based on their own expertise. However, even auctioneers who have worked in the antiques business for decades admit how difficult it is to discern whether a piece is 50 or 100 years old, and how easy it is to artificially age ivory.
- Federal regulations are critical in order to ensure that the documentation requirement is enforced. Until now, without specific rules or requirements, auction houses have not been required to provide any documentation for the ivory being auctioned. Selling (allegedly) pre-ban or antique ivory without certification presents a serious problem for law enforcement.
- As with other Internet platforms, characteristics of the online market—always open, unregulated and anonymous—allow for online auctions to facilitate the undocumented trade of ivory, making it increasingly difficult for enforcers to regulate.
- One way to circumvent the ban on ivory sales is to use terms such as “faux ivory,” “carved bone,” “ox bone,” and other similarly vague euphemisms. This strategy is likely to increase as stricter regulations regarding ivory sales are put into place. It will therefore be necessary for auctioneers, online marketplaces and enforcers to ensure that they are identifying code words and searching for those terms when implementing their policies or enforcing the law.



Recommendations

- Given the role the auction industry plays in sustaining consumer demand for ivory, it is clear that auction houses can also meaningfully promote elephant conservation by reversing course on sales. Reputable auction houses, galleries, and websites should support a strong ban of ivory products with (at most) only limited exceptions and required documentation for all ivory sales.

- The Administration should finalize the strongest possible regulations on domestic ivory trade.
- The general public should cease buying ivory products and should only patronize those auction houses, galleries, and websites that support the ivory ban and comply with the new ivory regulations.
- FWS and other enforcement agencies should increase their monitoring efforts to ensure that the new ivory regulations are followed and enforced.
- FWS should develop and widely distribute materials to educate auctioneers and other retailers (as well as the general public) about the new regulations.
- Congress should increase funding for public education and enforcement of these rules.
- Auction websites that continue to list ivory lots should post educational content for consumers about the elephant poaching crisis and its implications for ivory sales; and should post compulsory warnings prior to bid/final purchase regarding the potential illegality of an ivory purchase.
- Auction websites should make legal requirements related to the sale of elephant ivory easily visible on their site. Websites should also include visual proof of proper documentation for all listed ivory pieces.
- Auction websites should self-police postings to ensure sellers are not attempting to circumvent laws/policies related to the sale of ivory.

Going Forward, IFAW will:

Advocate for the Administration to finalize their proposed ivory regulations in a timely manner.

Work with governments in other source, transit, and consumer nations to implement strong trade regulations for wildlife products.

Reach out to auction houses and websites to offer guidance on new rules and regulations, and to help address compliance issues.

Work with auction sites to update their search filters and monitoring policies and establish training programs so staff can more easily identify alternative terms for ivory search.

Continue public outreach efforts aimed at building broad public awareness of the new rules and the United States' role in the elephant poaching crisis.

Continue monitoring auction houses and websites in order to gauge compliance with the new regulations.

Seek new partnerships with authorities to aid enforcement.

“We have one goal: to shut down the illegal trade in ivory that is fueling the poaching crisis facing African elephants today. By implementing a near complete ban on trade in elephant ivory, we are effectively closing loopholes and eliminating the cover provided by legal commercial trade that traffickers have exploited for years.”

—DAN ASHE, DIRECTOR, U.S. FISH & WILDLIFE SERVICE, MAY 15, 2014



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The Global Elephant Poaching Crisis

Once numbering in the millions, Africa's elephant population has plummeted to 500,000 or less. Despite new methods of detecting poachers that include drones and satellite imagery, about 35,000—or seven percent of the remaining population—are being slaughtered each year.¹ Some experts have stated that elephants face extinction within the next 10 or 15 years.²

Populations of one subspecies, the African forest elephant, have declined 76 percent since 2002. At this rate, the forest elephant could be extinct in a decade.³ But it is not just the eye-catching numbers that are escalating; poaching tactics, too, have reached a new level of violence. The International Union for Conservation of Nature (IUCN) reported that in September 2013, poachers used cyanide gas to kill more than 300 elephants in Zimbabwe's Hwange National Park and said the killing was the "worst single massacre in southern Africa for 25 years."⁴ Elephants are not the only ones at risk. Poachers have murdered hundreds of African park rangers in the last few years⁵—all due to the pursuit of elephant tusks, used in luxury goods like carvings, trinkets, and jewelry.

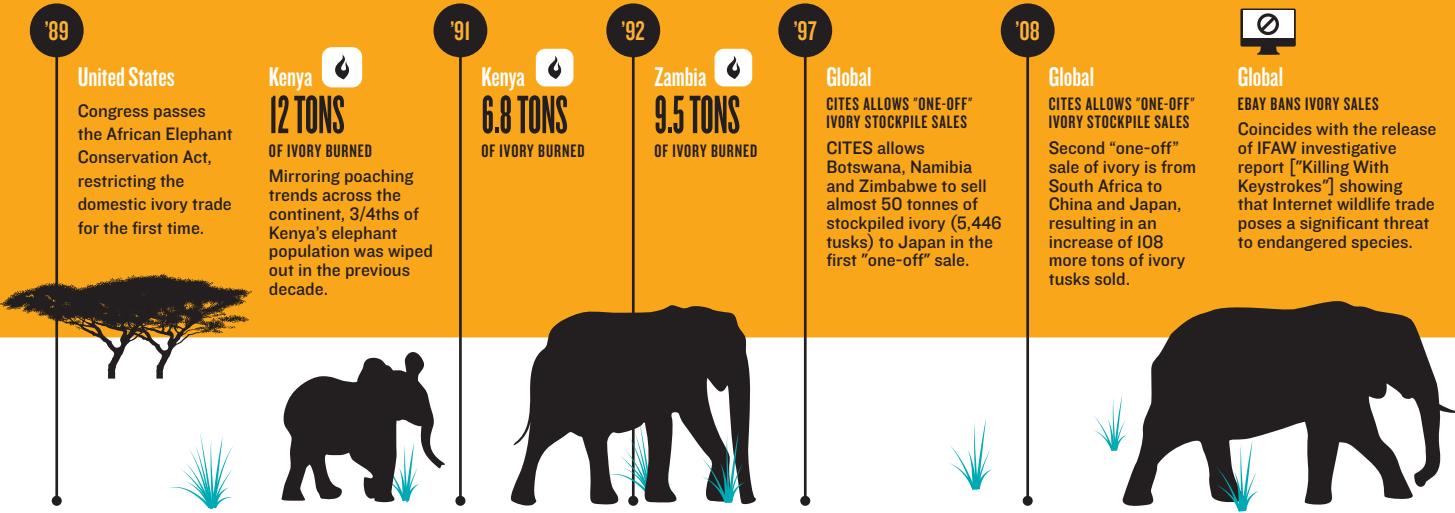
Illegal ivory trade activity worldwide continues its relentless path. According to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), "from 2000 through 2013, large-scale illicit ivory shipments have steadily grown, with 2013 representing a 20 percent increase [as measured by seizures by law enforcement] over the previous peak year in 2011."⁶ Black market economics are, by nature, hard to measure, but the frequency of large-scale ivory seizures (involving at least 500 kg in a single transaction) points to a highly organized illegal ivory supply chain.⁷ Some examples include a 6-ton seizure in Malaysia in late 2012 (one of the largest on record)⁸; two separate operations less than a week apart in July 2013 in Kenya, taking 4.5 tons of ivory each;⁹ and similar giant hauls seized in October 2013, when Kenyan customs officers discovered 4.3 tons of elephant ivory in two separate shipments.¹⁰ In May 2014, Cambodian authorities intercepted 3 tons of illegal ivory stashed in shipping containers, the largest such seizure in the country's history and the third seizure in Cambodia in 2014.¹¹

In 2013, IFAW published *Criminal Nature: The Global Security Implications of the Illegal Wildlife Trade*.¹² The report examined links between the illegal wildlife trade and organized crime, radicalism, corruption, fraud, and terror—highlighting signs that

income from poaching helps fund violent activities by state and non-state groups in the developing world—and provided new evidence that this crisis threatens wildlife, people, and the security of nations where poaching occurs. The illegal ivory market is currently a billion dollar criminal enterprise and the domain of some of the world's most vicious and heavily armed militant and criminal groups.¹³ In Africa, ivory, like the blood diamonds of other conflicts, is allegedly funding many rebel and paramilitary groups including the Lord's Resistance Army and Darfur's Janjaweed militias.^{14,15} Conservationists and activists have found evidence that Al-Shabaab, a militant Islamist group with close ties to al-Qaeda¹⁶ (and which, in 2013, stormed a Kenyan shopping mall and killed dozens of people¹⁷) funds part of its operations through ivory trafficking.¹⁸ Boko Haram, the Nigerian terrorist group that abducted more than 200 girls in May 2014, is also partly funded by sales of illegal ivory, according to a joint report by the conservation group Born Free USA and data analyst C4ADS.¹⁹ In 2014, news reports revealed that North Korea is now branching out into ivory trafficking in order to fund its nuclear and missile programs.²⁰

The international community has taken notice. In October 2013, the UN Security Council adopted a resolution condemning the devastation of natural heritage in the Central African Republic and noting that wildlife poaching and trafficking are among the factors fueling the crisis in that country.²¹ UN Secretary General Ban Ki-moon has also highlighted the security threats posed by large-scale wildlife crime in Africa: "Poaching and its potential linkages to other criminal, even terrorist, activities constitute a grave menace to sustainable peace and security in central Africa," he said in a 2013 report to the UN Security Council.²² The United States²³ and other countries, including Kenya,²⁴ Gabon,²⁵ the Philippines,²⁶ France,²⁷ Chad,²⁸ Belgium,²⁹ and China,³⁰ have destroyed their seized ivory stocks; and Hong Kong has begun the destruction of 30 tons of ivory, the largest stockpile of illegal elephant ivory on record³¹—all acts intended to send a strong signal to poachers that these nations are committed to tackling the illegal trade in ivory.

ON THE IVORY TRAIL



1989 through the '90s

DRAMATIC DROP IN POACHING AND VALUE OF IVORY.

The price of ivory in Kenya falls from USD \$140/lb to \$5/lb in just one year (1989-'90). Without high prices sustaining the dangerous illegal trade, the early 1990s see a dramatic drop in elephant poaching.

1997 through the present

POACHING NUMBERS INCREASING RAPIDLY

Many experts blame the two stockpile sales—which sowed confusion about what was legal and what wasn't—for the surge of poaching that began in the mid-1990's. Other factors include the rise of the Asian middle class (China and Thailand are among the largest consumers of illegal ivory) and political instability in Africa.

Belgium
1.5 TONS
OF IVORY CRUSHED

United States
IFAW RELEASES
COMPREHENSIVE MARKET
AND LEGAL ANALYSIS OF
THE US IVORY TRADE

Study confirms that the US significantly contributes to ivory poaching and illegal trade.

Chad
1.1 TONS
OF IVORY BURNED

With only 450 elephants remaining, Chad burns its stockpile.

United Kingdom
LONDON SUMMIT
ON THE ILLEGAL
WILDLIFE TRADE

Attendees include heads of state and officials from 50 countries

United States
OBAMA ADMINISTRATION
RELEASES NATIONAL
STRATEGY FOR COMBATING
WILDLIFE TRAFFICKING &
BANS COMMERCIAL TRADE IN
ELEPHANT IVORY

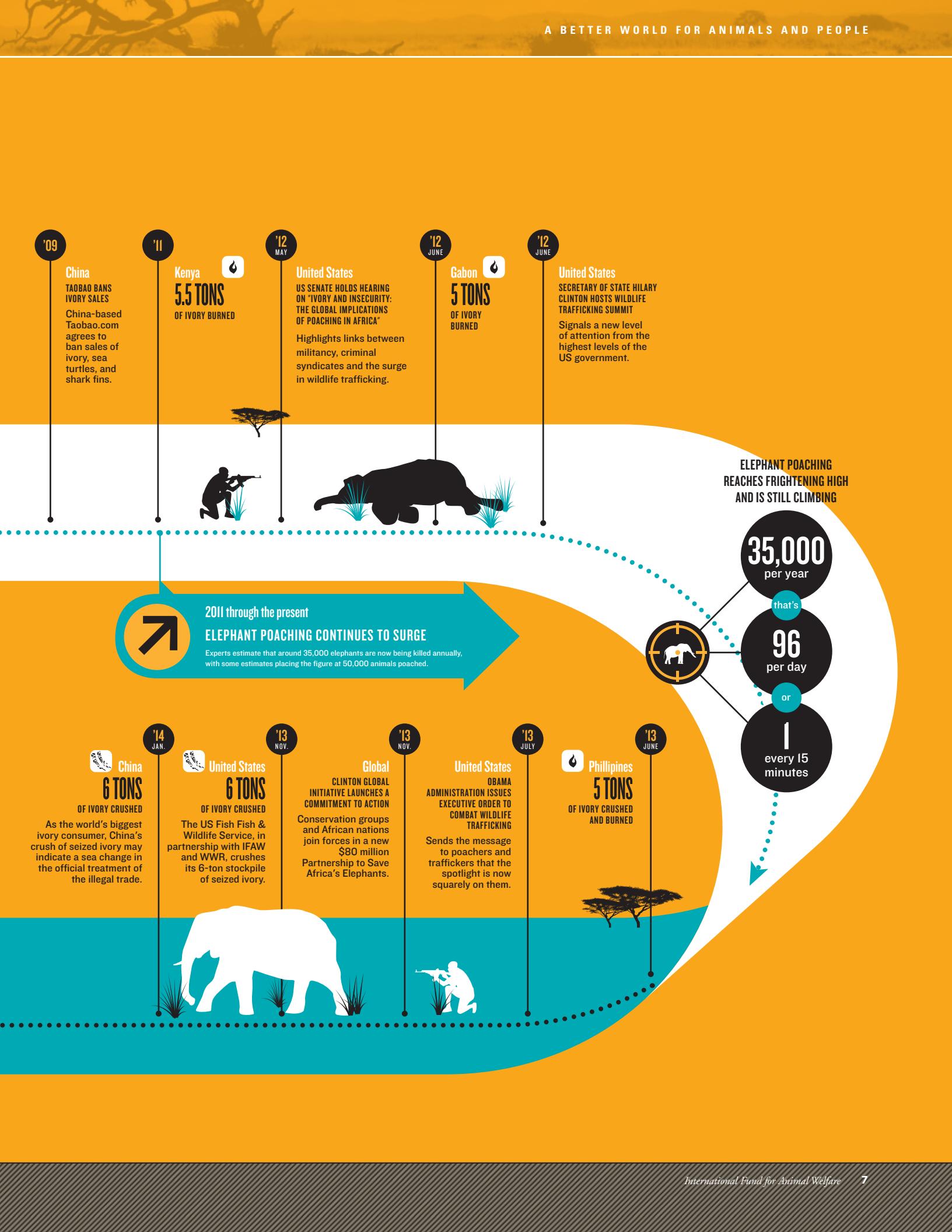
Includes a near-total ban on the domestic ivory trade in the US.

France
3 TONS
OF IVORY CRUSHED

The French Government destroys its 3 ton ivory stockpile, in consultation with IFAW.

Hong Kong
28 TON
COMMITMENT TO
DESTROY IVORY OVER
NEXT TWO YEARS

Announce plans to incinerate 28 tons of ivory over the next two years.



The U.S. Ivory Market

The United States is a prime market for ivory and other elephant products.

A 2008 study by Esmond Martin & Daniel Stiles for the British-based conservation group Care for the Wild International found that the United States is the world's second-largest retail market for elephant ivory products (behind only China).³¹

Although international trade in elephant parts has been restricted since 1989, the United States still has a substantial legal domestic market for ivory.³³ This market is supposed to be limited to antique and "pre-ban" ivory (i.e. ivory imported before CITES banned international trade in 1989), but given the difficulties of visually determining the age and origin of ivory, the legal market actually facilitates commerce in non-antique ivory.

In 2012, IFAW acquired data on ivory trade in the United States from the Law Enforcement Management Information System (LEMIS) of the U.S. Fish and Wildlife Service (FWS), in response to a Freedom of Information Act (FOIA) request. Data analysis showed that from 2009 to 2012, the United States allowed the legal import of 13,221 ivory objects plus 430 kilograms of additional tusks and ivory pieces. Importers of the largest numbers of ivory carvings and ivory pieces included several auction houses and art galleries. In addition to the legal imports of ivory, there was a significant amount of legal ivory exports from the United States, totaling 6,753 objects between 2009 and 2012.³⁴

The substantial U.S. legal ivory market provides cover—whether intentionally or not—for dealers and consumers to sustain the trade in illegal ivory. Based on LEMIS data,

IFAW found that there were close to 1,000 ivory products seized upon entry into the United States between 2009 and 2012. Additionally, in the same period, about 250 ivory items were seized upon export from the United States. (Note that specific reasons for each seizure are not provided in the data.) However, INTERPOL estimates that interdictions only represent about 10 percent of the actual traffic in illegal goods;³⁵ therefore, the estimated illegal ivory that is smuggled into and out of the United States may be more than 3,000 specimens per year. Auction houses and antique galleries were also listed as importers of some of the largest ivory shipments seized upon import in the United States.

A more detailed analysis of these data and the U.S. role in the illegal ivory trade were the focus of two 2014 articles, where IFAW shone a light on the scope and scale of the underground trade in the United States. *U.S. Ivory Trade: Can a Crackdown on Trafficking Save the Last Titan?*³⁶ and *Treasured to Death: Elephants, Ivory, and the Resurgence of a Crisis*³⁷ explained the problems facing regulators and enforcement officials and built the case for a total ban on the commercial ivory trade. The government agreed, and in February 2014, FWS proposed crucial changes to federal regulations governing ivory trade.

The substantial U.S. legal ivory market provides cover—whether intentionally or not—for dealers and consumers to sustain the trade in illegal ivory.

THE ILLEGAL IVORY TOWER IN THE U.S.



ON AVERAGE, EVERY 15 MINUTES AN ELEPHANT IS KILLED FOR ITS IVORY AND THE U.S. IS PART OF THE PROBLEM



ILLEGAL TRADE

Illegal ivory trade activity worldwide has more than doubled since 2007, and is now over three times larger than it was in 1998.



THE MARKET

The U.S. is the world's **second largest retail market** for elephant ivory products (behind only China)

Between 2009-2012, at least **1,165 ivory specimens** were seized by U.S. border agents. That's just what was detected and seized—likely only 10 percent of the actual amount being traded illegally.

80%

OF REGISTERED
US VOTERS
SUPPORT
A PROHIBITION
ON IVORY SALES.

SPECIAL INVESTIGATIONS

Fish & Wildlife Service agents also carry out special investigations. In a single bust in 2011, investigators seized one ton of elephant ivory from a Philadelphia trafficker.

1 TON

TOP 6 TYPES OF ILLEGAL IVORY SEIZED COMING INTO THE U.S.



BEHIND EVERY PIECE OF IVORY IS A DEAD ELEPHANT

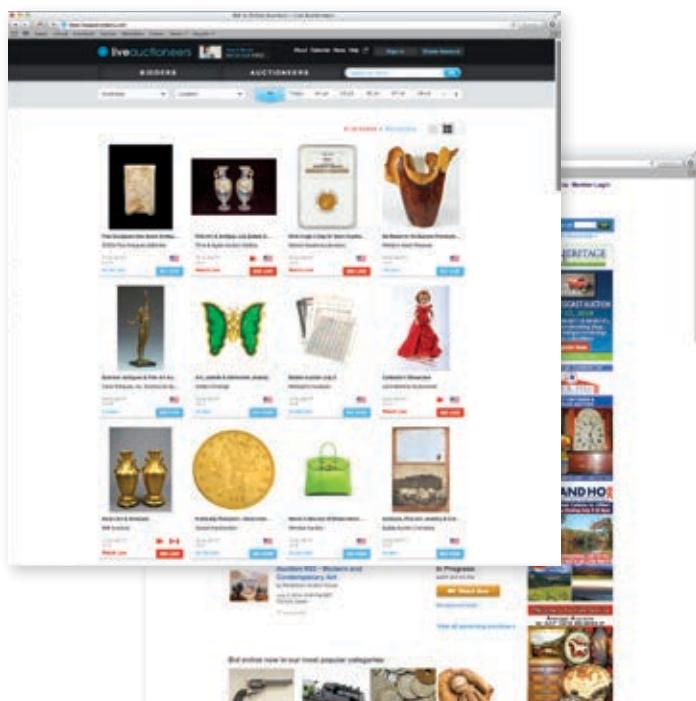
Related IFAW Investigations

This report builds on several previous efforts to understand the forces driving the current global poaching crisis. In 2008, IFAW conducted a thorough study of wildlife trade on the Internet, tracking more than 120 websites around the globe.³⁸ The findings of the six-week study, published in the report *Killing with Keystrokes: An Investigation of the Illegal Wildlife Trade on the World Wide Web*, recorded a staggering 7,122 online auctions, advertisements and classifieds with an advertised value of \$3.87 million.

Of the countries tracked, the United States by far represented the highest volume of trade and the largest monetary value of items both advertised and sold.³⁹ Most U.S. sellers in this study (69.2 percent) fell into a category listed as “possible violation” by making a general claim of legality but failing to list any supporting documentation attesting to the species or age of the item being sold.⁴⁰ The report also identified ivory as a major product in trade, representing more than 73 percent of the activity monitored.⁴¹

Directly following the IFAW investigation and report, eBay, the largest platform for online wildlife trade (99 percent of which, in the United States, was ivory), voluntarily banned the sale of ivory on all its Internet auction sites in January 2009.⁴² Since then, IFAW has been working to inform eBay about increasingly sophisticated attempts to circumvent the company’s filters and systems by wildlife traffickers. For example, some sellers have sought to bypass the ban and evade detection by using code words like “ox bone” or “faux ivory” in their listings. In response to this emerging trend, eBay rolled out a block on certain terms in the subject line of their listings. IFAW welcomes these measures and will be working with eBay to advocate for more stringent measures to prevent the abuse of eBay’s policy while raising awareness of both the law and the need to protect wildlife.⁴³

IFAW’s ongoing work with other major online marketplaces has resulted in implementation of a ban on all ivory products by Alibaba (www.taobao.com), the world’s largest online business-to-business trading platform for small businesses,



and the German sites Kleinanzeigen.ebay.de (a subsidiary of eBay), Markt.de, and Hood.de. In 2013, online retailer Etsy.com took a stand in banning the sale of ivory and other endangered wildlife products, stating that “the risk that the legal status of these items may be unknown or mislabeled is too great, and continued sale of these items, though potentially legal, stands to perpetuate market demand and further jeopardize the existence of these species.”⁴⁴



Seized ivory at the
US National Wildlife
Property Repository
before it was
crushed in Nov. 2013
▼

© IFAW/D. GADOMSKI

U.S. Trade Rules in Transition

This investigation took place during a time of transition regarding ivory regulations in the United States. Overall, CITES regulations and three federal laws (the Endangered Species Act (ESA), the African Elephant Conservation Act, and the Lacey Act) govern the ivory trade in the U.S. Under the system in place prior to February 2014, people could legally import only three categories of ivory (with proper documentation) into the United States: antiques (items more than 100 years old), sport-hunted trophy tusks from approved African countries, and pre-Ban (i.e. pre-1989) tusks.



© IFAW/N. GROSSE-WOODLEY

Despite these rules, inconsistent implementation and lax enforcement (compounded by a chronic underfunding and short-staffing of the agencies tasked with enforcing them) meant that once ivory was in the United States (even ivory smuggled through in contravention of the law), domestic transactions were essentially unregulated with no required documentation for any items sold in this country.

Shortly after this investigation began, on February 11, 2014, FWS announced changes to its regulations that, if implemented as proposed, would amount to a near-total ban on domestic ivory sales, imports, and exports, in an effort to ensure that U.S. consumers do not contribute to the unparalleled threats to African elephants. This ban is a key component of the Administration's new National Strategy for Combating Wildlife Trafficking, which President Obama announced in July 2013 during a state visit to Tanzania, and is the U.S. government's most explicit action to date to solve one of the most pressing conservation crises of our time.

The ban prohibits all commercial imports of African elephant ivory, including antiques,⁴⁵ and prohibits exports except for certified antiques. As proposed (although not yet finalized as of this writing) the ban would also prohibit sales of elephant ivory across state lines unless the ivory is demonstrably more than 100 years old. And ivory sales within a state would be prohibited unless the seller can demonstrate that the ivory was lawfully imported before 1990 for African elephants and

1975 for Asian elephants. Most importantly, the burden of proof of antiquity or pre-ban status will fall on the seller of an ivory object, and sales will require documentation. However, mere possession remains unregulated, so people can still own ivory and pass these items on as heirlooms or gifts.

A series of administrative actions by FWS is taking place to implement the ban.⁴⁶ On February 25, 2014 FWS took the first step by issuing a Director's Order, which halted the import of all commercial ivory items, clarified the definition of "antique" (the item must be more than 100 years old, have arrived in the United States through one of 13 designated antique ports, and cannot have been modified or repaired with an ESA-listed species since 1974) and gave border officials guidance for implementation.⁴⁷ Then on May 15, FWS announced a final rule clarifying CITES "use after import" regulations, which will limit the sale of ivory that was originally imported for noncommercial purposes. Any item offered for sale—whether across state lines or within a state—must have documentation that it was lawfully imported prior to the CITES Appendix-I listing of the African elephant (in 1990) or that the ivory was legally imported under a CITES pre-convention certificate.⁴⁸ That same day, FWS also announced that it would slightly ease the restrictions on musical instrument imports and exports, in order to allow easier passage for traveling musicians who otherwise qualify for the exemption. Two additional steps have not yet been taken as of the time of publication of this report: The FWS intends to propose changes to the ESA "special rule"

for African elephants in order to further restrict exports and interstate sales (by narrowing or eliminating the antiques exemption for interstate sales) and will also publish a proposed rule to limit sport-hunted trophy imports to two per hunter annually.



State Legislation

In addition to federal regulations, several states are considering complementary legislation to restrict intrastate ivory sales, including:



Ivory Traded at U.S. Auctions

WHY AN AUCTION INVESTIGATION?

Ivory sold at auctions is a subset of the overall retail market, but this sector has been largely overlooked in previous analyses. The two most recent comprehensive studies of the U.S. ivory market are from 2002 (Humane Society of the United States)⁵⁴ and 2008 (Martin and Stiles),⁵⁵ but neither covered the auction industry. IFAW briefly looked at this sector in its 2013 investigation of the U.S. market, taking a one-time snapshot in November 2013 of ivory auction sales, and those preliminary results indicated that a significant amount of ivory was being traded at U.S.-based auctions.⁵⁶

Auction houses and antique dealers have resisted the proposed ivory regulations, claiming they are not part of the illegal trade and arguing that responsibility for the poaching crisis bypasses the United States, and is limited to Asia (where demand is sky-high) and Africa (where poachers and corrupt officials begin the trafficking chain). In official comments on the pending New York State legislation, major auction houses like Sotheby's strenuously objected to further regulation, claiming that their internal policies are sufficient;⁵⁷ however, according to FWS data on ivory seizures, Sotheby's was listed as a U.S. exporter for some of the seized ivory exports in 2009–2012⁵⁸ and other auction houses were also among the businesses listed as foreign importers and exporters for seized ivory imports for that same time period.⁵⁹

The United States is one of the largest overall ivory markets in the world and, according to senior Administration officials, “is contributing to the crisis now threatening the African elephant.”⁶⁰ Since the late 1980s, the federal government has seized 6 tons of illegal ivory smuggled into the country. Given the Interpol estimate of a 10 percent seizure rate, this means it’s likely that 54 tons or more has been successfully smuggled into the United States in that period.⁶¹ The U.S. is both a market for consumption and a transshipment country⁶² for ivory en route to destinations like China.⁶³ According to U.S. government officials, “significant amounts of recently acquired ivory are smuggled into the United States and laundered into the antique market.”^{64,65} In justifying the

new ivory sales regulations, FWS officials explained how “efforts by some smugglers to disguise recently poached ivory as antique material have made the additional restrictions necessary.”⁶⁶

Considering the gap between these viewpoints and with the pressing implications for national policy and conservation, it is crucial to better understand the role of auctions in the U.S. ivory market and the elephant poaching crisis.

The purpose of personally attending a sample of live auctions was to gather qualitative information on the policies and real-world practices of auctioneers (including expected changes caused by the proposed ivory ban), as well as to gain insight into the motivations and demographics of ivory buyers. Additional qualitative information was obtained through a survey sent by IFAW to selected auctioneers at the end of the investigation period. Quantitative data was also tracked by our investigators during live auctions, but the bulk of this information (for example, volumes and prices of inventory posted and sold) was mainly obtained by monitoring online auctions.

Two complementary components make up this investigation:

1. LIVE AUCTIONS:

Undercover investigators personally attended a sample of 14 live auctions and/or auction previews in February, March, and April 2014.

2. ONLINE AUCTIONS:

IFAW tracked online ivory auction activity during the nine-week period from February 25 to April 29, 2014 and analyzed data from 340 online auction events, hosted by 223 auctioneers and galleries.

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Seized ivory tusks and carvings prior to the US Ivory Crush in November 2013.

In the last few years and with the advancement of communication technologies, auction sales have predominantly migrated to online marketplaces, with most auction houses offering an online component that provides access to a global audience. As with other Internet platforms, online auctions facilitate the undocumented trade of ivory and other products from endangered animals: Online auctions are always open, unregulated, and anonymous (anybody with an e-mail account can sign up to become a bidder), which makes them a conduit for illicit trade. Online auction sales facilitate this process by combining ivory sales with other, legitimate, antiques trading. Given the ephemeral nature of online trade (one minute the advertisement is there; the next it's gone) and the huge size of the marketplace, law enforcers simply do not have the capacity to police this environment, making it an ideal venue for buying and selling illegal wildlife products without the risk of detection or prosecution.

This investigation is not intended to be a comprehensive analysis of the U.S. ivory market. The online auction investigation tracked inventory of ivory lots for sale on two

aggregator websites: LiveAuctioneers.com and AuctionZip.com, the largest and most user-friendly online auction marketplaces; and obtained information about sold ivory lots from the results database of LiveAuctioneers.com. The investigation did not include any other online auction aggregator websites, such as Invaluable.com, OnlineAuction.com, or The-Saleroom.com, to name a few. Therefore, volumes of ivory for sale or sold reported here should be considered conservative.⁶⁷ Regarding the use of Internet platforms for ivory trade purposes generally, it is important to emphasize that this investigation only scratched the surface of what might be available. There are a number of non-auction online stores that buy and sell ivory, but those are not included in this investigation, nor were large online marketplace platforms such as Amazon and eBay. Additionally, ivory may be found and traded via websites that are inaccessible to the general public (also known as "the dark web"),⁶⁸ but such unknowns are beyond the scope of this investigation. Previous studies of the U.S. ivory market have reported large amounts of products available in retail stores (antiques, jewelry, etc.) that are not covered in this report.

WHAT IS AN AUCTION AND HOW DOES IT WORK?

An auction is a public sale in which goods are sold to the highest bidder. The item being sold in an auction is referred to as a “lot” (sometimes a group of items is sold as one single lot). For the purposes of this investigation, a *live auction* (or *in-person auction*) is one for which bids are accepted from the auction floor from bidders who are physically present at the auction. Auction “previews” take place for a period of time (generally one week) before the actual auction day (or days). During that time, potential buyers are able to visit the venue, look at items, and ask any pertinent questions. Typically, the auction house sets an estimated low and high value for each lot. The sellers may set a reserve (minimum price) that bidders must meet, or the item will not be sold. Auction houses and galleries charge a buyer’s premium on sold lots, typically 21 percent of the final sold price. State sales taxes may be applicable as well.

In an *online auction*, all lots are listed in an online catalogue with a description—and usually a photograph—and are available for viewing and bidding by registered Internet bidders for a period of time (generally from one week to one month) prior to the auction event. Some auctions are online only, while others are live only, however, most current live auctions also have an online component, where live bidders are physically present on site at an auction location (or participating by phone) and bid against Internet bidders who have either placed a proxy bid or are bidding in real time from their computers. Auction houses and galleries post their inventory on a variety of auction aggregator websites such as LiveAuctioneers, AuctionZip, Invaluable, and The-Saleroom that provide access to a much greater audience while also reducing printing and mailing costs associated with traditional promotional materials. Most of the live auctions included in this investigation also had an online component.

METHODOLOGY AND PROTOCOLS USED FOR THIS INVESTIGATION

Whenever “ivory” is mentioned in this report, it refers only to elephant ivory unless otherwise specified. Specific methodology information is provided below for the investigations related to live auctions and online auctions, and results are provided separately in subsequent sections. Of the 14 auction houses visited by undercover investigators, seven also offered their inventories online during the online investigation period.⁶⁹ Therefore, those auction houses are covered in both the live and online components. For this reason, although results are provided separately for live and online auctions, there is some overlap in the inventory totals, and thus the two sets of results should not be considered in addition to each other. For example, an undercover investigator attended an auction in Cincinnati on March 24, and information about the ivory lots sold at that auction is provided in the live auctions section of this report. At the same time, the online auction investigation data analysis includes lots from the March 24 live auction.

LIVE AUCTIONS

Project investigators attended a representative sample of 14 auctions and/or auction previews in February, March, and April 2014. Preview times are generally more conducive to engaging in conversation with the auction house owner, or staff than during the hectic auction day.

The investigation was conducted undercover with investigators posing as potential customers interested in purchasing and/or selling ivory items. Although some investigators registered as bidders at the auctions attended, not all of them did. In preparation for attending the auction, investigators reviewed catalogues, when available, and identified specific ivory pieces to scrutinize.

ONLINE AUCTIONS

The investigation was performed over the course of nine weeks, from February 25 to April 29, 2014. Monitoring was conducted weekly for both ivory available for sale at online auctions and for ivory sold (most sales take place on weekends). A pilot project focusing on data collection was conducted to help inform methodology decisions. For the

AT THE AUCTIONS, INVESTIGATORS

4. Used pre-established criteria to roughly assess the likely legality of the ivory lots, considering whether there was any evidence that the item was obtained legally, was an antique, etc.

1. Tallied the number of ivory pieces found and made note of the most common types of objects

2. Made inquiries about provenance and documentation of the ivory inventory

3. Discussed the auction house's policies for providing evidence of the item's origin and age

5. Assessed the demand or popularity of ivory items by noting sale price, number of bids, potential customers interested in the pieces or asking questions

6. If possible, gauged the demographics of the clientele interested in ivory, as well as their motivations (for collection purposes, investment, status symbol, etc.), by talking to customers or asking auction house staff

7. Portrayed themselves as potential sellers of ivory pieces in order to find out the process and documentation requirements for selling such pieces

assessment of the quantity of ivory available for sale by online auctions, two of the largest online auction aggregator websites were monitored: LiveAuctioneers.com and AuctionZip.com. For the assessment of ivory sold, data were obtained from LiveAuctioneers.com's auction results database. (AuctionZip does not offer information on sold lots.)

The geographic scope of this component was nationwide in the United States (not limited to specific zip codes or cities).

"Ivory" was the main search term used because, during the investigation period, the sale of pre-ban ivory was legal in the United States, and therefore all ivory sold through the auction site was perceived to be legal by sellers. Each lot was examined to ensure that only elephant ivory lots were included, *excluding* any of the following ivory categories: fossil, walrus, marine, hippo, narwhal, mastodon, mammoth, Inuit or Eskimo. A separate general search was conducted to assess the amount of auction lots available using alternative terms such as "carved bone" and "ox bone." (These terms are often used in the United States and overseas as euphemisms for ivory to avoid detection.) Findings using these alternative terms were marked separately, and results are summarized at the end of this report. These items were not assessed to find

out whether they were ivory items. Tighter regulations on ivory sales may encourage some of the more unscrupulous sellers to use euphemisms to refer to ivory in the future.

The unit of measurement for monitoring ivory sales was "lots." Ivory lots generally include one item but, in some cases, include multiple items. When monitoring the quantity of ivory lots available for sale, only new lots were recorded in each monitoring session by looking at auction dates and lot numbers. Although most auction houses hold auctions roughly every two months, some auctioneers and galleries had more than one auction posted during the investigation period. In order to avoid double-counting the same "recycled" ivory lots, screen shots taken during each monitoring session were compared. In this case, previously unsold lots were compared with the newly posted lots, so that no duplicates would be included when totaling the amount of ivory available for sale. Moreover, for the few cases of auction houses posting their inventory frequently (weekly or biweekly), the results of only one monitoring session were included.

FURTHER INFORMATION ABOUT THE PROTOCOLS USED TO CONDUCT THIS INVESTIGATION IS AVAILABLE UPON REQUEST.

LIVE AUCTIONS

LIVE AUCTIONS COVERED

Project investigators attended a representative sample of auctions and/or auction previews that were taking place during the months of February, March, and April 2014. The investigation sought to cover a range of sellers that included some of the top-tier auction houses as well as some of the smaller ones. As for volume, although some auctions included more than 100 ivory lots, others only had 10 to 30 ivory lots in their inventory. Geographic diversity within the United States was another factor in selecting which auctions to attend in person.

Investigators visited 14 auction houses and galleries, attending eight auctions and previewing six. These were located in Florida (West Palm Beach, Sarasota, Tallahassee, and Fort Lauderdale), Maryland (Towson), Massachusetts (Boston and Norwood), Delaware (Claymont), California (Los Angeles, Anaheim, and San Francisco), Ohio (Cincinnati), Louisiana (New Orleans), and Oregon (Roseburg). For the most part, the auction houses visited held one live auction during the investigation period, with the exception of I.M. Chait and Kodner Galleries, which held auctions about every three weeks. We have only named specific galleries when the relevant information was available to the public; undercover investigators' reports are described anonymously.

Live auctions took place in a variety of settings, from large store-front spaces at shopping malls or strip malls, to fairgrounds, warehouses, and art galleries. These were mostly (although not all) large, clean, well-lit, and welcoming spaces. In general, auctioneers and galleries displayed ivory pieces in glass cases, either grouped together or separated by origin (Chinese, Japanese, European, African). If items were in locked cases, gallery staff were often willing to open cabinets for closer inspection. An exception was at one of the most prestigious auction houses investigated, where all ivory pieces were kept in a separate, locked room, which required a personal tour from an employee. On preview and auction days, auction houses frequently provided a catalog of lots to be auctioned, including descriptive information for each item that outlined what the item was, where it was made/carved, and some approximate age (e.g. 19th century).

Attendance at live auctions varied, with some auctions having fewer than a dozen people in the audience while others had hundreds. Depending on the number of lots, live auctions



lasted from three hours to an entire day, with an average rate of 100 lots presented per hour. Large live auctions had a staff of 10 to 20 people, including auctioneers, floor attendants, registrars, staff taking phone bids, staff manning computers to monitor and take Internet bids, and others who performed porter, usher, and security duties. In some cases, the auction house owner or manager filled the role of auctioneer; while in the larger galleries, up to three professional auctioneers were hired and rotated to run the bidding process.

In most of the live auctions, ivory was sold largely to online or to phone bidders, with sparse on-site bidding. Based on interviews with auctioneers and survey responses (see below), ivory lots and other Asian antiques generally sell well, with above average bidder activity and price, helped by the increased reach that online listings provide.⁷⁰ Interviews with auctioneers and survey responses also reveal that ivory lots constitute a relatively small percentage (roughly less than 10 percent) of the overall inventory offered by the auction houses and galleries investigated.

SUMMARY OF DATA COLLECTED OVER THE COURSE OF THE PROJECT

Table 1 summarizes the information related to ivory lots for sale at the live auctions and previews covered during this investigation. Overall, these 14 auctions offered a total of 833 ivory lots, with estimated values ranging from \$10 to \$25,000. Ivory lots included products such as statuettes, netsukes,⁷¹ accessories, paintings, carved tusks, and jewelry.

TABLE 1. SUMMARY INFORMATION OF LIVE AUCTIONS INVESTIGATED (LISTED IN ALPHABETICAL ORDER BY AUCTION HOUSE NAME)

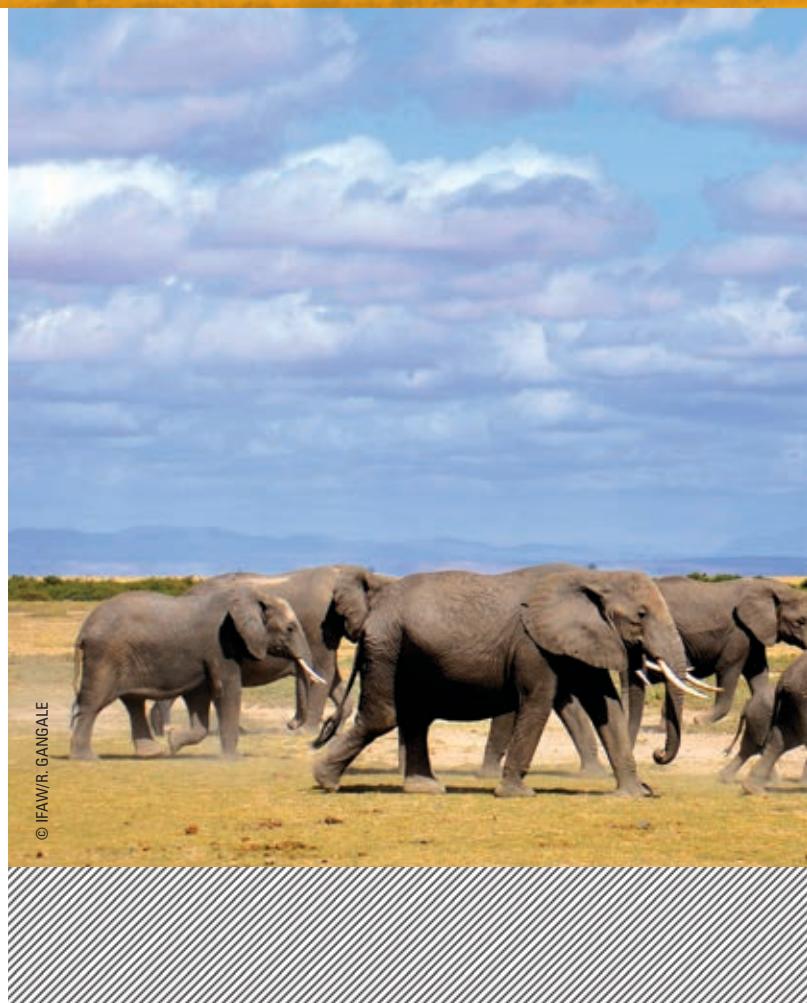
AUCTION HOUSE, LOCATION	DATE VISITED	IVORY LOTS OFFERED FOR SALE	MOST COMMON IVORY PRODUCTS	LOWEST AND HIGHEST ESTIMATED VALUE LOTS	HIGHEST SOLD PRICE LOT ⁷²
Alex Cooper Auctioneers, Towson, MD	4/12/14 (PREVIEW)	56	Carvings	\$60 (jewelry)-\$12,000 (Steinway piano with ivory keys)	Japanese sword with carved ivory handle (\$3,250)
Altair Auctions, Norwood, MA	2/22/14 (PREVIEW AND AUCTION)	16	Carved figures	\$60 (prayer beads)-\$4,250 (carved ivory tusk)	Chinese plaque (\$2,700)
Auction Gallery of the Palm Beaches, West Palm Beach, FL	3/31/14 (PREVIEW)	18	Mostly figures and carvings, some netsukes, accessories, and paintings	\$500 (painting)-\$8,000 (48-inch Chinese carved tusk)	Chinese carved ivory bridge (\$4,000)
Cowan's Auctions, Cincinnati, OH	3/24/14 (PREVIEW AND AUCTION)	146	Mainly figures and carvings, some accessories and netsukes, two tusks	\$75 (netsuke)-\$5,000 (pair of Japanese carved brush washers)	Pair of 19th c. Japanese carved ivory brush washers (\$4,750); 19th c. collection of snuff bottles (\$4,750)
Eldred's Auctioneers & Appraisers, East Dennis, MA	3/11/14 (PREVIEW)	112	Figures, carvings, netsukes, accessories	\$200 (netsuke)-\$3,750 (carved ivory picture frame)	Final sold prices unavailable
Golden State Auction Gallery, San Francisco, CA	2/26/14 (PREVIEW)	11	Figures and netsukes	\$100 (ivory inlaid hanging screens)-\$4,000 (Late Qing Republic carved figure with box and mark)	Ivory landscape snuff bottle (\$1,220)
I.M. Chait Gallery / Auctioneers, Beverly Hills, CA	2/9/14 (PREVIEW AND AUCTION) ⁷³	80	Netsukes, figures, and carvings	\$600 (netsukes)-\$8,000 (Chinese fan paintings)	Chinese fan painting (\$8,000)
International Auction Gallery, Anaheim, CA	2/9/14 (PREVIEW) ⁷⁴	20	Figures, netsukes, a massive carved tusk	\$50 (Chinese netsuke)-\$20,000 (massive carved tusk)	Information unavailable
Kodner Galleries, Dania Beach, FL	4/23/14 (PREVIEW)	26	Figures, carvings, tusks, accessories	\$200 (Meiji Japanese carved figure)-\$25,000 (large 19th c. Russian silver samovar ⁷⁵ with ivory grips and knobs)	Large Russian samovar (\$18,000) ⁷⁶
Liska Auctioneers, Roseburg, OR ⁷⁷	3/8/14 (AUCTION)	13	Tusks sold as pairs	No estimated values provided.	A pair of two large tusks 61" (\$13,000)
Manatee Galleries, Palmetto, FL	2/26/14 (PREVIEW)	61	Figures and accessories, two carved tusks	\$100 (Chinese ivory dragon puzzle ball)-\$15,000 (large Chinese ivory ship with wood base)	Very large Chinese ivory ship with wood base, including seven carved figures and treasures, made from several tusks and glued together (\$7,000)
Manor Auctioneers and Appraisers, Tallahassee, FL	2/23/14 (PREVIEW AND AUCTION)	174	Figures, carvings, jewelry, netsukes, carved tusks, accessories	\$10 (Chinese netsuke)-\$12,000 (Chinese carved Emperor and Empress figures)	Pair of mid-20th c. Chinese carved Emperor and Empress figures weighing 9.2kg (\$10,750) and a large pair of Mid 20th c. Chinese carved ivory tusk vases (\$10,500) ⁷⁸
New Orleans Auction Galleries, New Orleans, LA	3/15/14 (PREVIEW AND AUCTION)	65	Figures and carvings	\$300-\$9,000	Chinese ivory figure of an immortal (\$10,000)
Newman Antique Auctions, Claymont, DE	2/22/14 (PREVIEW AND AUCTION)	35	Carvings and statues	\$10-\$8,000	Chinese carved ivory statue with wood base (\$2,000)

AUCTIONEER POLICIES AND PRACTICES FOR SELLING IVORY

As stated in the introduction, the U.S. did not regulate domestic ivory markets until February 2014, and this was manifestly evident in the auctions visited during this investigation. For the most part, dealers in ivory products failed to provide credible information when investigators inquired about provenance or age documentation for their lots. With one exception (see below), none of the auctions or previews attended provided documentation (such as CITES import permits) for the ivory items being sold, which would indicate whether the product had entered this country legally. Some auction staff even seemed surprised when pressed about documentation. Most dealers interviewed said that they believed they had acquired all of their ivory legally, having taken the seller's word for it. In some cases, gallery owners pointed to stamps or signatures, such as a stamp on the bottom of a statue that indicated it was Ming dynasty and therefore old.

When asked about what kinds of documentation the auction house provided when selling ivory items, several galleries said "none" or that it was up to the buyer to secure such information. One staff member said, "The person needs to take care of themselves, if they buy the ivory." This was a common attitude among staff at many of the auction houses visited, placing the legal responsibility for following endangered species laws on the customer. Some employees explained how they register each item and research it to the best of their ability but also reminded the investigator posing as an ivory buyer that, "auctions are different from retail stores in that this is a 'two-way deal': We expect the buyer to do their own research about what they are buying." When an investigator asked a gallery owner if, as a buyer, she would get some sort of documentation showing that the ivory she intended to buy there was legal, the owner stated simply, "You don't need that." A prestigious auction house investigated indicated that it trusted what its sellers say about the provenance and legality of their ivory, rather than requiring paperwork or any proof of provenance or age, and that the house relies on staff expertise to estimate ivory age. The auction house offers "any necessary paperwork," yet it does not require any proof of origin when it receives an ivory item to sell.

Two of the auction houses interviewed said they had checked with the US Fish & Wildlife Service about their ivory sales and, they claimed, were told it was fine to include ivory lots in their auction. It is not clear whether this meant that they had cleared the ivory issue with FWS directly or if they checked



more general information sources about the status of the proposed ivory regulations.⁷⁹ Several employees interviewed were aware of the changing legal environment; but for the moment and based on current regulations in place, they did not believe any documentation was necessary for sales within the United States. Therefore, they believed they were conducting business in a perfectly lawful manner as long as they did not ship internationally. The attitude was "We don't know where it comes from, but if it's here, then it must be legal," a sentiment that, while troubling from a conservation perspective, did not run afoul of the law.

"We don't know where it comes from, but if it's here, then it must be legal," is a troubling sentiment from a conservation perspective.



Only one gallery was able to prove the legality of its ivory with any paperwork, having obtained such permits when it brought the ivory into the United States from Europe. The gallery owners appeared to place a heavy emphasis on the reputation of the gallery and claimed to carefully learn the history and provenance of each item they sell. Clients who buy any ivory pieces from this gallery get CITES and FWS documentation specific to these pieces, according to the gallery owner, who also showed those permits (albeit too quickly for close examination) to the undercover investigator. The owner said he is in full favor of having these certificate requirements.

In a few cases, the auction house staff seemed completely unknowledgeable about the age or provenance of the ivory items. When an investigator asked the staff at one of these auction houses if he knew the ages of any of the netsukes, he didn't know and said a few of them were "old."

Most auctioneers and gallery owners claimed to be able to tell visually between legal and illegal ivory, based on their expertise and knowledge, as well as coloring, markings, signatures, character, subject, wear, quality, or style of the

items. However, it should be noted that ivory can be stained or chemically treated to look dark and old,⁸⁰ and federal wildlife officials emphasize the difficulty or impossibility of determining the age and origin of ivory visually,⁸¹ thus complicating law enforcement.⁸² Even the FWS's National Fish and Wildlife Forensics Laboratory, one of the most advanced in the world, has difficulty determining the age of ivory or distinguishing between ivories from African or Asian elephants.⁸³ According to some experts, the only means of identifying specific types of ivory is through expensive technology like isotope analysis, which in many cases can damage the items.⁸⁴

Even some dealers admit that they operate in an industry where legal and illegal ivory coexist. In one case, a dealer visiting an auction house at the same time as the investigator stated that at least one of the ivory items being sold was illegal. When discussing the recent ban, he said the point of the ban was to try to prevent illegal ivory from being sold and then he pointed at the most expensive ivory piece in the auction and said he could tell that it was illegal ivory, "clearly post-90s," even though this was an otherwise very reputable gallery. Although this dealer was wrong in thinking people can tell the difference with the naked eye, this example indicates that some dealers are aware of impropriety in their sector.

Some auction houses included notices within the ivory lot descriptions indicating that they would not ship that item internationally (unpermitted exports would violate CITES regulations) or to California or New York (which have individual laws regulating the trade). Several of the auctioneers interviewed stated that their ivory came from local sellers/consigners and went to great lengths to avoid being linked with any interstate sales, requiring that ivory sold at these auctions would have to be picked up from the premises or that they would only ship within the state (even though interstate sales were technically allowed during the investigation period). Some galleries only used third-party shipping companies, and they did not do any in-house shipping. Of course, once the ivory was picked up, they were not responsible for what happened to it and generally did not want to know. One auction house owner said "If you are going to take it somewhere out of the state, please don't tell me." A staff member at another auction house was asked if people ever bought ivory in the United States to take back to other countries, such as China, and he said, "That is their responsibility."

PUBLIC OUTREACH IMPACT

In June 2014, Public Broadcasting Service (PBS) announced that its popular program *Antiques Roadshow* will no longer feature carved ivory tusks in its appraisals, and that it would remove past appraisals of ivory tusks from the series archive. However, the show will continue to feature some ivory items. According to WGBH-Boston, when featuring antique objects made from ivory, such as a portrait on ivory or a musical instrument with ivory parts, the show's producers will seek to offer context and use the appraisal as an opportunity to educate the public about the poaching crisis.^{86,87}



MOTIVATING FACTORS AND DEMOGRAPHICS OF IVORY AUCTION BUYERS

Based on observations at the majority of the live auctions, as well as interviews with auction house owners and staff, a significant proportion of ivory buyers are males of Asian descent. In at least two of the auction galleries visited, the owners were Chinese, and several auction websites posted their catalogs and other promotional materials in Chinese. (China is the world's largest consumer of ivory due to a widespread association of ivory with wealth and social standing.)⁸⁵

The country of origin (where the items had been made or carved, as opposed to where the ivory material came from) also seemed to play a role in the items' popularity: several auction houses indicated that Chinese products were a lot more popular than Japanese ones, even if the items were comparable in quality, condition, size, or style. One (Chinese) floor representative at an auction house said, "Chinese people do not like to buy Japanese things, only Chinese things, because of politics" (presumably referring to historical strife and war between the two countries).

In some cases, customers appeared to be motivated by a desire to collect ivory for personal display, particularly with regard to netsukes. Auction house staff said that while some collectors prefer older carvings (presumably antique or at least pre-ban), other collectors just want a specific aesthetic look or only purchase Chinese-made ones. Other customers appear to be motivated by commercial reasons: for example, customers at one auction told the investigator that they owned antiques stores or were otherwise planning to resell their ivory purchases.

Several auctioneers and dealers indicated that ivory now has a stigma and is not a "politically correct" commodity, hinting that public outreach campaigns by conservation organizations are educating the public about the link between ivory consumption and the elephant poaching crisis. One gallery visited displayed ivory separately and under supervision.

Given this stigma, employees at some of the auction houses stated that ivory is no longer a good investment or, at the very least, a risky and unpredictable one. There was not a consensus on this assessment, however, as some other auction staff asserted that ivory prices will continue to go up. Moreover, several staff and owners interviewed seemed to believe that the proposed regulations will not pass into law, or that the regulatory climate will relax when a new administration comes into office. One gallery owner said (erroneously) that, "elephant populations are breeding a lot in Africa right now, so maybe it [selling ivory] will be legal again sometime soon." Another owner said he might have to stop selling ivory "until we get a new president."



Hunting Trophy Sales at Auction

One of the live auctions differed significantly from the others in that it offered mostly ivory tusks, among multiple hunting trophies from the estate of a world-renowned hunter.

Promotional materials posted on the auctioneer's website in advance of the auction (there was no online bidding) stated that the auction house had documentation for all of the ivory, certifying its age and that it had been approved by the U.S. Fish and Wildlife Service and the state Fish and Wildlife authority.

However, sport-hunted trophy tusks are subject to strong trade limits—modern-day African elephant trophies cannot be bought or sold in the US, for example—but when an investigator inquired, auction staff said there was no documentation or paperwork for any of the ivory. The representative then explained, pointing at some stamps on the tusks, that the reason they were legal to sell was that they were stamped at the country of origin. (Only a few tusks had stamps, and they were mostly illegible.) When asked how old all the tusks were and where they were from, two staff representatives were unable to say; one of them said that the inspection and approval process had been undertaken by the family selling the estate items, and the auction house was not part of the process. Staff informed the investigator that the family had engaged a lawyer

Sport-hunted trophy tusks are subject to strong trade limits—with specific restrictions based on when and where the elephant was shot, and when the ivory was imported.

to review the trophies and made an attempt to prove that the elephants (and other animals) had been lawfully killed and lawfully imported, using documentation from the hunts or family photos dating the items.

A third staff member told the investigator that the auctioneer was selling the ivory based on the fact that state Fish and Wildlife authority had approved the sale; however, the auction house did not have any documentation to this effect. Auction staff seemed to think that, once a buyer had purchased the ivory, that buyer could decide what to do with it as long as it was not resold or taken out of the state, as per directives from the state Fish and Wildlife authority—but the purchaser would not get any documentation about the provenance or age of the tusks, only a receipt showing the auctioneer's information, date of sale, and the buyer's information.

A follow-up phone call to the state Fish and Wildlife authority revealed that the agency had been involved in approving the sale of certain game species at the auction, but had concluded that “all items not native to [the state in which the auction was held] and/or listed by CITES or regulated by federal law had to be inspected by the U.S. Fish and Wildlife Service.” The investigator was referred to the local FWS law enforcement office. When asked about the process for approving the sale of tusks, an agent stated that FWS discusses the pertinent laws with any interested party, but it is up to the individual to comply. The agent explained that “at one point, the auction website said [the ivory items were] ‘Approved by U.S. Fish and Wildlife Service,’” and that she had personally e-mailed and called the auction house to ask them to take that language off the website.

REACTION TO PROPOSED IVORY BAN

Most auction houses visited during the investigation appeared to be in a wait-and-see mode regarding the changing federal regulations. While they knew that ivory sales were becoming more difficult, sales were still legal at the time of our investigation. Therefore, auction house owners were usually still willing to examine and possibly take in additional ivory pieces on consignment, particularly if such pieces appeared valuable. That was the case even when undercover investigators posing as potential sellers stated that they had no documentation at all for their ivory pieces.

Upon being approached by undercover investigators about buying or selling ivory, most auctioneers, gallery owners and staff independently brought up the new regulatory proposal. Auction houses seemed to be in a predicament as to what to do with ivory at the moment, and staff at two of them described the situation of ivory at this point in time as “tricky.” Multiple times, gallery owners said they would not be selling any more ivory after their current auctions, because ivory would now be considered contraband, and they did not think it was worth the hassle. However, these same auction houses were also interested in talking to undercover investigators posing as current owners or potential inheritors of ivory collections. They offered to inspect the items and provided advice on whether or how to sell them *even if the investigators had no documentation*. One auction house even seemed to imply that it could provide any documentation necessary.⁸⁸ At least one gallery continued to offer ivory for sale in auctions after the date of IFAW’s investigation, despite previous claims they would stop. (After one gallery owner told an investigator in March that this would be his last time selling ivory, a post-investigation update revealed that, the same gallery posted more than a dozen ivory lots for auction again the next month, including Chinese carvings and figures.)

A large and well known auctioneer had nearly 300 ivory lots in its inventory for a March 25–26 Asian arts auction. However, this auction house made a last-minute decision to withdraw nearly all of the ivory lots from the auction just days before the event took place. The auction house website posted the following notice: “Due to new government regulations... [we] can no longer allow items containing ivory to be sold across state lines. Many lots in the Asian Works of Art Auction on March 25–26 have been withdrawn due to the new government regulation.” A staffer reached by phone shortly

after the decision was made said that the auction house will not be selling any ivory from now on, “due to government regulations that have been recently enforced,” and that all ivory would be returned to the consigners.

While most of the auction house owners and managers interviewed were aware and forthcoming about the recent regulatory proposal—and in fact many claimed that they would stop selling ivory as a result—their understanding of the new rules was vague. Investigators were told countless versions and interpretations of how the new rules would work versus the status quo, but such explanations were far from precise. Dealers seemed unsure as to when the rules would start to be implemented, and exactly what will be allowed or restricted. One dealer indicated that he believed “intrastate sales are probably still allowed” but wasn’t entirely sure. An employee at another auction house explained that the new law would prohibit transportation of ivory across state lines without proof that it was antique. When asked what antique meant, she said that she didn’t “know for sure, but it was something like 1865... 19th century.” One auctioneer seemed to believe that ivory before either 1931 or 1933 has different rules and would require less paperwork. If pressed for more clarity, some dealers appeared to have made up their mind that dealing with ivory, including understanding how the new rules work, was not worth their time, given the announced ban.

Several auctioneers interviewed expressed the opinion that the new ivory regulations, while not certain to be implemented, have already taken (or will take) a toll on their business, as a significant percentage of the items they deal with contain ivory, even if ivory is only a small part of each object.

A number of dealers indicated that the auction industry would adhere to the new ban rules if China was to adopt similar rules and African countries enhance their anti-poaching efforts. We do not presume that they meant they would refuse to follow the law, rather, that they felt actions here in the U.S. would be pointless if not supported by efforts overseas as well.

A few auctioneers who planned to continue to sell ivory items made it clear to investigators posing as potential sellers that they would not be interested in the collection unless it had documentation and followed whatever rules were set forth for ivory. The auction managers said they were essentially trying to get rid of their current undocumented inventory and anticipated having to require documentation in the near future. It seemed



that the employees of these auction houses understood the new climate regarding ivory and ivory sales and intended to comply with the letter of whatever regulations were announced, but the impending ban was used on at least a few occasions to encourage ivory sales at the auctions investigated. When the bidding on ivory items at an event hosted by a well-known auction house lulled, the auctioneer commented: "When do those ivory regulations kick in?" Employees at another gallery assured an investigator posing as a potential buyer that the new ivory regulations "are not in place yet" and that "now is the time to buy ivory."

A number of dealers indicated that the auction industry would adhere to the new ban rules if China was to adopt similar rules and African countries enhance their anti-poaching efforts.



Sotheby's and New York Auctions

Sotheby's is one of the world's largest auctioneers of fine arts, antiques, and collectibles. According to FWS's LEMIS data on cleared ivory imports from 2009 to 2012, Sotheby's imported a large amount of legal ivory (456 items) during that period and also had one shipment with 14 ivory specimens seized upon export (although the reason for the seizure is not provided by the LEMIS data).⁸⁹ Sotheby's opposes New York State's proposed legislative ban on ivory sales in the state, arguing that the legislation would have a negative economic and cultural impact. Sotheby's recommends, instead, that the bill be amended to allow for a legal market for ivory antiques, subject to appropriate safeguards.⁹⁰

During the data collection period of this auction investigation, Sotheby's did not hold any auctions with significant ivory lots, and Sotheby's inventory is not posted on any aggregator website. A search for ivory lots on the Sotheby's website in March resulted in three items: a pair of carved ivory zanpar⁹¹ estimated at \$30,000–\$50,000; a French armoire made of rosewood, metal, and ivory estimated at \$10,000–\$15,000; and a Chiparus statue made of bronze, ivory, and marble, estimated at \$8,000–\$12,000.

Previous investigations have found New York to be the largest market in the United States for ivory products,⁹² and in 2012, more than \$2 million worth of illegal ivory was seized from just two retail stores in Manhattan.⁹³ However, during the investigation period, there was not as much ivory available from New York-based auctions as expected. It is possible that, given the proposed state legislation that would effectively close the trade completely⁹⁴—and which is supported by 80

percent of New Yorkers⁹⁵—in addition to the new federal regulations, auction houses in New York may be reluctant to place lots of ivory up for sale. Also, New York requires ivory dealers to have a permit,⁹⁶ which discourages some illegal traders. According to news reports, Lark Mason, a New York auctioneer who specializes in antique ivory, claimed to have pulled \$500,000 worth of artifacts containing ivory from a sale because he believed the loss of their resale value would discourage bidders.⁹⁷ (A May 2014 search on Lark Mason's iGavel Auctions website resulted in 20 ivory lots available at auctions to take place that month.)

It is worth noting, however, that a different venue for ivory sales in New York appears to be thriving. Daniel Stiles, coauthor of a seminal 2008 study of the U.S. market that found New York City to have the most ivory of all urban areas surveyed, went back to New York in 2013 and noted a particular type of outlet, which he described in a Natural History article: "All these shops displayed signs advertising 'major sale' or 'huge discount.' They always display a mixed assembly of elephant and (legal) mammoth ivory pieces and large pieces made of composite bone. I suspect that these pieces are imported together in shipments from China and/or Hong Kong, which allows the illegal elephant ivory to be smuggled in along with the mammoth ivory pieces and bone pieces that imitate ivory. There are about a dozen of these types of outlet in New York, targeting tourists. They have a relatively high turnover, and salespeople stated that they sell a lot of ivory. They are always 'going out of business,' yet their ivory displays are always full."⁹⁸ According to Stiles, New York continues to be a prominent gateway city for illegal elephant ivory imports in the United States.⁹⁹

ONLINE AUCTIONS

DATA COLLECTION PROCESS

During the nine-week period February 25–April 29, 2014, eighteen monitoring sessions were conducted to track online auction ivory sales. To assess the quantity of ivory available for sale by online auctions, two major aggregator websites were monitored: LiveAuctioneers.com and AuctionZip.com, both of which are open to the general public. To assess the amount of ivory sold, data was obtained solely from LiveAuctioneers.com's results database (AuctionZip.com does not offer information on sold lots).

LiveAuctioneers is one of the web's leading auction-related sites, bringing an international audience of millions to bid on art, antiques, jewelry, and collectibles. It hosts thousands of auctions in real time via the Internet. Bidders can leave an absentee bid or engage in the auction action. In 2002, this NYC-based company revolutionized the auction industry by forming a marketing partnership with eBay, enabling auction houses worldwide to go online with their live sales. LiveAuctioneers' phone apps have also opened up a new mobile pipeline to bid anytime, from anywhere, with complete anonymity.¹⁰⁰ AuctionZip is the world's largest online auction marketplace (AuctionZip ranks number one on Google for auction searches¹⁰¹), where more than 25,000 professional auctioneers and 13 million auction buyers come together each year to list and find auctions; AuctionZip Live! is the nation's largest online bidding destination. Every week, thousands of new items are listed at auction.

ANALYSIS OF DATA COLLECTED OVER THE COURSE OF THE PROJECT

During the nine-week investigation, data were gathered from 340 online auctions, posted by 223 auctioneers and galleries with online catalogs registered on LiveAuctioneers or AuctionZip. (Some auction houses held multiple auctions during the investigation period.) Overall, results show a significant amount of ivory available for sale and sold by online auctions, with inventory volume, sales and sold prices comprised mostly of lots made entirely or mainly from ivory or where ivory was an important component.

In total, there were 4,186 ivory lots offered for sale by online auction. This is an average of 465 lots per week (or an estimated 24,186 ivory lots for sale per year). Table 2 lists the auction houses that posted the most ivory lots during the online investigation period.

Among the ivory lots posted for online auction, most of them (2,380) were made entirely or mostly of ivory, such as figures and carvings (including vases, puzzle balls, card cases, and snuff bottles), tusks (carved or raw), ivory jewelry, and netsukes or okimono. Ivory was a significant or important part of an additional 1,121 lots, including canes or walking sticks, sculptures made partly of ivory such as Chiparus¹⁰⁵ originals or replicas, and items such as utensils, chess sets, tools, seals, frames, boxes, billiard cues or balls, crucifixes, cigarette holders, and page turners. Ivory was a small component in the remaining 685 lots, which included ivory-handled knives and swords, jewelry, paintings on ivory, and other items such as ivory inlaid furniture, tea sets, serving dishes with ivory finials or knobs, pianos and other music instruments, baskets, guns, parasol handles, and other assorted lots combining ivory and non-ivory materials.

During the same period, 2,277 ivory lots were sold by online auctions registered with LiveAuctioneers.com, for a total monetary value of \$2,258,396. This conservative figure (information was only obtained from the results database of one website, LiveAuctioneers.com), when extrapolated to annual amounts, would be 13,156 ivory lots sold per year

TABLE 2. AUCTION HOUSES WITH THE LARGEST AMOUNT OF IVORY LOTS FOR SALE DURING THE ONLINE INVESTIGATION PERIOD, BY POSTED IVORY LOTS

AUCTION HOUSE	LOCATION	IVORY LOTS (NUMBER OF AUCTIONS)
Leslie Hindman Auctioneers	Chicago and other locations worldwide	317 (8) ¹⁰²
I. M. Chait Gallery	Beverly Hills, CA	272 (5)
Newport Beach Auction	Costa Mesa, CA	218 ¹⁰³
Kimball M. Sterling, Inc.	Johnson City, TN	200 (2) ¹⁰⁴
Cowan's Auctions	Various, mainly in the Midwest	162 (2)
Elegance Gallery and Auctioneer	El Monte, CA	118 (3)
Jackson's International Auctioneers	Cedar Falls, IA	84 (1)
Alex Cooper Auctioneers	Towson, MD	82 (3)
Bruce Kodner Galleries	Lake Worth, FL	80 (5)

(253 weekly), with an estimated annual value of a little over \$13 million (a weekly average of \$250,933). Notably, in addition to the final sold price, buyers must pay the auction house a 21 percent buyer's premium. The estimated annual commission on ivory sales on LiveAuctioneers.com would be about \$2.75 million.

Final sold prices ranged from \$5 for a pair of ivory napkin rings sold by Burns Auction and Appraisal, to \$90,000 for an 18th Century Chinese zitan and ivory table screen sold by Waterford's Art and Antiques. The average sold price was \$991.

Lots made entirely or mainly from ivory, such as carvings and figures, tusks, netsukes, and ivory jewelry made up about 56 percent of the total lots and 43 percent of the total monetary value of sold ivory lots. Lots where ivory was an important component of the item (such as utensils, chess sets, tools, seals, frames, boxes, billiard cues or balls, crucifixes, cigarette holders, and page turners, as well as ivory-handled canes and sculptures partly made of ivory) accounted for 23 percent of the total number of lots and 31 percent of the total dollar value. Table 3 provides information about the type of ivory lots sold and their final price.

Table 4 lists the auctioneers and galleries that sold the most ivory lots by online auction during the investigation period, according to the LiveAuctioneers results database. Total sold price information is also included. Several of these top sellers were also investigated in person, as part of the undercover live auction investigation. Kimball M. Sterling was the top seller of ivory lots, which mainly consisted of ivory-handled canes.¹⁰⁶ Cowan's sold the second largest number of ivory lots, followed by I.M. Chait, which sold slightly fewer lots than Cowan's but at nearly three times the total sold price. New Orleans Auction and Alex Cooper Auctioneers were two other top sellers, but while both auctions sold the same number of ivory lots, the total sold price of the New Orleans lots was more than three times as much as those from Alex Cooper.

IVORY SALES AND SHIPPING POLICIES/ GUIDELINES POSTED BY AUCTION HOUSES

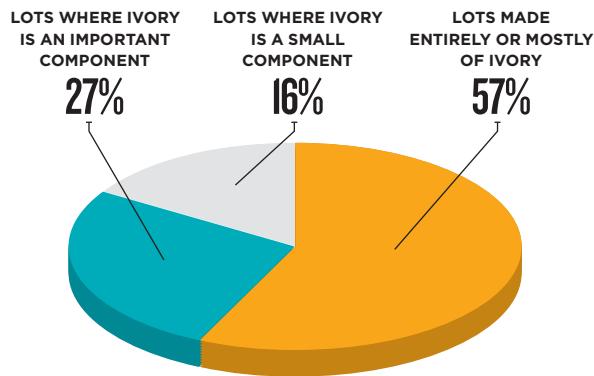
Overall, as indicated by the following examples, a low percentage of the auctioneers and galleries posted information about shipping policies or regulations regarding ivory.

Manatee Galleries' website contains the following disclaimer

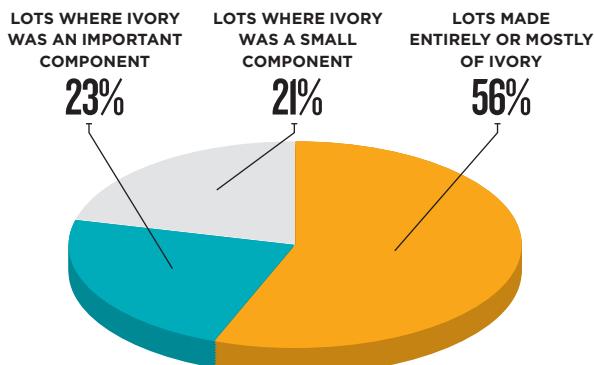
about selling/shipping conditions: "All condition reports, measurements, opinion of values, age, and quality are offered by the gallery but are not guaranteed. Neither the auction house, nor the consignor, is responsible for the accuracy of printed or verbal descriptions or its authenticity. Artist's names, signatures do not carry warranty and are not guaranteed unless certificate of authenticity accompanies lot, provenance provided when available. Manatee Galleries Inc. and its representatives do not claim any expertise. Any condition statement is given as a courtesy to a client; it is only an opinion and should not be treated as a statement of fact. Manatee Galleries Inc. shall have no responsibility for any error or omission."¹¹²

For ivory items, Auction Gallery of the Palm Beaches states: "Domestic and International shipping is not available for this item. This item can only be picked up from AGOPB by the buyer and/or the buyer's assigned agent. As a condition of the sale, all buyers agree to comply with all rules (CITES) and

Ivory Lots for Sale



Ivory Lots Sold



any and all additional requirements regarding the purchase of, and/or sale of all endangered species. It is the purchaser's sole responsibility to obtain any and all licenses and/or certificates, as well as any other requirements prior to shipping."

This kind of general language is commonplace in the auction/gallery world, and would also seem to act as a protection (at least until the recent ban) for any questions/uncertainty about ivory provenance and legality.

Other examples of notices provided for ivory items are as follows:

Brunk Auctions: "Restricted materials lots with this symbol have been identified at the time of cataloging as containing organic material that may be subject to restrictions regarding import or export."

Hess Fine Auctions: "Due to current individual state laws, we do not ship ivory to the states of California or Washington. Please note, we are also currently unable to export ivory. It is the responsibility of the winning bidder to determine their respective state regulations regarding ivory and other wildlife materials, and proceed accordingly. We respect the laws of the United States and determine to the best of our ability that all ivory, horn, tortoiseshell, scrimshaw, and other related

TABLE 3. NUMBER OF LOTS SOLD BY IVORY TYPE AND TOTAL SOLD PRICE

IVORY TYPE	LOTS SOLD	TOTAL SOLD PRICE
Carvings and Figures	933	\$735,277
Tusks	56	\$128,125
Netsukes and okimono	137	\$45,640
Ivory jewelry	148	\$26,691
Ivory-handled canes or walking sticks	234	\$280,700
Other items mainly made of ivory	216	\$184,860
Sculptures made of ivory and other materials	82	\$225,880
Other lots with smaller parts made of ivory (such as paintings, knives, guns, furniture, etc.)	471	\$631,223

TABLE 4. AUCTIONEERS AND GALLERIES THAT SOLD THE MOST IVORY LOTS AND THE TOTAL SOLD PRICE DURING THE INVESTIGATION PERIOD

AUCTIONEER, LOCATION	NUMBER OF IVORY LOTS SOLD	TOTAL SOLD PRICE
Kimball M. Sterling Auctioneer and Appraiser, Johnson City, TN	173 ¹⁰⁷	\$228,275
Cowan's Auctions Inc., Cincinnati, OH	152	\$97,925
I. M. Chait Gallery/Auctioneers, Beverly Hills, CA	121	\$287,870
Jackson's Auction, Cedar Falls, IA	82	\$72,570
Leslie Hindman Auctioneers, Chicago IL	79	\$50,430
New Orleans Auction Galleries, New Orleans LA	68	\$109,075
Alex Cooper Auctioneers Inc., Towson, MD	68	\$34,375
International Auction Gallery, Anaheim, CA	59	\$38,025
Kodner Galleries, Dania Beach, FL ¹⁰⁸	57	\$68,475
Manatee Galleries, Palmetto FL	56	\$40,025
Elegance Gallery and Auctioneer, El Monte CA	54	\$69,145
Don Presley Auctions, Orange, CA	50	\$47,425
Bruce Kodner Galleries, Lake Worth, FL	49	\$31,595
Tradewinds Antiques, Manchester, MA	37 ¹⁰⁹	\$66,075
Skinner Auctioneers, Boston MA	37	\$45,125
Bill Hood & Sons Art and Antique Auctions, Delray Beach, FL	32	\$49,800
South Florida Auction Galleries, South Fort Myers, FL	31	\$5,940
Schwenke/Woodbury Auction, Woodbury, CT	30	\$19,370
Kenneth Hutter Auctions, Mamaroneck, NY	30	\$12,110
Richard D. Hatch & Associates, Flat Rock, NC	28	\$6,075
Chandler's International Auction, Winston Salem, NC	26	\$6,205
Roland Antiques, New York City	25	\$12,255
Waterford's Art and Antiques Auctioneers, Berlin, NJ	23	\$108,280 ¹¹⁰
Hamilton's Antique Auction Gallery, Takoma, WA	21	\$44,905 ¹¹¹
Auction Gallery of the Palm Beaches, West Palm Beach, FL	19	\$17,025
Rago Auctions, Lambertville, NJ	19	\$39,925
Leonard Auction Inc., Addison, IL	19	\$2,540
Richard Opfer Auctioneering, Timonium, MD	13	\$6,580

materials have origin preceding all applicable domestic bans. We do not condone or encourage modern day traffic of ivory or slaughter of wild animals. A small portion of each sale of wildlife material will go to the African Elephant Conservation Fund.”

Locati Auctions: “This item(s) contain a substance which is protected and restricted in the United States and by international convention and can only be shipped within the country in which it is located at the time of the sale. We cannot sell ivory or related items to residents of California.”

Several additional auction houses, including Eldred’s, Echoes, Eastern Dynasty, Leighton, and Woodbury, provided notices within the ivory lot descriptions warning that items were not available for international shipping or shipping to California. It should be noted that the aggregator websites investigated (LiveAuctioneers and AuctionZip) have no educational materials or guidelines posted for selling or shipping ivory items.

Even in the cases where a shipping policy or ivory regulation is posted, frequently these are tucked away on a separate page that is difficult to find. The result is that most online auction websites do not require sellers to prove the legality of their items, nor do they monitor what is being posted or sold. Additionally, it would appear that many do not enforce the rules by which they claim to operate. These factors, coupled with the anonymity of the Internet, leave this marketplace open to abuse by those who seek to sell illegal ivory items.

SEARCHES USING OTHER TERMS

During one of the live auction investigations, a dealer was overheard talking to the gallery owner about what he did with his ivory. The dealer said that he puts it on an online auction site and just tells customers that it cannot be shipped

“Most online auction web-sites do not require sellers to prove the legality of their items, nor do they monitor what is being sold.”

internationally. In a subsequent phone conversation, the same dealer said that a lot of what is called “faux ivory” on certain online auction sites is, in fact, real ivory. Searching “faux ivory” on online auction sites turns up multiple items, such as statues and decorative objects, offered for thousands of dollars.¹¹³ Wildlife officials are aware that this ploy to circumvent the rules is fairly common¹¹⁴

While monitoring efforts in this investigation focused on the use of the term *ivory*, a general search was also conducted during April 2014 on LiveAuctioneers to identify the use of alternative terms and the approximate amount of inventory available on any given day using such terms. The following terms, based on prior intelligence that these terms have been used as code words to disguise ivory items, were most frequently found:

RESIN	CARVED BONE	OX BONE	FAUX IVORY
404 LOTS AVAILABLE FOR SALE ¹¹⁵	340 LOTS AVAILABLE FOR SALE ¹¹⁶	17 LOTS AVAILABLE FOR SALE ¹¹⁷	18 LOTS AVAILABLE FOR SALE ¹¹⁸

While it is possible that some or all of these items could be disguised ivory, it should be noted that an analysis of each advertisement by an ivory expert was not part of the scope of this investigation.

Some auctioneers also used variations on the term *ivory*, for unknown reasons. For example, Brunk Auctions listed all its ivory inventory items as “ivory?” and Langston Auction Gallery described its ivory items as “ivory or bone.”

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Actress and IFAW Ambassador Kristin Bauer at the US Ivory Crush.



© IFAW/A. HOFFORD



IFAW President and CEO Azzedine Downes feeds illegal ivory into a crusher.

© IFAW/A. HOFFORD



SURVEY

After the investigation period, IFAW conducted a brief survey to assess the amount of elephant ivory currently being sold at U.S. auctions, as well as the auction house policies implemented to ensure compliance with federal regulations governing sales. The survey was sent to 55 U.S.-based auctioneers and galleries.¹¹⁹

Survey recipients were asked about the size of their current ivory inventory, as well as their typical monthly or annual ivory inventory and its value; the percentage that ivory represents among the company's overall inventory; what types of ivory products are most popular; what kind of provenance or age information is requested when accepting ivory items from a seller/consigner, and what kind of information is provided to the buyers; and whether the company has had any experience or trouble importing or exporting ivory items. Recipients were also asked to provide any comments on the impact that proposed ivory regulations may have had on their ivory sales.



Perhaps not surprisingly, only four auction houses and galleries responded. Responses regarding current inventory of elephant ivory lots ranged from zero to 18 lots. For those who had any inventory, it was mostly composed of carvings (most popular), figures and jewelry, as well as accessories, tea sets, inlaid items, and musical instruments. One of the auction houses that had a current sizable inventory was one that was visited during the undercover investigation, and at that point the gallery owner had said the house would not be taking in any more ivory. In general, ivory constituted a small part of all the respondents' overall inventories—somewhere between 1 and 5 percent.

When accepting elephant ivory items from a seller, one respondent said he asks for an “oral history or verbal provenance” of the item by the seller, and another respondent similarly said he requests “a statement from the consignor [seller] regarding the age of the item.” Other respondents said they only accept ivory items from estates with a family history for the ivory (i.e., dates of purchase, stamps, photos, etc.) That same information is then provided to the customers buying the ivory items. None of the respondents said they import any ivory, and all said they only sell to U.S. customers.

Regarding whether the proposed ivory regulations have had any impact on the way they sell ivory, two galleries said they would no longer sell ivory at their auctions or they had already stopped selling carvings and figures after the February FWS announcement. But again, that was also the claim back in March when an undercover investigator visited one of these galleries. Other respondents said the new regulations would cause them to take a closer look when selling any type of ivory.

When accepting elephant ivory items from a seller, one respondent said he asks for an “oral history or verbal provenance” of the item by the seller.

Conclusions

- The scale of ivory trade in auctions, the confusing rules and regulations, and the suspect nature of a significant portion of ivory auction commerce, all contribute to making the auction industry a potential cover for illegal ivory trade.

- The recent proposal to ban ivory sales still allows for the sale of antiques as long as proper documentation is available. This investigation shows that, in most cases, no such documentation is presented.
- The new proposed rules will require auction houses and galleries to carefully consider which ivory items to purchase or accept for consignment. Even before the new FWS administrative actions were in place, expert auctioneers and appraisers advised that documentation and paperwork regarding ivory and other endangered wildlife products are essential when determining whether to reasonably proceed with an auction.¹²⁰
- People in every auction investigated (including the owners, employees, and customers) seemed to have different understandings and interpretations of how the ivory rules work and chose different ways to comply.
- Most live auctions attended were very professional and well-staffed events. However, despite being aware of ivory regulations, most auction houses also chose to ignore or did not understand how to operationalize state or federal rules. Staff interviewed reiterated in several cases that the auction houses were not responsible for the provenance of their items and, if the buyers were not happy, as one put it, “they are always welcome to bring the item back.”
- Because most auction houses do not have any documentation for the ivory items they sell, auction staff generally date their pieces based on their own expertise. However, even auctioneers who have worked in the antiques business for decades admit how difficult it is to discern whether a piece is 50 or 100 years old, and how easy it is to artificially age ivory.¹²¹
- Federal regulations are critical in order to ensure that the documentation requirement is enforced. Until now, without specific rules or requirements, auction houses have not been required to provide any documentation for the ivory being auctioned. Selling (allegedly) pre-ban or antique ivory without certification presents a serious problem for law enforcement.
- As with other Internet platforms, characteristics of the online market—always open, unregulated and anonymous—allow for online auctions to facilitate the undocumented trade of ivory, making it increasingly difficult for enforcers to regulate.
- One way to circumvent the ban on ivory sales is to use terms such as “faux ivory,” “carved bone,” “ox bone,” and other similarly vague euphemisms. This strategy is likely to increase as stricter regulations regarding ivory sales are put into place. It will therefore be necessary for auctioneers, online marketplaces and enforcers to ensure that they are identifying code words and searching for those terms when implementing their policies or enforcing the law.

Recommendations

- Given the role the auction industry plays in sustaining consumer demand for ivory, it is clear that auction houses can also meaningfully promote elephant conservation by reversing course on sales. Reputable auction houses, galleries, and websites should support a strong ban of ivory products with (at most) only limited exceptions and required documentation for all ivory sales.
- The Administration should finalize the strongest possible regulations on domestic ivory trade.
- The general public should cease buying ivory products and should only patronize those auction houses, galleries, and websites that support the ivory ban and comply with the new ivory regulations.
- FWS and other enforcement agencies should increase their monitoring efforts to ensure that the new ivory regulations are followed and enforced.
- FWS should develop and widely distribute materials to educate auctioneers and other retailers (as well as the general public) about the new regulations.
- Congress should increase funding for public education and enforcement of these rules.
- Auction websites that continue to list ivory lots should post educational content for consumers about the elephant poaching crisis and its implications for ivory sales; and should post compulsory warnings prior to bid/final purchase regarding the potential illegality of an ivory purchase.
- Auction websites should make legal requirements related to the sale of elephant ivory easily visible on their site. Websites should also include visual proof of proper documentation for all listed ivory pieces.
- Auction websites should self-police postings to ensure sellers are not attempting to circumvent laws/policies related to the sale of ivory.

Going Forward, IFAW will:

Advocate for the Administration to finalize their proposed ivory regulations in a timely manner.

Work with governments in other source, transit, and consumer nations to implement strong trade regulations for wildlife products.

Reach out to auction houses and websites to offer guidance on new rules and regulations, and to help address compliance issues.

Work with auction sites to update their search filters and monitoring policies and establish training programs so staff can more easily identify alternative terms for ivory search.

Continue public outreach efforts aimed at building broad public awareness of the new rules and the United States' role in the elephant poaching crisis.

Continue monitoring auction houses and websites in order to gauge compliance with the new regulations.

Seek new partnerships with authorities to aid enforcement.

Azzedine Downes,
IFAW President and
CEO, visiting Liwonde
National Park, Malawi
▼



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International Headquarters

290 Summer Street
Yarmouth Port, MA 02675
United States
Phone: 1 (508) 744 2000
Phone: 1 (800) 932 IFAW (4329)
Fax: 1 (508) 744 2009
info@ifaw.org

Washington, DC Office

1350 Connecticut Avenue NW
Suite 1220
Washington, DC 20036
United States
Phone 1 (202) 296 3860
Fax: 1 (202) 296 3802
info@ifaw.org

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