

ELEPHANT IVORY TRAFFICKING IN CALIFORNIA, USA

AUTHOR Daniel Stiles



ABSTRACT:

Investigators comprehensively surveyed commercial vendors selling ivory in Los Angeles and San Francisco, California, which previous surveys identified as the U.S. cities with the highest proportions of potentially illegal ivory pieces and the largest ivory markets overall, behind New York City. The data collection for this study was carried out between March 15 and April 11, 2014. A total of over 1,250 ivory items offered for sale by 107 vendors was seen in California, with 777 items and 77 vendors in Los Angeles and well over 473 ivory items and 30 vendors in San Francisco. In Los Angeles, between 77% and 90% of the ivory seen was likely illegal under California law (i.e., post-1977) and between 47% and 60% could have been illegal under federal law. In San Francisco, approximately 80% of the ivory was likely illegal under California law and 52% could have been illegal under federal law. There is a much higher incidence of what appears to be ivory of recent manufacture in California, roughly doubling from approximately 25% in 2006 to about half in 2014. In addition, many of the ivory items seen for sale in California advertised as antiques (i.e., more than 100 years old) appear to be more likely from recently killed elephants. Most of the ivory products surveyed appear to have originated in East Asia. While consumer demand for ivory items remains high, there are significantly fewer vendors in California selling ivory items than in 2006. Finally, both federal and state law enforcement of existing ivory laws in California appears to be minimal and there is widespread confusion among vendors about what constitutes the legal and illegal sale of ivory.

INTRODUCTION

The illegal killing of elephants for ivory, commonly known as ivory poaching, has reached alarming proportions in Africa.¹ A recent study estimated that over 100,000 African elephants were killed in just three years from 2010 through 2012.² And a series of elephant population surveys in Central Africa led to the conclusion that the African Forest Elephant (*Loxodonta cyclotis*) declined in number by over 60% between 2002 and 2011, primarily due to ivory poaching.³ Parts of eastern Africa have also been seriously affected, and recent elephant population surveys have shown that elephants declined in Tanzania's Selous ecosystem – Africa's largest protected area – from 55,000 in 2007, to 39,000 in 2009, to only 13,000 in 2013, mostly due to poaching.⁴ Southern Africa, a long-time haven for elephants, has not been spared and poaching and ivory trafficking have increased in recent years.⁵

Likewise, seizures of illegal ivory have increased since 2009, particularly of large (i.e., >500 kg) shipments.⁶ For example, in 2013, more than 41 metric tons of ivory were apprehended in 18 seizures of over 500 kilograms each, representing a minimum of 4,000 elephants—the highest number by far since records began in the 1990s.

The increased incidents of large seizures are just one of a series of indicators showing that organized criminal networks have become increasingly involved in elephant poaching. Indeed, as elephant poaching – and wildlife trafficking in general – has become increasingly lucrative, terrorist groups have turned to poaching to finance their military operations. Joseph Kony's Lord Resistance Army in Uganda – which abducted over 440 people in 2013 alone – has been linked to wildlife poaching, as have M-23 and the Janjaweed militia in Sudan.⁷

Ivory being imported into the United States comes in two forms: “raw” ivory, which are unadulterated elephant tusks, and “worked” ivory, which are carved pieces of ivory—typically figurines or netsuke, which are miniature sculptures invented in 17th century Japan.

A series of quantitative ivory market surveys carried out since 1999, supplemented by ivory seizure data analyses by TRAFFIC's Elephant Trade Information System (ETIS), show that the principal demand region driving ivory poaching is East Asia, in particular China-Hong Kong and Thailand.⁸

Notwithstanding the importance of East Asia in driving ivory demand, Martin and Stiles (2008) concluded that the United States has the second largest ivory market in the world, after China-Hong Kong.⁹ Based on visual inspection and interviews



Photo 1: Confiscated tusks in Kenya

CREDIT: KENYA WILDLIFE SERVICE

with informants, they estimated that as much as 30% of the ivory items they observed for sale in the United States could have been illegal under federal law.

California, in particular, is a major hub for the illegal ivory trade in the United States, with San Francisco and Los Angeles ranking as the largest ivory markets with the highest proportions of potentially illegal pieces, behind New York City.¹⁰

Concerned about the rise in elephant poaching and the role of the United States in driving the upsurge, the Natural Resources Defense Council has sponsored a new ivory market study of San Francisco and Los Angeles. The purpose of the study is to ascertain the current ivory trade in California and estimate what proportion might be illegal.

U.S. FEDERAL & STATE LAWS & REGULATIONS REGARDING IVORY

As described below in detail, a number of changes to the U.S. ivory laws were made during the course of this investigation. However, the investigator assessed the ivory surveyed based on the former federal laws regarding what ivory is legal to sell within the United States, classifying each of the ivory pieces seen into one of four categories: (1) over 100 years old; (2) imported prior to 1977; (3) imported prior to 1989; and (4) imported after 1989. The California law prohibiting ivory imported after 1977 remains unchanged.

1. FEDERAL IVORY LAWS, REGULATIONS & ADMINISTRATIVE ACTIONS

Three federal laws – the Lacey Act, the Endangered Species Act (ESA), and the African Elephant Conservation Act – along with recent regulatory and administrative actions by the Obama Administration, govern the ivory trade in the United States. As explained in further detail below, under these laws and regulatory and administrative actions, it is illegal to import African elephant ivory into the United States for commercial purposes.

African elephant ivory may be imported, in limited circumstances with proper documentation, if it is:

- Worked African elephant ivory legally acquired and removed from the wild before February 26, 1976 that has not been sold since February 25, 2014 provided it is for non-commercial use and is part of a household move or inheritance, a musical instrument, or a travelling exhibition;
- African elephant ivory imported as part of a sport-hunted trophy; or
- African elephant ivory imported for law enforcement purposes or for genuine scientific purposes that will contribute to the conservation of the species.

Asian elephant ivory may be imported, with proper documentation, if it:

- Qualifies as “antique” under the ESA (i.e., at least 100 years old; has not been modified or repaired with more recent ivory since December 28, 1973; has documentation of proof of age; and was originally imported through one of thirteen “antique ports” designated by the U.S. Customs Service); or

- Qualifies as “pre-Act” under the ESA (i.e., legally acquired and removed from the wild before December 28, 1973, or the date when the species was listed, whichever is latest).

Further, it is illegal to export elephant ivory from the United States unless one has the proper CITES documentation and it is:

- Worked African elephant ivory;
- Asian elephant ivory that qualifies as “pre-Act” under the ESA; or
- Asian elephant ivory that qualifies as “antique” under the ESA.

It is illegal to engage in the interstate or intrastate sale of ivory in the United States unless one has the proper documentation and it is:

- African elephant ivory if the seller can demonstrate it was lawfully imported before January 18, 1990;
- African elephant ivory that was imported under a CITES pre-Convention certificate;
- Asian elephant ivory that qualifies as “antique” under the ESA (interstate); or
- Asian elephant ivory if the seller can demonstrate it was lawfully imported before July 1, 1975, or with a CITES pre-Convention certificate (intrastate).

A. LACEY ACT

The Lacey Act, passed by Congress in 1900, has three primary purposes. First, it makes it a federal offense to violate U.S., state, tribal, or foreign wildlife trade statutes, treaties, and regulations.¹¹ Specifically, the law prohibits the import, export, transport, acquisition, receipt, sale, or purchase in interstate or foreign commerce of any fish or wildlife taken, possessed, transported, or sold in violation of any U.S. wildlife law, treaty, or regulation; state wildlife law or regulation; Indian tribal law; or foreign wildlife law.¹² Second, the Lacey Act imposes labelling requirements for shipments and makes it a crime to violate these requirements.¹³ Specifically, the Act makes it illegal to import, export, or transport in interstate commerce, any container or package containing fish or wildlife unless it has been plainly marked, labeled, or tagged in accordance with U.S. Fish and Wildlife Services (FWS) requirements. It must be stressed that ivory items imported illegally always remain contraband after their import and both possession and sale are illegal.¹⁴ Third, the Lacey Act prohibits the falsification of information, records, or accounts regarding species that have been imported, exported, transported, sold, purchased, or received in interstate or foreign commerce.¹⁵

B. ENDANGERED SPECIES ACT

The ESA was enacted on December 28, 1973, with the objective of conserving endangered and threatened species. Under the law, endangered species are those in danger of extinction throughout all or a significant portion of their range.¹⁶ Threatened species are those likely to become endangered within the foreseeable future if measures are not taken to ensure their conservation.¹⁷ Under the ESA, it is illegal for any person subject to U.S. jurisdiction to import, export, deliver, receive, carry, transport, ship, sell, or offer for sale in interstate commerce and in the course of a commercial activity, any species that has been listed as threatened or endangered.¹⁸ The ESA also implements the import and export regulations for wildlife specimens as noted in the text of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).¹⁹ Any person who wishes to engage in international wildlife trade must obtain permission from the Secretary of the Interior and obtain a license from FWS to import and export wildlife specimens.²⁰ Lastly, the ESA requires that any wildlife imports or exports be made through ports of entry designated by FWS.²¹

The Asian elephant was listed as endangered in 1976 and the African elephant was listed as threatened in 1978.²² Thus, they receive the protections of the Act to which there are certain exceptions for antiques, sport-hunted elephant trophies, and “pre-Act” wildlife products.

However, as explained further below, the recently-issued FWS Director’s Order 210 restricted the trade of African elephant products under the exceptions referenced above. Now, African elephant ivory may not be imported for any commercial purpose.²³ The exceptions contained in the ESA for antiques and pre-Act ivory still apply to Asian elephants.

C. AFRICAN ELEPHANT CONSERVATION ACT

The African Elephant Conservation Act (AECA) was signed into law in 1989 due to the recognition that poaching to obtain African elephant ivory was seriously threatening the species.²⁴ It only applies to African – not Asian – elephants. The Act prohibits: (1) the importation of raw African elephant ivory from any country other than an ivory producing country that belongs to CITES; (2) the importation of raw or worked African elephant ivory that was exported in violation of an ivory-producing country’s laws; (3) the importation of worked African elephant ivory, other than personal effects (i.e., articles not intended for sale that are part of a shipment of the household effects of a person who is moving his or her residence to or from the United States, or are included in personal accompanying baggage), unless the exporting country has certified that the ivory is from legal sources; and (4) the exportation of any raw African elephant ivory from the United States.²⁵

The AECA specifically provides that individuals may import sport-hunted elephant trophies that they have legally taken in an ivory producing country that has submitted an ivory quota to CITES.²⁶



CREDIT: DIANNA RICE

Photo 2: Sign in store stating that the ivory items sold therein are legal under CITES.

D. CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES & U.S. IMPLEMENTING REGULATIONS

Most African elephants are listed under Appendix I of CITES, a multilateral treaty to which the United States is a signatory. The populations of South Africa, Botswana, Namibia, and Zimbabwe are listed under Appendix II but, due to the annotations associated with their listing, are essentially treated as Appendix I species aside from the trade in hunting trophies for non-commercial purposes.²⁷ Asian elephants are also listed on CITES Appendix I.²⁸ This means that there are certain trade restrictions for elephant ivory.²⁹

The exceptions to the CITES trade restrictions involving elephants are two-fold. First, there is an exception for elephant sport-hunted trophies. Second, there is an exception for the import of ivory that was legally acquired and removed from the wild before the species was listed under CITES (“pre-Convention ivory”) for certain non-commercial purposes such as musical instruments, household moves, museums, and education. For the African elephant, the pre-Convention date is February 26, 1976. For the Asian elephant, the pre-Convention date is July 1, 1975.

Revisions to the U.S. implementing regulations for CITES finalized in May, 2014 restricted how individuals can use items imported into the United States via this Convention.³⁰ Most notably, African elephant ivory that was imported into the United States under CITES cannot be subsequently sold within a state or across state lines anymore unless the seller can demonstrate with documentation that the item was lawfully imported prior to the 1990 CITES Appendix-1 listing of the African elephant or that it was legally acquired and removed from the wild before February 26, 1976.³¹

E. ADMINISTRATIVE ACTIONS

On July 1, 2013, the Obama Administration released the Executive Order Combating Wildlife Trafficking, instructing executive departments and agencies to take all appropriate actions within their authority to “enhance domestic efforts to combat wildlife trafficking, ... assist foreign nations in building capacity to combat wildlife trafficking and ... assist in combating transnational organized crime.”³²

On February 11, 2014, the Administration issued the “National Strategy for Combating Wildlife Trafficking,” which laid out its plan for accomplishing the goals outlined in the Executive Order.³³ On the same day, 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.³⁴

Since this announcement, the Administration has taken a number of actions to implement this ban. On February 25, 2014, FWS issued Director’s Order 210, which took effect immediately and bans all commercial imports of African elephant ivory, including antiques, along with most commercial exports.³⁵ There are exceptions for (1) certain law enforcement and bona fide scientific specimens; (2) elephant trophies; and (3) worked ivory that was legally acquired and removed from the wild prior to February 26, 1976 and has not been sold since February 25, 2014 if it is part of a household move or inheritance, a musical instrument with proper documentation, or a travelling exhibition. Director’s Order 210 also clarified the definition of “antique” to mean that 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. On May 15, FWS slightly eased the restrictions contained in Director’s Order 210 for musical instrument imports and exports. Further, as referenced above, on May 15, 2014, FWS announced a final rule clarifying CITES “use after import” regulations, which limits the inter- and intrastate sale of ivory originally imported for noncommercial purposes.³⁶

FWS plans to issue additional proposed regulations in 2015 that would prohibit interstate sales of African elephant ivory unless the ivory qualifies as antique and intrastate sales.³⁷ The forthcoming proposed regulations would also limit the number of sport-hunted African elephant trophies a person can import annually.

2. STATE IVORY LAWS

A. CALIFORNIA

California passed its own law regarding ivory transactions in 1976—California Penal Code section 6530, which makes it unlawful to import, possess with intent to sell, or sell any elephant part.³⁸ However, uncodified language in the annotated portion of the code creates an exception for elephant parts imported prior to June 1, 1977, significantly weakening the law’s practical impact.³⁹ This loophole has made the law impossible to enforce. Additionally, the California Department of Fish and Wildlife does not believe it is responsible for enforcing 6530 because it is contained in the Penal Code, provisions of which are typically enforced by police officers, sheriff deputies, and

other peace officers throughout the state, and because neither the California Fish and Game Code nor state wildlife regulations enforced by the Department of Fish and Wildlife reference elephants or elephant products.⁴⁰

B. NEW YORK

On August 11, 2014, New York Governor Andrew Cuomo signed into law Assembly bill 10143/Senate bill 7890, restricting ivory sales in the state of New York.⁴¹ The law prohibits the sale, offer for sale, purchase, trade, barter, and distribution of elephant and mammoth ivory and rhino horn. The law contains exceptions for bona fide antiques comprised of less than 20% ivory with documented proof of provenance; musical instruments containing ivory if the seller provides historical documentation demonstrating provenance and showing the item was manufactured no later than 1975; transfers to legal beneficiaries or heirs of trusts or estates; and transfers for bona fide educational and scientific purposes.

The law also creates a new penalty for violations of the law involving more than \$25,000 worth of ivory. Such violations will now constitute a class D felony, which entails a fine of up to \$5,000 or double the amount the defendant gained from the crime, whichever is higher, and between one and seven years imprisonment.

C. NEW JERSEY

On August 5, 2014, New Jersey Governor Chris Christie signed into law Assembly bill 3128/Senate bill 2012, restricting ivory sales in New Jersey.⁴² The law prohibits individuals from importing, selling, offering for sale, purchasing, bartering, and possessing with intent to sell any ivory (including, but not limited to, elephant, hippopotamus, mammoth, narwhal, walrus, and whale) or rhinoceros horn products. It contains an exception for conveyances to legal beneficiaries.

The law also increases fines and jail time for those who violate New Jersey's wildlife trafficking laws. For a first offense, it imposes a fine of at least \$1,000 or an amount equal to two times the total value of the products involved in the offense, whichever is greater. For a second or subsequent offense, it imposes a fine of at least \$5,000 or an amount equal to two times the total value of the products involved in the offense, whichever is greater.

Upon conviction under the Act, the court will order that the ivory products or rhinoceros horn involved in the violation be seized and transferred to the New Jersey Department of Environmental Protection, which may, at its discretion, destroy them or donate them to an educational or scientific institution or organization, such as a museum, university, or research group.

HOW IVORY ENTERS THE UNITED STATES & WHERE IT COMES FROM

The illegal ivory that enters the United States is manufactured mainly in East Asia – specifically China-Hong Kong, Japan, and Thailand, with China-Hong Kong predominating – and in Central and West Africa – specifically Cameroon, Nigeria, Côte d’Ivoire, Guinea, and the Democratic Republic of Congo.⁴³ Judging by the large quantities of East Asian type items seen for sale in stores and in auctions in the United States, much more of the illegal ivory entering the United States is from Asia than directly from Africa. One reason for this may be that Asian ivory is more popular with collectors, as the carving is considered superior to African carving.

As mentioned above, ivory imported into the United States comes in two forms: “raw” and “worked” ivory. While raw ivory is typically heavier, and thus represents a higher proportion of the ivory seized worldwide each year based on weight, the small worked ivory seizure class (i.e., less than 10 kilograms or 22 pounds) “makes the greatest contribution to illegal ivory trade activity in each year” and is rapidly increasing.⁴⁴

Illegal ivory from Africa is commonly brought in the personal luggage of itinerant traders, although the amounts are insignificant in relation to quantities that are shipped or mailed.⁴⁵ They most

often go to large urban areas such as New York and Los Angeles and sell their ivory to pre-established contacts—either U.S. dealers with antiques/crafts stores or internet sales sites or collectors who select items on websites where the African traffickers post photographs (e.g., Facebook).

More often, elephant ivory is brought to the United States through shipments by air or sea.⁴⁶ Usually, these shipments contain elephant ivory mixed with legal types of ivory such as mammoth and hippo, as well as bone and plastic/resin pieces that resemble ivory.⁴⁷ These shipments are then labeled as “mammoth



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Photo 3: Elephant, hippo, mammoth ivory and carved bone mixed together in a display. Which pieces are illegal?

ivory and bone” or something similar to escape detection.⁴⁸ Other times, elephant ivory is simply concealed in a shipment of furniture or crafts, for example, and mislabeled. One of the biggest successful prosecutions of illegal ivory in the United States involved items that were concealed and mislabeled for importation.⁴⁹ A smaller amount of ivory is mislabeled and shipped through the postal service, mainly because of cost, reliability issues, and the fact that only a small amount can be sent.⁵⁰

In addition to camouflaging illegal ivory with other types of ivory and bone carvings in imports, traffickers also import recently-manufactured ivory by claiming that they are antiques (i.e., 100 years old or more) on CITES permits using the "O" Source Code and the "T" Purpose Code (Commercial), although the recent Director's Order closed this loophole by making antique African ivory imports illegal. This is a relatively common practice. Indeed, as shown in Table 1, between 2010 and 2012, 146 or 4.5% of the 3,242 ivory pieces that entered the United States for commercial trade as pre-Convention ("O" Source Code) were seized as illegal or fakes. And this is likely an underestimate, as there were probably additional items imported under this source code that were illegal but were missed by customs officials.

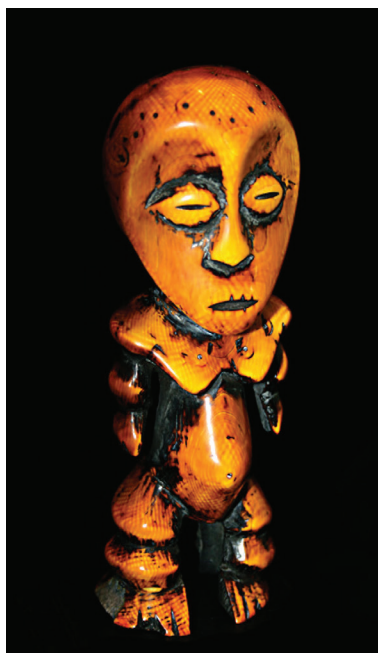
The reason this practice is so common and effective is because it is difficult to accurately date ivory.⁵¹ There are a few methods by which to do this, including "bomb-curve" dating which tests for C-14 concentrations released by nuclear bomb testing in the 1950s and 1960s.⁵² However, bomb-curve dating is not yet widely available in the United States.

Only a small minority of vendors obtain the ivory they sell directly from smuggling. Instead, most find the ivory in estate sales, visit antiques and crafts markets, purchase from individuals that bring pieces in to sell, purchase off the Internet, and sell items made by American craftspeople on concession. A few dealers appear to specialize in selling fake antiques. Some of these are even kept in other countries and shipped worldwide.

TABLE 1. Ivory imported into the U.S. using the Pre-Convention Source Code "O" and the numbers seized, 2010-2012.

Country of Export	Commercial	Seized
UK	2,413	38
Argentina	305	0
France	135	12
China	109	0
Germany	79	2
Japan	73	1
Poland	59	0
Netherlands	11	59
Other (11 countries)	58	34
TOTAL	3,242	146

SOURCE: CITES TRADE DATABASE (ACCESSED APRIL 25, 2014)



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Photos 4-6: Pieces from Africa, Europe and Asia, respectively, sold currently in California, which may be fake antiques.

METHODOLOGY

1. INFORMATION OBTAINED

The data collection for this study was carried out between March 15 and April 11, 2014. The investigator was tasked with collecting the following information:

- Number of outlets seen selling elephant ivory, both legal and illegal.
- Number of elephant ivory items seen for sale in each outlet, both legal and illegal.
- An estimate of the number of the items seen that are likely illegal under federal law.
- An estimate of the number of the items seen that are likely illegal under California law (i.e., post 1977).
- Representative prices of ivory items.
- Methods that outlets use to source ivory, the origin of the ivory, and techniques that they might use to camouflage illegal ivory.

The word “ivory” in this report refers to elephant ivory. Ivory from other animals (e.g. mammoth, hippo, walrus, etc.) is identified by animal name.

2. STORES SURVEYED

To locate outlets that sell ivory, the investigator first gathered names by using Internet sources such as Yelp, Google, and websites that list antique dealers or ivory for auction, and reviewing publications such as *West Coast Peddler*, *Collector*, and brochures obtained in antique outlets. The outlets selling ivory visited during the investigator’s last survey of California ivory markets in 2006-2007 were added to the list.⁵³

The investigator first searched the over 1,200 possible ivory sellers in Los Angeles and approximately 450 in San Francisco online. Many could be eliminated at this stage because they had closed or no longer sold ivory. The investigator telephoned the remaining outlets and asked respondents if they sold ivory. If they only had a few pieces, the investigator collected descriptions and prices over the phone. Where answers were vague or uncertain (usually at antique malls), or where answers were positive and indicated many pieces, the investigator personally surveyed the outlet. The investigator also visited various periodic antique, craft, and flea markets where ivory is commonly sold, in each of which several hundred vendors display their wares on tables and in glass cases in an open-air setting.

The investigator usually posed as a prospective ivory buyer when speaking with vendors. If the vendor was cooperative the investigator said he was collecting information for an article, which allowed him to ask more detailed questions about the origin and age of the ivory pieces.

The investigator also surveyed online sale sites maintained by Los Angeles and San Francisco business outlets, but not online sale sites for individuals as time was insufficient (altogether there were >4,000 listings under “ivory” on auction websites nationwide, though not all were elephant). Also, individual sellers come and go while businesses remain online for long periods. Some of the items displayed on websites were not physically present in California, or even in the United States, but they were for sale in California online and notices stated that they could be shipped anywhere in the world (including California). Thus, they were included in the count.

3. DETERMINING IVORY AGE

Determining the date of manufacture and/or import of each item into the United States is fraught with difficulty and the methodology employed in the type of study carried out here is subjective, based on the investigator’s experience, knowledge of worked ivory from different regions, and clues that were gathered in conversations with informants or descriptions and photographs posted on tear sheets on websites.

The methodology involves looking at the context of where the piece is sold, by whom, and for what price; the description (if any) provided by the vendor regarding who made the piece, where, and when; any information regarding where and when the vendor obtained the piece; the type of the item; the quality of workmanship; and, finally, signs of age (e.g., patina, wear marks, discoloration, weathering effects). Any and all of these, if available, are considered when attempting to date a piece. The results reported here should not be considered as absolute, but rather a rough estimate.



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Photo 7: The investigator examining ivory.



Photo 8: A carving being immersed in a pot of chemicals to stain it.



Photo 9: A series of stained carvings that become darker the longer they remain submersed in liquid.

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Photos 10-11: What appears to be an antique Virgin Mary with the Christ Child. Note the longitudinal crack down the right side of the face and the off-white, dirt-smudged ivory surface to give the appearance of age. The figurine was actually carved in Paris in the late 1990s by a French master carver the investigator interviewed in 2004. The aging was accomplished by burying the carving in the ground for three weeks and then leaving it out in the sun to dry and crack.

As stated above, the investigator classified each of the ivory pieces seen into one of four categories: (1) over 100 years old; (2) imported prior to 1977; (3) imported prior to 1989; and (4) imported after 1989.

One of the primary ways the investigator determines age and ferrets out “fake antiques” is by looking for newly carved ivory items that are made to look like old items. This practice of “antique faking” has a long history. The original purpose was to increase the value of the item, as antiques have higher value

than new articles. Since the CITES ivory trade ban came into effect in 1990, an additional reason to fake an antique is to allow international movement of worked ivory for commercial purposes.

Antique faking, if done well, can dupe even experts. For example, in the early 20th century, Sir Arthur Evans, then the foremost expert on the Minoan culture of Crete, was deceived into believing that various ivory figurines excavated in Crete were authentically Minoan, when it was later found that many had actually been made by a Greek working on the excavations.⁵⁴



Photo 12: A Chinese Guan Yin resembling the Virgin Mary and Christ Child with probable artificial cracking and staining to “antique” it found in Beijing in 2002. If smuggled to the United States, it could easily pass for a genuine antique.



Photo 13: Producing wear marks by rubbing.

CREDIT: DANIEL STILES

Present day Asian, African, and European fake antiques are brought to the United States by American travelers or sold at auctions and Internet sites and imported into the United States by dealers and individual buyers as antiques.⁵⁵

There are three processes that go into making an ivory item appear older than it is: staining (Photos 8 and 9), cracking (Photos 10, 11, and 12), and wear marks (Photo 13). Staining materials include tea, coffee, permanganate or natural dyes from leaves such as henna, used in India.⁵⁶ Wear marks can be achieved by rubbing an ivory piece for long periods with a soft abrasive and/or by chipping a piece and rubbing the chipped area until it becomes smooth (Photo 13).

Elaborate stories told by vendors can enhance a prospective buyer’s belief that he or she is actually purchasing a valuable antique. For example, photo 14 shows some carvings seen by the investigator in 1999 in Bangui, Central African Republic. He was taken into a back room of a small shop selling crafts in the art market, where the carvings were taken out of hiding and displayed on a table. The vendor said in hushed tones that the carvings were very valuable antiques that had been looted from Mobutu Sese Seko’s Gbadolite palace after his death in 1997. By now the pieces have probably been smuggled to Europe or the United States for sale as antiques. The pieces in the left of Photo 14 are very reminiscent of pieces seen for sale in the United States (Photo 15).

Even if fake antiquing has been done to a very high standard,



Photo 14: Fake antiques supposedly from Mobutu Sese Seko’s palace seen in Bangui, CAR, in 1999.

Photo 15: Probable antique ivory fake for sale in Los Angeles in 2014, which resembles some pieces seen in CAR.

CREDIT: DANIEL STILES

there are methods that can be used to detect it. Two sure signs that faking has occurred is poor quality carving and finding several similar copies of the same supposed “rare” antique for sale together.

RESULTS

1. LOS ANGELES

Los Angeles is the second largest city in the United States, with 3.9 million inhabitants in the city and 13 million in the greater metropolitan area, making it the largest urban area in the United States. The areas surveyed consisted of the city center, Chinatown, west L.A. (Hollywood, Beverly Hills, Santa Monica), Long Beach-Torrance, and Pasadena. **The investigator found 77 vendors in 32 stores and 10 multi-vendor malls or markets selling 777 pieces of ivory (Table 2).** Many of these items were also for sale on websites and could be purchased without visiting the outlets.⁵⁷ Some vendors who previously had brick and mortar shops said they now sold ivory only on eBay.

TABLE 2. Types of retail vendors and number of ivory items surveyed in Los Angeles, March 2014.

Type	No. of vendors	% of total	No. of items	Avg. No of items per outlet
Store	32	42%	447	14
Market/Mall	45	58%	330	7
TOTAL	77	100%	777	10

A. AGE

Overall, based on wear, condition, type, and style of the items, about 10-23% were most likely legal under California law and 40-53% could have been legal under federal law. These consisted of old utilitarian pieces such as buttons, handles for button hooks, magnifying glasses, pen knives, letter openers, an ice cream scoop, and old style jewelry (e.g., brooches, rings, etc.). A few figurines looked genuinely old. None of the 777 items seen could definitely be deemed manufactured prior to 1914 (i.e., 100 years old).

Thus, between 77% and 90% of the ivory surveyed in Los Angeles was likely illegal under California law and 47-60% could have been illegal under federal law.

However, it is possible that some could have been produced in the United States from old raw ivory already in the country before 1989.

While some vendors implied that all of their items were legal, they offered no reliable proof of age. The only evidence they

showed to support their claims were signatures of craftsmen (mainly Japanese) known to have stopped crafting before 1914, which FWS does not accept as proof of age.

Many of the claimed “antiques” were obvious fakes that had been stained and artificially aged, based on visual inspection. One vendor claimed that 41 of the 96 pieces of African ivory he offered for sale were made by a particular ethnic group in Africa. To verify this, the investigator contacted Professor Doran Ross, an African art expert from the University of California Los Angeles (UCLA) and Director Emeritus of UCLA’s Fowler Museum, who examined the pieces. He concluded that of the 96 African ivory pieces, “[a]ll but five or six . . . are ludicrous fakes.” (D. Ross, personal communication, April 11, 2014). Professor Ross, who has extensive experience studying the art of this ethnic group and whose museum has the world’s largest collection of art from this ethnic group, stated that the pieces were “cartoons... [and] are profoundly insulting jokes on any sincere consideration of ‘traditional,’ ‘antique,’ or ‘ancient’ African art.” (Id).

In fall of 2014, the investigator visited Kinshasa, the capital of the Democratic Republic of the Congo (DRC), and found fake antique ivory items for sale in the Bikeko Market that were very similar to ones he observed in Los Angeles (see Photos 15-20). The vendors said that they shipped to the United States, but that dealers from Europe and America also visited to buy many items at a time. The DRC is almost certainly the source of many of the possibly fake African ivory antiques sold in Los Angeles. When the investigator previously surveyed the same DRC market in 1999, such fake antiques were not for sale.⁵⁸ From conversations with the vendors, it appears that there is a recent trend to produce fake ivory antiques in the country because it protects the vendors from local law enforcement, as the Ministry of Culture provides them with permits to sell antiques. The profit margin is also much higher with “antiques” than with modern pieces.



Photo 16: DRC lookalike to Photo 15.



Photo 17: Los Angeles outlet.



Photo 18: DRC lookalike to Photo 17.

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Prices of retail worked ivory have limited value in assessing trends in demand because they vary so much depending on where the ivory is sold, whether the buyer bargains, and how well they bargain. The same item sold in an exclusive antiques boutique, or on an online antique art website, or at a weekend arts and crafts market can have three very different prices. The same applies to jewelry and other types of ivory items. This partially explains the great range of variation seen in the prices in Table 3. Other factors affecting price for similar items are quality of workmanship, age, and provenance. Given this fact, when attempting to compare prices of similar items over time, it is best to compare prices from the same outlets.

There are huge differentials in the price of similar items. Pieces sold in markets and antique malls tended to be low, while those sold in Beverly Hills antique boutiques were sometimes ridiculously high.



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Photo 19. Los Angeles outlet. Photo 20. DRC lookalike to Photo 19.



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Photo 21. Inexpensive ivory items seen at a Los Angeles weekend market. The African mask was priced at \$350 and a small figurine was \$80.

TABLE 3. Prices of ivory items in Los Angeles, March 2014

Item	Size in cm	Where made	Price range in USD
JEWELRY			
Bangle	1-4	-	70-400
Bracelet	2-4	-	125-145
Brooch	3-8	USA	24-220
Earrings, pair	-	-	33-95
Necklace, small beads	-	-	45-95
Necklace, large beads	-	-	150-250
Necklace, mixture	-	Africa	150
Pendant	4-8	Japan, Africa	50-9,000
Ring	-	-	65
FIGURINES			
Animal	1-5	Japan	300-1,000
	6-10	China, USA	75-493
	11-20	India	110-275
Human	1-5	Africa	50-600
	6-10	China, Japan, Europe	500-1,500
	11-20	Africa, Europe	85-10,000
	21-40	Europe, China, Africa	800-15,000
	40-60	Europe, China	1,475-36,000
Netsuke	3-10	China, Japan	300-1,500
TUSKS			
Carved	22-24	Africa	595-645
	38-46	Africa (horns)	4,150-10,560
	68	Africa	500
	98	China	6,000-8,000
Hollow section	17-25	China	1,000-1,250
MISC.			
Filigreed box	18x10	Anglo-India	1,800
Chop sticks		China	100
Cigarette holders	3-6	USA	125-150
Grand pianos		USA, Europe	18,000-200,000
Picture frame	12x8	USA	1 25
Snuff bottles	5-8	China	800-1,200

2. SAN FRANCISCO

San Francisco has a population of approximately 840,000 densely settled in 47 sq. miles of the northern end of the San Francisco peninsula.⁵⁹

The investigator found 30 vendors selling ivory in various markets and stores. A total of over 473 ivory items were seen in 28 of the 30 outlets.⁶⁰

In two of the stores, the investigator could not count the number of elephant ivory pieces because the store owners had mixed them in with mammoth, hippo, and bone pieces (Photo 22). However, given that these two outlets contained over 800 elephant ivory items each in 2006, and many of the pieces displayed in 2014 were elephant ivory, it is likely that they still possess large quantities numbering in the hundreds.

A. AGE

Based on wear, condition, type, and style of the items, about 20% of the items are likely legal under California law and 48% are likely legal under federal law.

Thus, 80% of the ivory seen in San Francisco was likely illegal under California law and 52% could have been illegal under federal law.



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Photo 22. Hundreds of mixed elephant, mammoth, and hippo ivory pieces, plus carved bone, making a count of elephant ivory pieces impossible. In 2006 they were displayed separately.

One vendor, for example, had 42 pieces manufactured from old billiard balls and piano keys, labeled “pre-Ban” ivory, which were likely genuinely pre-ban. U.S.-based scrimshanders usually buy old pieces of ivory from wholesaler websites that specialize in various types of ivory and animal horn supply.

Two other vendors stated that all of the several hundred items on display were either legal ivory imported prior to 1989, or non-elephant ivory. However, it is highly unlikely that all of the several hundred ivory items displayed at these stores were pre-1989, as the vendors claimed, as it would mean that they had all been in inventory for at least 25 years without selling. It is conceivable (though not probable) that this was the case for some of the items, but certainly not all.

As in Los Angeles, none of the items claimed to be antiques by the sellers were accompanied with documentation to verify this. In fact, many quite obviously appeared to be fake antiques. The same style of carving, similar tinting, and identical way of carving and dying head and beard hair indicates that the pieces were produced by the same craftsman. In spite of their artistic quality, they are recently made fake antiques, unless the craftsman lived for 300 years. Other pieces looked more plausibly antique due to high quality craftsmanship and they displayed no signs of obvious artificial aging. It is unlikely that more than five or six of the over 473 ivory items seen in San Francisco were antiques.

B. PRICES

As stated above, prices of retail worked ivory have limited value in assessing trends in demand because they vary so much depending on where the ivory is sold, whether the buyer bargains, and how well they bargain. Table 4 shows prices from San Francisco.

Some of the higher priced figurines could be bargained down to considerably less than the asking price, particularly possibly fake Art Deco pieces found at certain home decoration stores.

TABLE 4. Prices of ivory items in San Francisco, April 2014.

Item	Size in cm	Where made	Price range in USD
JEWELRY			
Bangle	2	–	300
Bracelet	4	Africa	875
Brooch	4	–	95
Earrings, pair		China	30-50
Necklace, small beads		China	90
Necklace, large beads		China	120-140
Pendant	4-8	China	50-195
Ring	–	–	–
FIGURINES			
Animal	6-10	China, Japan	195-4,500
	11-20	China	475
Human	1-5	Europe	395
	6-10	Europe	485-675
	11-20	China, Europe	575-6,900
	21-40	Europe, China	2,750-9,500
	40-60	China, Europe	7,000-78,500
Netsuke	3-10	China, Japan	135-1,000
TUSKS			
Scrimshawed tips	10-12	USA	525-950
	38-46	Africa (horns)	625-875
Hollow section	10	China	695
	38	China	37,500 (pair)
MISC.			
Billiard balls	5-12	USA	250-350
Billiard ball globes	10	USA	1,475-8,900
Brushes	10-14	USA	259-395
Chess sets	4-10	China, USA	365-3,800
Chop sticks	–	China	149
Cigarette holders	6	China	385
Letter opener	12	China	875
Painted plaque	8x10	Anglo-India	450
Snuff bottles	5-8	China	295-695



CREDIT: DANIEL STILES

Photos 23 and 24. Likely fake antique Art Deco chryselephantine figurines, above, are sold in stores and on websites as “antiques” for as little as \$1,500. Real ones, like that on the left, are commonly priced at over \$30,000.



DISCUSSION

1. IVORY IS OPENLY FOR SALE IN CALIFORNIA, A HIGH PROPORTION OF WHICH APPEARS TO BE ILLEGAL

A total of over 1,250 items offered for sale by 107 vendors was seen in California, with 777 items and 77 vendors in Los Angeles and well over 473 items and 30 vendors in San Francisco.

Not only is this a large amount of ivory, but also a high proportion of it was possibly illegal.

In Los Angeles, between 77% and 90% of the ivory seen was likely illegal under California law and between 47% and 60% could have been illegal under federal law. And in San Francisco, approximately 80% of the ivory was likely illegal under California law and 52% could have been illegal under federal law.

Further, not a single one of the over 1,250 ivory items seen in the two cities could definitely be identified as antique, and none were advertised as having documents providing proof of age.

2. THE INCIDENCE OF ILLEGAL IVORY HAS RISEN

There is a much higher incidence of what appears to be ivory of recent manufacture in California in 2014, increasing from approximately 25% in 2006 to about half.

3. MOST OF THE ILLEGAL IVORY IN CALIFORNIA / IS COMING FROM CHINA

Based on the style of the possibly illegal worked ivory, the investigator concluded that it originated, in order of proportion, from East Asia, Africa, and Europe. As explained in more detail above, most of it was probably smuggled in sea or air shipments mixed in with mammoth ivory, carved bone and resin pieces; shipped concealed and mislabeled with other products (e.g. crafts, furniture); or carried in personal luggage. The fact that the majority of illegal ivory in the United States is coming from China makes sense, as a great deal of raw ivory is transported from Africa to China where it is carved mainly in factories in the Guangdong and Fujian provinces and then smuggled to the United States.

4. DEMAND REMAINS HIGH – PARTICULARLY FROM CHINESE CONSUMERS

Consumer demand for ivory in California remains high. Almost all vendors who were asked stated that demand has not dropped. The investigator met with people at one gallery after they held an auction in 2014 containing 36 ivory pieces, 35 of which were East Asian and one of which was European. The investigator obtained a list of the unsold items. All 35 of the Asian pieces sold, indicating high demand, though the European piece did not sell. An established ivory collector informant told the investigator that he had attended previous auctions at the same gallery that included ivory lots. Many East Asians attended, some with interpreters, and the ivory lots always sold out, with many being purchased by telephone bidders.

The phenomenon of Asian buyers visiting the United States specifically to purchase ivory is not restricted to California. Indeed, in 2013, the investigator interviewed ivory vendors in New York City who told him that between 2009 and 2011 Chinese buyers visited their stores and bought almost everything on display.⁶¹ As a result, they had very few quality East Asian ivory pieces, and the Chinese have stopped coming. The Chinese buyers at one California gallery, those in New York, and at other auctions in the United States appear to be smuggling the ivory out of the United States to their home countries – mostly China – which is ironic considering the pieces were made there in the first place. The reason is explained by price differentials. High quality ivory is much more expensive in China as it has become an investment vehicle. (Y. Gao, personal communication, 2014).⁶² Examples of this illegal export trade are the 2011 prosecution of a Chinese man for attempting to smuggle 18 ivory carvings purchased at an auction in New York to China,⁶³ the 2013 prosecution of a New York antiques dealer for smuggling ivory and rhino horn from the United States to China,⁶⁴ and the 2013 prosecution of a Chinese national in New Jersey for smuggling ivory and rhino horn from the United States to China.⁶⁵

5. ANTIQUE FAKING IS COMMON AND, IN MANY CASES, QUITE APPARENT

Many ivory items seen for sale in California advertised as antiques were actually of recent manufacture, and thus were likely smuggled into the country. As explained in detail in above, faking is extremely common and easy to do.

6. NUMBERS HAVE DECLINED SINCE 2006

While ivory is still found openly for sale in California, there has been a significant decline since 2006 in the number of outlets

selling ivory and the number of items seen for sale in Los Angeles and San Francisco (Table 5).⁶⁶ The number of outlets selling ivory fell by about 50% in Los Angeles and by exactly one-third in San Francisco between 2006 and 2014. Also during this time period, the number of ivory pieces seen for sale in Los Angeles fell by 69%, from 2,523 pieces to 777 pieces. Based on the investigator's conversations with ivory vendors, it appears that the decline in ivory is, at least in part, due to increased awareness amongst vendors that there are legal problems pertaining to the sale of ivory, and that these could become more severe.

away, asking nothing about the numerous ivory items for sale on the website or the approximately 60 ivory items displayed for sale in his store.

However, a few of the outlets surveyed did say that FWS agents had visited recently and warned them that they would only be able to sell antique ivory in the future.

TABLE 5. Number of ivory pieces and vendors selling ivory in Los Angeles and San Francisco, 2006 and 2014.*

City	No. of vendors			No. of pieces		
	2006	2014	Change	2006	2014	Change
Los Angeles	151	77	-49%	2,523	777	-69%
San Francisco	45	30	-33%	838*	473*	-44%

SOURCE FOR 2006: MARTIN AND STILES 2008.

*EXCLUDING THE TWO VENDORS WHOSE ELEPHANT IVORY COULD NOT BE COUNTED BECAUSE IT WAS MIXED IN WITH OTHER TYPES OF IVORY.

7. THERE IS CONFUSION AMONG IVORY VENDORS REGARDING IVORY LAWS

There is a great deal of uncertainty about what currently constitutes legal ivory in the United States or California. Some who depend on ivory for their livelihoods or collect it wish to continue trading. Other ivory vendors seemed resigned to the fact that selling ivory is or soon will be a thing of the past. Many websites and vendors who were interviewed have already stopped selling ivory or plan to in the near future. Several stated that California's 1976 law made ivory of any age illegal to sell. A few ivory vendors reported that FWS (it was unclear whether it was federal or state) agents had visited their establishment to inform them that they should stop selling ivory, except for pieces they could prove were antique.

8. LAW ENFORCEMENT IN CALIFORNIA SEEMS MINIMAL

Except at ports of entry by customs agents, there appears to be very little enforcement of federal or state law with regards to ivory sales in California. **Not a single one of the 107 ivory outlets in California reported ever having any ivory items seized by law enforcement.** One store owner in San Francisco recounted that several FWS agents visited him one day asking about a leopard skin that he had posted for sale on his website. He explained that he sold on consignment and that he did not own the leopard skin, nor was it in his possession. They went



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Photo 25. Some companies have stopped selling ivory, or plan to, because of the new trade restrictions.



CREDIT: USFWS

Photo 26. Confiscated ivory that traffickers attempted to smuggle into New York.

CONCLUSION

This study demonstrates that the illegal ivory trade remains a prevalent problem in California that must be addressed. While the number of vendors and items in California has decreased in the last eight years, the proportion of possibly illegal ivory has increased by 25% to half of all ivory in the two cities surveyed. Despite the fact that ivory – much of which is very obviously illegal fake antiques – is openly for sale in both Los Angeles and San Francisco, both state and federal law enforcement seems fairly minimal. Indeed, as mentioned above, no stores visited reported ivory seizures and, unlike in New York and some other states, there have not been any large-scale ivory “busts” in California, which are an extremely useful deterrence mechanism for ivory traffickers.

ACKNOWLEDGEMENTS

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