

Written evidence from Sydney L Moss Ltd (IVB09)

1. Authority to comment:

We are Sydney L Moss Ltd, a 108-year-old fourth generation family art dealership who specialise in Chinese and Japanese antiques. We have published over 28 books on subjects of our expertise (including ivory) and are one of the oldest Asian antique dealers in Europe. We are world leaders in Japanese netsuke and for that reason, the proposed Ivory Bill will have a significantly negative impact on our business.

2. Summary:

The threat of extinction of the African elephant is a grave concern to us and we agree the poaching of these majestic creatures for their tusks is repugnant. For many years we have supported the call for the trade in modern ivory to be banned and the trade in legal antique ivory to be regulated with narrow exemptions governed by appropriate measures.

In the second reading of the Ivory Bill, Michael Gove repeatedly acknowledged that there is a need for exemptions that reflect past uses of ivory where it was deployed for artistic or cultural reasons. On this basis, Mr Gove has granted exemptions in the Ivory Bill for certain items such as musical instruments and portrait miniatures because of their artistic value, holding the view that these items are not acquired for their ivory content. Further to this point, NGOs such as the WWF have also recognised that exemptions are needed and that trade in antique ivory does not contribute to the poaching of elephants (see the Environmental Investigation Agency report and the TRAFFIC report).

Whilst we welcome regulation in this area of trade to root out unscrupulous proprietors of illegal ivory, the current exemption for 'items of outstanding artistic etc value' in the Bill is ill-conceived and should be amended to include an exemption for pre-1947 worked ivory. This submission therefore seeks to clarify and provide evidence to support this amendment.

3. Explanation:

The first point we would like to clarify is that there is no evidence to suggest that the trade in genuine pre-1947 ivory items of cultural or artistic merit contribute to the continued poaching of ivory; in fact, evidence illustrates the opposite.

In the second reading, Mr Gove conceded that exemptions were granted for portrait miniatures because "no-one is buying these [works] for their ivory content". We argue the same could be said for items such as Japanese netsuke. Mr Owen Paterson identified in his reading address that the market value of ivory is currently \$700 per kilogram. Currently, our heaviest ivory netsuke is 99 grams and costs £22,000 which makes its material value over £200,000 per kilogram. After running

this exercise on our ivory items, we have found the average material value of our ivory works is around £1,300,000 per kilogram. From these calculations, it becomes clear that the value of these items lies in the artistic merit, not the ivory content.

If Mr Gove is therefore willing to make exemptions ivory portrait miniatures on the basis that they are commercially traded for their artistic merit and not material value, then we implore the Committee to include pre-1947 worked ivory items in the exemption for the same reason.

The second point we wish to raise in support of a pre-1947 dateline is that there are items of importance and museum quality that would fall foul of the current pre-1918 exemption. Below are images of an ivory netsuke of a recumbent goat by Kyusai (1879-1938) and an ivory netsuke of a carp leaping in waves by Morita Soko (1879-1942). Both artists are considered master carvers and important to the oeuvre of Japanese netsuke. Examples of their works figure prominently in the Los Angeles County Museum of Art (LACMA) which undeniably is the strongest collection of netsuke in the museum world. There are also examples of these works held in distinguished UK museum collections including the British Museum and the National Museums Liverpool. However, under the proposed pre-1918 dateline exemption, these works would fall outside this exemption regardless of their cultural significance and museum quality.



The third point we wish to raise is the illogical reasoning for imposing a pre-1918 dateline for entirely ivory items yet accepting a pre-1947 dateline for other exemptions. The pre-1918 dateline is based on the arbitrary decision that items less than a hundred years old from the time of the implementation of the ban are not exempt. This not only demonstrates a complete lack of evidential support for the decision but in fact goes against already harmonised EU law which accepts a pre-1947 dateline and therefore will be an unlawful derogation.

The final point we wish to clarify is the negative impact the current exemption would have if it is only to include 'outstanding' or 'important' items and not items of worked pre-1947 ivory. As expressed above, we are world leaders in netsuke which accounts for roughly 2/3 of our annual transactions. For centuries, Japanese carvers have favoured ivory as a preferred carving material as it is easy to work with and as a result most of the best examples of netsuke produced are ivory and make up a significant portion of our stock. The proposed exemption threatens our ability to continue trading in pre-1947 ivory netsuke as the criteria outlined in section 2(3)(a-c) of the Bill for meeting this threshold is too subjective. As a result, like many others art dealerships effected, we are looking to relocate outside the UK to continue trade in our field of expertise which the Bill aims to criminalise. Our departure from the UK (along with other leading art dealers), would not only have a marked impact on the culture sector but on the average individual. The first notable effect would be the loss of expertise in antique ivory and study material available for furthering academic research. There exists a symbiotic relationship between the art trade, museums, and academics – each needs the other to thrive. Without art dealers and their expertise, the museum's collections will suffer as the collections become stagnant and irrelevant. This mass move of art dealers would inevitably shrink the UK art market from world leading to second rate.

Evidence of this position is clearly indicated by the countless inquires we receive from members of the public about ivory items they have inherited or acquired with questions about the age and the cultural significance is of the work. These individuals come to us for our expertise in the field, not the museums. If we were to relocate outside the UK, there will be far fewer specialist able to educate the public leaving a vacuum the museums are unable to cope with due to lack of resources.

Further to this point of public impact, we conduct many transactions with individuals who are looking to sell a single ivory item that they inherited as an item of value – these are not wealthy collectors with the means to move their vast collections out of the UK but your average UK citizen looking to sell the only item of value they possess. To date, we have purchased over 600 pre-1947 ivory items for less than £3,000 from these kinds of individuals. We also have conducted nearly 400 "one-off" sales of pre-1947 ivory works for less than £3,000 to individuals who are not wealthy collectors but individuals who want to acquire a special object in their area of interest within a certain price point. As it stands, many of those items would fall outside the proposed exemption, forcing us to turn away these individuals and further isolating the ordinary member of the public from partaking in the enjoyment of cultural objects. Thus, we implore the Committee to consider amending the current exemption to include pre-1947 worked ivory items.

4. Solution:

Equally important to establishing these exemptions is the implementation of appropriate measures. The following proposal is based on a licencing system similar to that used by the Arts Council of England to regulate works of art as per the Waverly criteria. As proposed by the Ivory Bill, the best method of regulating the exemptions is through a certification system. We agree with this process and offer further points of clarification on how to achieve this.

As the Bill already acknowledges, applications should be accessed by a 'prescribed institution'. We therefore pledge to support the formation of an official ivory expert panel which is to include museum experts, academics, and art dealers as the prescribed institution. This would not only lift the burden from museums facing a mammoth task of 100,000 plus applications flooding in and remove the obvious conflict of interest but also takes advantage of the wealth of expertise the UK has beyond museums. An expert panel of this type would set an excellent leading example for other countries that it is possible to take a hard line against illegal ivory trade and nurture homegrown expertise at the same time.

Once an item has received approval from the panel, a certificate and identification number would be issued for the item, the details of which would be stored on a central database as a permanent record. This identification will remain with the item as an indicator of its approved status of meeting an exemption requirement and is a tangible mean on monitoring non-compliant proprietors of ivory items.

We also agree to the proposal of a non-refundable application fee and suggest a fee of £100.

The above proposed system would have a two-fold result of ensuring the trade in illegal ivory is extinguished in the UK. The first is that the cost of an application at £100 would effectively remove a lot of the illegal ivory trinkets floating around the market. For example, if you are selling an ivory bangle or tourist souvenir at townhall market, paying the £100 application outweighs the sale value of the item (not to mention the items are also likely post-1947 and therefore would not be approved). This fee sets a minimum standard of artistic craftsmanship that the item will need to be and as a result weeds out the cheap items found in online auctions and street market stalls.

The second effect the proposed solution would have is that the onus is shifted to the applicant to be accountable for the items they acquire and sell. This aim was supported by MPs in the second reading and one for which we agree. It forces the purchaser of pre-1947 ivory to ensure they are indeed acquiring a pre-1947 ivory item with a high level of certainty. If they are not certain the item will fall within the exemptions and approved, they run the risk of the piece being rendered unsaleable is it is not issued a certificate and therefore a loss of money.

We are grateful for the time taken to consider the evidence we have put forward and remain at your disposal should you wish to discuss anything in further detail.

Sydney L Moss Ltd.

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