

Chapter 2

Background

The illegal wildlife trade

2.1 The trade in elephant ivory and rhino horn is part of the global illegal wildlife trade, worth an estimated US\$7 to US\$23 billion per year.¹ This trade is facilitated by the activities of organised crime groups, along with rebel militia and terrorist organisations that operate through established criminal networks.²

2.2 The linkages between the illegal wildlife trade and other crime types are well established. Environmental investigator, Mr Luke Bond, commented that almost all operational activities in which he has been involved have had links to other crime types.³ IFAW reported organised crime groups direct wildlife crime profits towards other illicit activities such as human trafficking, drug manufacturing and money laundering.⁴ The illegal wildlife trade is also complex: the Jane Goodall Association, referencing research by the United Nations Office on Drugs and Crime (UNODC), explained that the market is nuanced, with each commodity having its own market demand, network and actors involved.⁵

2.3 Despite efforts to address wildlife crime globally, the UNODC submitted that wildlife crime has grown over the last decade into a 'significant and specialised area of transnational organised crime', driven by high consumer demand and 'facilitated by generally inadequate law enforcement response, low prioritisation as a serious crime, weak legislation, and non-commensurate penalties'.⁶ Further, the illegal trade exists alongside the legal supply chain, enabled by corrupt officials, fraud and inadequate regulation.⁷

2.4 The illegal wildlife trade is a global problem, and a significant threat to many plant and animal species. Elephant ivory and rhino horn are just two examples of wildlife that is traded illegally. The global seizure database 'World Wise' reveals that between 1999 and 2015 there were over 164 000 seizures of wildlife from 120 countries. Of those seizures, there were almost 7000 species seized, including

1 United Nations Office on Drugs and Crime (UNODC), *Submission 71*, p. 2.

2 See for example International Fund for Animal Welfare (IFAW), *Submission 65*, p. 5; Dr Lynn Johnson, Nature Needs More, *Proof Hansard*, 4 July 2018. p. 14; Mr Luke Bond, EcoEnforce, *Proof Hansard*, 4 July 2018, p. 23; and Ms Clair Overy, The Thin Green Line Foundation, *Proof Hansard*, 4 July 2018, p. 30.

3 Mr Bond, EcoEnforce, *Proof Hansard*, 4 July 2018. p. 23

4 IFAW, *Submission 62*, p. 5.

5 Ms Zara Bending, The Jane Goodall Society, *Proof Hansard*, 4 July 2018, p. 31.

6 UNODC, *Submission 71*, p. 2.

7 UNODC, *Submission 71*, p. 2.

mammals, reptiles, corals, birds and fish.⁸ In Australia, there are approximately 7000 wildlife items detected by customs officials each year, along with ongoing reports of wildlife trafficking cases that implicate Australian nationals.⁹

The illegal trade in elephant ivory and rhino horn

Elephant ivory

2.5 Elephants are hunted primarily for their ivory tusks. Once removed, the ivory is used in furniture, musical instruments and for ornamental purposes. Some regard ivory as a highly valued item. In both western and eastern cultures, it has been seen as a status symbol for wealth and power, particularly in China where the 'nouveau riche' view ivory as 'white gold'.¹⁰ Although increasingly becoming a taboo object in western society, it remains highly sought after in Asia.

2.6 The price of raw ivory is variable, depending on demand in the international market. This demand is largely driven by the Asian market, in particular, China. In 2011, there were over 11 000 ivory pieces sold in the Chinese auction market, worth a total of US\$94 million, a 170 per cent increase from 2010.¹¹ Since China announced its plan to implement a domestic ban in 2012, the price of ivory has declined across Asia and resulted in the Chinese people no longer viewing ivory (and rhino horn) as an inflation-proof investment.¹² The UNODC reported that the price at one stage reached \$1000 per kilo, whereas latest figures have shown the price has dropped to approximately \$600 to \$700 per kilo.¹³ Evidence suggests that ivory traffickers are stockpiling ivory for price speculation purposes.¹⁴

2.7 The Department of the Environment and Energy (DoEE) informed the committee that raw ivory is primarily trafficked from Africa to Asia (predominantly destined for South East Asia and China) in large sea cargo shipments (between 500 and 800 kilograms)¹⁵ by transnational organised crime groups. Approximately 10 per cent of poached ivory is seized, which according to the DoEE provides 'a good indication of not only the effectiveness of the enforcement regime around the world but also where the main routes are'.¹⁶

2.8 The UNODC's 2016 *World Wildlife Crime Report* demonstrated the main flows of raw ivory between 2007 and 2014, based on raw ivory seizures. It identified

8 UNODC, *World Wildlife Crime Report*, 2016, p. 14.

9 Born Free Foundation, *Submission 62*, p. [3].

10 Ms Grace Ge Gabriel, IFAW, *Proof Hansard*, 3 July 2018, p. 2.

11 Ms Ge Gabriel, IFAW, *Proof Hansard*, 3 July 2018, p. 3.

12 Ms Ge Gabriel, IFAW, *Proof Hansard*, 3 July 2018, p. 2.

13 Dr Giovanni Broussard, UNODC, *Proof Hansard*, 9 July 2018, p. 51.

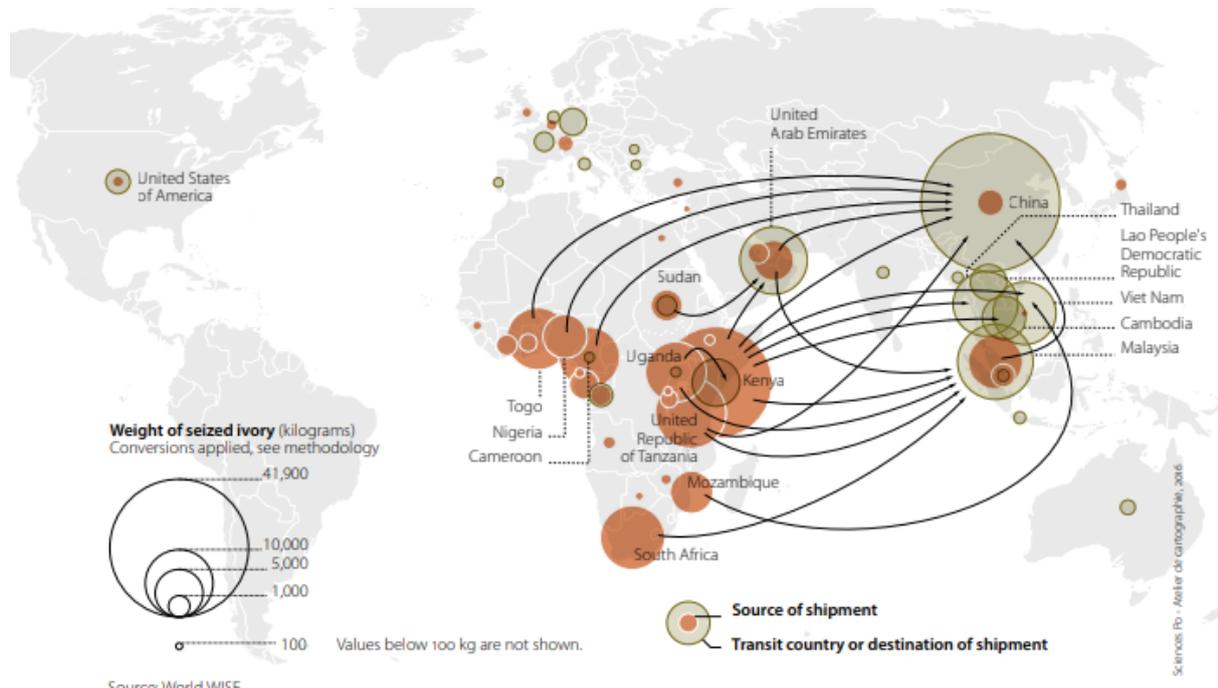
14 Dr Broussard, UNODC, *Proof Hansard*, 9 July 2018, p. 51.

15 Mr Gabriel Fava, Born Free Foundation, *Proof Hansard*, 3 July 2018, p. 26.

16 Mr Paul Murphy, Department of the Environment and Energy (DoEE), *Proof Hansard*, 3 July 2018, p. 15; *Proof Hansard*, 9 July 2018, p. 38.

source, transit and destination of shipments. Australia was recognised as a jurisdiction with less than 1000 kilograms of seized ivory, whereas China seized over 41 900 kilograms in total.¹⁷ Figure 1 shows the international flows of raw ivory from the 2016 UNODC report.

Figure 1: Main flows of raw ivory seizures (kilogram), 2007 to 2014:¹⁸



2.9 According to the UNODC, based on available data, Australia is not a major transit or destination country, which is a view shared by the DoEE.¹⁹

2.10 There are two species of elephants: the African elephants found across sub-Saharan Africa; and the Asian elephant found in 13 Asian countries. Both species have experienced significant population declines since the early 20th century, primarily due to poaching and habitat decline and degradation.

African elephants

2.11 Elephant numbers in African have rapidly declined over the past century, with their population once estimated to be five million.²⁰ The Great Elephant Census (the Census)²¹ estimated that in 2016 there were 352 271 elephants living across the

17 UNODC, *World Wildlife Crime Report*, 2016, p. 41.

18 UNODC, *World Wildlife Crime Report*, 2016, p. 41.

19 Mr Murphy, DoEE, *Proof Hansard*, 3 July 2018, p. 17.

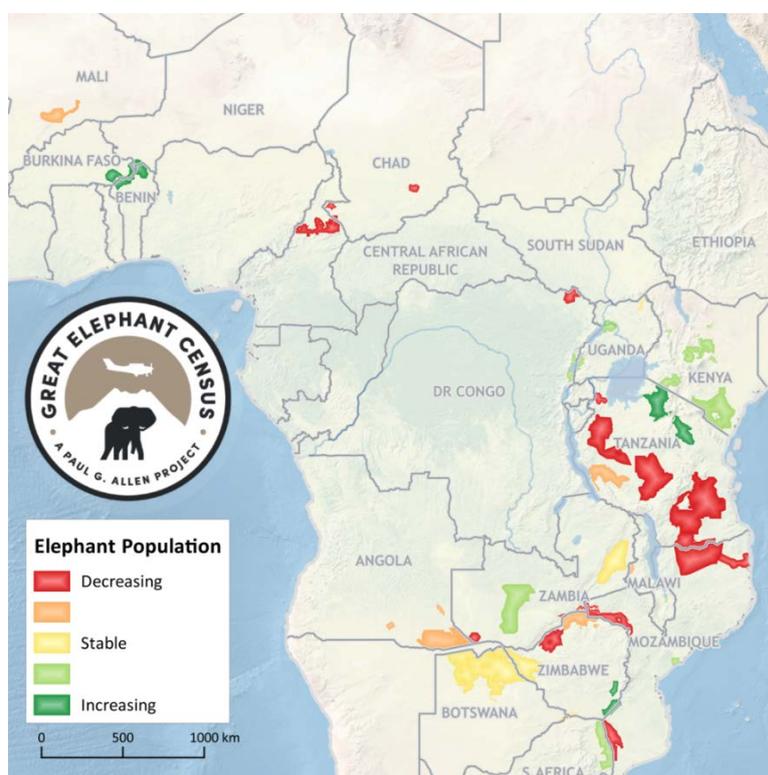
20 Born Free Foundation, *Submission 62*, p. [1].

21 Further details outlining the Great Elephant Census can be found at The Great Elephant Census, *Fact Sheet*, https://static1.squarespace.com/static/5304f39be4b0c1e749b456be/t/57c71ec12994ca8ea022a952/1472667344389/GEC+Results+Summary+Fact+Sheet+FINAL_8+26+2016.pdf (accessed 30 July 2018).

18 countries surveyed. It found African elephant populations have declined by 30 per cent between 2007 and 2014 (equal to 144 000 elephants), with an estimated decline of eight per cent each year, chiefly due to poaching.²² Approximately 20 000 African elephants are killed each year across the continent.²³

2.12 Figure 2 details surveyed countries and the status of their elephant populations between 2007 and 2014. It shows that stability of elephant populations, even in different regions of the same country, vary drastically. For example, most of Tanzania is witnessing a decline in elephant populations, whereas the northeast area of the country has seen population increase.²⁴

Figure 2: Elephant population trends across Africa over the past ten years based on Great Elephant Census data and comparable previous survey:²⁵



2.13 The International Union for the Conservation of Nature (IUCN) classifies the African elephant as a vulnerable species. This assessment is due to population numbers varying across the region. In 2007, the IUCN reported that elephant

22 The Great Elephant Census, *Final Results*, <http://www.greatelephantcensus.com/final-report/> (accessed 30 July 2018).

23 Born Free Foundation, *Submission 62*, p. [1].

24 The Great Elephant Census, *Final Results*.

25 Red landscapes declining >5%/year, orange declining 2-5%/year, yellow declining or increasing <2%/year, pale green increasing 2-5%/year, dark green increasing >5%/year. See The Great Elephant Census, *Final Results*.

populations in eastern and southern Africa were increasing by an average rate of 4 per cent per annum.²⁶

2.14 Current trends indicate that if poaching is not adequately addressed, then it is likely that elephant populations will disappear from some countries in Africa. For example, Tanzania, which once had the second-largest elephant population, went from 100 000 elephants to 40 000 elephants in a five year period.²⁷

Asian elephant

2.15 The Asian elephant (also known as the Indian elephant) is listed as endangered by the IUCN. In 2008, the IUCN reported that its population size had decreased by 50 per cent over the past 20 to 25 years. In 2016, CITES estimated that the current population was between 30 000 and 50 000,²⁸ with at least 25 per cent of the population now living in captivity.²⁹

2.16 The Asian elephant has become extinct in West Asia, Java, and a large proportion of China. Populations remain in Bangladesh, Bhutan, India, Nepal, Sri Lanka, Cambodia, China, Indonesia (Kalimantan and Sumatra), Laos, Malaysia, Myanmar, Thailand and Viet Nam.³⁰

2.17 Unlike African elephants, which are hunted primarily for their ivory, Asian elephants are mostly hunted for their meat and leather.³¹ However, the UNODC reported in recent years there has been a sharp increase in the killing of Asian elephants with both their skin and ivory removed.³²

Rhinoceros horn

2.18 Rhinoceros horn was traditionally used to adorn weaponry, but today it is primarily sought for its supposedly medicinal properties in traditional Chinese medicine, and ornamental appeal. Although its medicinal value has been disproven, and is not endorsed by Chinese medicine advocates,³³ its value as both a medicine and ornament (as a status symbol) remains.³⁴ In 2011, Chinese auction houses sold 2750

26 International Union of the Conservation of Nature (IUCN), *Loxodonta Africana*, <http://www.iucnredlist.org/details/12392/0> (accessed 30 July 2018).

27 Mr Fava, Born Free Foundation, *Proof Hansard*, 3 July 2018, p. 28.

28 CITES noted that current estimates are not based on sound data and are largely founded on historical report. See CITES, *Illegal Trade in Live Asian Elephants: A review of current legislative, regulatory, enforcement, and other measures across range States*, CoP17, Doc.57, 2016, p. [9].

29 CITES, *Illegal Trade in Live Asian Elephants: A review of current legislative, regulatory, enforcement, and other measures across range States*, CoP17, Doc.57, 2016, p. [9].

30 IUCN, *Elephas maximus*.

31 DoEE, *Submission 30*, p. 4.

32 Dr Broussard, UNODC, *Proof Hansard*, 9 July 2018, p. 53.

33 Save the Rhino International, *Poaching for rhino horn*, <https://www.savetherhino.org/rhino-info/threats/poaching-rhino-horn/> (accessed 23 August 2018).

34 Ms Ge Gabriel, IFAW, *Proof Hansard*, 3 July 2018, p. 3.

pieces of rhino horn carvings worth a total US\$179 million, a 111 per cent increase from 2010. According to IFAW, the average price for a rhino horn piece during that time was US\$177 000.³⁵

2.19 Although the sale of rhino horn is less common in Australia, records collated by IFAW revealed rhino horn items being sold for up to AU\$207 400 in 2011,³⁶ and between 2007 and 2017 the average price of 70 listed rhino items sold at auction was AU\$51 736.³⁷

2.20 There are five species of rhino, two of which are found in Africa and the remaining three are found in Asia. There are two species of African rhinoceros, the black rhino and the white rhino. The black rhino is found throughout the southern and eastern parts of Africa, whilst the white rhino, which is separated into two subspecies, is located in both the north and south of Africa.

White rhinoceros

2.21 The white rhino is the most prevalent species of rhino in the world, with an estimated 19 682 to 21 077 individuals. However, the white rhino is split into two subspecies: the northern white rhino and the southern white rhino. The northern white rhino is critically endangered and was declared extinct in the wild in 2008.³⁸ There remain only two female northern white rhinos in captivity after the last male, named Sudan, died in March 2018.³⁹

2.22 The southern white rhino is classed as near threatened by the IUCN due to the ongoing and increasing threat of poaching. The vulnerability status of individual populations varies depending on protection granted under each jurisdiction, and the IUCN warns that in the absence of conservation, the southern white rhino will become a vulnerable species within five years.⁴⁰ According to IFAW, in 2017 there were 1028 rhinos killed for their horns in South Africa, equating to three per day.⁴¹

Black rhinoceros

2.23 The black rhino population, once regarded one of the most numerous rhino species in Africa (several hundred thousand across the continent), started to experience significant population decline in the 19th century. By 1970, the black rhino population had reduced to 65 000 animals. In 1992, its population further declined by

35 Ms Ge Gabriel, IFAW, *Proof Hansard*, 3 July 2018, p. 3.

36 IFAW, *Submission 49*, Attachment 4, p. [4].

37 IFAW, *Submission 49*, Attachment 4, pp. [1]–[11].

38 Save the Rhino International, *White Rhino*, <https://www.savetherhino.org/rhino-info/rhino-species/white-rhinos/> (accessed 31 July 2018).

39 BBC, 'Northern white rhino: Last male Sudan dies in Kenya', BBC News, 20 March 2018, <https://www.bbc.com/news/world-africa-43468066> (accessed 31 July 2018).

40 IUCN, *Ceratotherium simum*, <http://www.iucnredlist.org/details/4185/0> (accessed 31 July 2018).

41 IFAW, *Submission 65*, p. 1.

96 per cent, to approximately 2400 rhinos.⁴² Today, the IUCN classifies the black rhino as critically endangered,⁴³ with a population of between 5040 and 5458 rhinos.⁴⁴

Greater one-horned rhinoceros

2.24 The greater one-horned rhino or the Indian rhino is found in India and Nepal and is primarily threatened by human harassment and encroachment on its habitat. Its population reached a low of 200 in the last century, but through conservation efforts has increased to 3500 today.⁴⁵

2.25 The IUCN lists the greater one-horned rhino as vulnerable due to the strict protection granted by the Indian government. Populations in Nepal and north-eastern India are decreasing due to habitat decline.⁴⁶

Sumatran rhinoceros

2.26 The Sumatran rhino is found in parts of Southeast Asia, primarily in Sumatra, Indonesia. According to research, the Sumatran rhino has experienced ongoing population decline for the last 9000 years and was believed to number only 800 in 1986. Today it is estimated that there only remains between 30 and 100 surviving in the wild.⁴⁷

2.27 The IUCN lists the Sumatran rhino as critically endangered. It anticipates that its population will continue to decline due to a lack of a subpopulation exceeding 50 animals needed to sustain population growth.⁴⁸

Javan rhinoceros

2.28 The Javan rhino is found on the island of Java, Indonesia. It is incredibly rare, and with a population of less than 67, it is unable to sustain long-term survival. Poaching and habitat loss, along with inbreeding, are primary causes of its population decline. Conservation efforts are focused on re-establishment programs, to rejuvenate threatened populations.⁴⁹

42 Save the Rhino International, *Black Rhino*, <https://www.savetherhino.org/rhino-info/rhino-species/black-rhinos/> (accessed 31 July 2018).

43 IUCN, *Diceros bicornis*, <http://www.iucnredlist.org/details/6557/0> (accessed 31 July 2018).

44 Save the Rhino International, *Black Rhino*.

45 Save the Rhino International, *Greater One-Horned Rhino*, <https://www.savetherhino.org/rhino-info/rhino-species/greater-one-horned-rhino/> (accessed 31 July 2018).

46 IUCN, *Rhinoceros unicornis*, <http://www.iucnredlist.org/details/19496/0> (accessed 31 July 2018).

47 Save the Rhino International, *Sumatran rhino*, <https://www.savetherhino.org/rhino-info/rhino-species/sumatran-rhino/> (accessed 31 July 2018).

48 IUCN, *Dicerorhinus sumatrensis*, <http://www.iucnredlist.org/details/6553/0> (accessed 31 July 2018).

49 Save the Rhino International, *Javan rhino*, <https://www.savetherhino.org/rhino-info/rhino-species/javan-rhino/> (accessed 31 July 2018).

2.29 The IUCN classifies the Javan rhino as a critically endangered species, and similar to the Sumatran rhino, its population is below the required threshold to facilitate population growth.⁵⁰

International trade regulatory framework

2.30 The Convention on International Trade in Endangered Species of Wildlife Fauna and Flora (CITES) was agreed on 3 March 1973 and entered into force on 1 July 1975.⁵¹ Its purpose is to 'ensure that international trade in specimens of wild animals and plants does not threaten their survival',⁵² and protects over 35 000 species of animals and plants.⁵³

2.31 CITES parties are required to establish a CITES management authority,⁵⁴ which is responsible for the application of CITES in each jurisdiction. A CITES management authority is empowered to: issue import, export or re-export permits and certificates of origin that enable a listed specimen to enter or leave the country;⁵⁵ communicate information to CITES parties and the CITES secretariat; and report on compliance matters and contribute to CITES annual reports.⁵⁶

2.32 CITES parties determine levels of protection granted to each species, and are allocated to one of three appendices (Articles III, IV, V of CITES) according to the degree of protection required.⁵⁷ These appendices are outlined in the following sections.

Appendix I

2.33 Appendix I includes species that are threatened with extinction, and for that reason, international trade of these species is only permitted in exceptional circumstances.⁵⁸ A CITES management authority will only issue import/export permits if:

50 IUCN, *Rhinoceros sondaicus*, <http://www.iucnredlist.org/details/19495/0> (accessed 31 July 2018).

51 Convention on International Trade in Endangered Species of Wildlife Fauna and Flora (CITES), *What is CITES?*, <https://www.cites.org/eng/disc/what.php> (accessed 14 May 2018).

52 CITES, *What is CITES?*

53 CITES, *What is CITES?*

54 In addition to a management authority, parties are required to delegate a scientific authority that monitors the export permits granted by the State for CITES specimens, and the actual exports of such specimens. If a scientific authority determines that the export of that species should be limited, then it should inform the management authority to establish suitable measures to 'limit the grant of export permits for specimens of that species'. See CITES, Washington, 3 March 1973, entry into force 27 October 1976, [1976] ATS 29, Article IV.

55 CITES, *What is CITES?*

56 DoEE, *How CITES works*, <http://www.environment.gov.au/biodiversity/wildlife-trade/cites/how-cites-works> (accessed 11 April 2018).

57 CITES, Washington, 3 March 1973, entry into force 27 October 1976, [1976] ATS 29

58 CITES, *What is CITES?*

- the Appendix I specimen is not used for commercial purposes;
- the movement of the species does not have a detrimental effect on the survival of the species or movement does not pose a 'risk of injury, damage to health or cruel treatment';
- evidence is provided to show the specimen was legally obtained; and if necessary; and
- proof of pre-existing import/export permit from a CITES management authority.⁵⁹

Appendix II

2.34 Appendix II includes species that are not immediately threatened with extinction, but their trade is controlled to avoid use that may threaten their survival.⁶⁰ Similar to Appendix I species, certificates from a management authority are required for the exportation and re-exportation of Appendix II species. The importer of an Appendix II specimen is required to present either an export permit or a re-export permit certificate.⁶¹

Appendix III

2.35 Appendix III includes species that any country has identified 'as being subject to regulation within its jurisdiction for the purpose of preventing or restricting exploitation, and as needing the co-operation of other Parties in the control of trade'.⁶²

2.36 All species of elephants and rhinoceros are CITES listed. Both the African elephant and the Asian elephant are included in Appendix I, except for African elephant populations⁶³ in Botswana, Namibia, South Africa and Zimbabwe (Appendix II).⁶⁴ All species of rhinoceros are included in Appendix I, except for the southern white rhino populations in South Africa and Swaziland, which are included in Appendix II for purposes of live trade and hunting trophies.⁶⁵

59 CITES, *What is CITES?*

60 CITES, *How CITES works*, <https://www.cites.org/eng/disc/how.php> (accessed 14 May 2018).

61 CITES, Washington, 3 March 1973, entry into force 27 October 1976, [1976] ATS 29, Article IV.

62 CITES, Washington, 3 March 1973, entry into force 27 October 1976, [1976] ATS 29, Article II.

63 Special rules are in place for the elephant populations in these countries that govern hunting trophies and the trade in elephant products including ivory. For example, the trade in raw ivory is permitted for registered government-owned stores. See CITES, *Appendices*, <https://www.cites.org/eng/app/appendices.php> (accessed 17 May 2018).

64 CITES, *What is CITES?*

65 CITES, *What is CITES?*

Permits and certificates

2.37 Article VI of CITES details the requirements for the import, export and re-export permits and certificates issued by the CITES management authority. These include:

- time restrictions on the validity of a permit (for example, a period of six months from the date a permit was granted);
- measures to prevent the duplication of permits;
- a requirement for a separate permit or certificate to be issued for each consignment of specimens;
- obligations on management authorities to retain records of export and import permits and certificates; and, if appropriate,
- an authorisation for management authorities to affix a mark upon any specimen to assist with its identification.⁶⁶

Exemptions and other special trade provisions

2.38 There are a number of exemptions under CITES, including:

- The provisions in Articles III, IV and V of CITES (the appendices) do 'not apply to the transit or transshipment of specimens through or in the territory of a Party while the specimen remains in Customs control'.⁶⁷
- CITES provisions do not apply to a specimen if it was proven to be acquired prior to that species being listed on CITES (pre-CITES). A CITES management authority is permitted to issue a pre-CITES certificate that enables the owner to export or re-export such item.⁶⁸
- The CITES appendices do not apply to specimens that are considered personal or household effects in a limited number of circumstances.⁶⁹
- Appendix I species that were bred in captivity for commercial purposes (including artificially propagated plant species) are deemed to be species listed as Appendix II.⁷⁰

66 CITES, Washington, 3 March 1973, entry into force 27 October 1976, [1976] ATS 29, Article II.

67 CITES, Washington, 3 March 1973, entry into force 27 October 1976, [1976] ATS 29, Article VII.

68 CITES, Washington, 3 March 1973, entry into force 27 October 1976, [1976] ATS 29, Article VII.

69 Different exemptions apply depending on the level of protection granted to a species (appendix I or II). For example, if an Appendix I item was acquired outside of the owner's country of usual residence and is being imported into that country. See CITES, Washington, 3 March 1973, entry into force 27 October 1976, [1976] ATS 29, Article VII.

70 CITES, Washington, 3 March 1973, entry into force 27 October 1976, [1976] ATS 29, Article VII.

- The export provisions of CITES appendices do not apply if a management authority is satisfied that an animal specimen was bred in captivity, is an artificially propagated plant, or part of an animal or plant bred for commercial use. In these circumstances, a CITES management authority may provide a certificate 'in lieu of any of the permits or certificates required under the [CITES] provisions of Article III, IV, or V'.⁷¹
- Provisions of CITES appendices do not apply in the following circumstances:
 - a non-commercial loan;
 - donation or exchange between scientists/scientific institutions that are registered with a management authority;
 - herbarium specimens (preserved, dried or embedded museum pieces); and
 - live plant material that has a label issued or approved by a management authority.⁷²
- A management authority may waive the requirements found under the appendices to permit the movement of specimens travelling for a zoo, circus, menagerie, plant exhibition or other travelling exhibition.⁷³

The application of CITES in Australia

2.39 CITES is enforceable under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), which regulates the import and export of elephant ivory⁷⁴ and rhino horn to and from Australia.⁷⁵ The DoEE is the assigned management and scientific authority of CITES.⁷⁶

2.40 Appendix I specimens can only be imported to or exported from Australia in exceptional circumstances, or if the specimen has a pre-CITES certificate. With regard to the importation of pre-CITES specimens into Australia, the DoEE website states:

...there is no legal requirement to apply for a permit before importing a specimen that has a pre-CITES certificate from the country of export. However, [importers] are required to declare the importation, and it is recommended that you provide a copy of the overseas pre-CITES certificate

71 CITES, Washington, 3 March 1973, entry into force 27 October 1976, [1976] ATS 29, Article VII.

72 CITES, Washington, 3 March 1973, entry into force 27 October 1976, [1976] ATS 29, Article VII.

73 CITES, Washington, 3 March 1973, entry into force 27 October 1976, [1976] ATS 29, Article VII.

74 Ivory derived from walrus is permitted because it is an Appendix III listed species. See CITES, Washington, 3 March 1973, entry into force 27 October 1976, [1976] ATS 29, Article II.

75 Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act), Part 13A

76 DoEE, *Internationally endangered plants and animals (CITES)*, <http://www.environment.gov.au/biodiversity/wildlife-trade/cites> (accessed 6 June 2018).

to the department. This will ensure that the import is recorded and that the department has evidence of legal import of your pre-CITES specimen(s) into Australia. This may be important if you wish to re-export the specimen(s) at a later stage.⁷⁷

2.41 The DoEE issues pre-CITES certificates in Australia and will do so when a CITES-listed specimen is exported or re-exported out of Australia. The exporter must satisfy the DoEE that the specimen is pre-CITES, and can do so by obtaining provenance documentation, such as:

- evidence of proof of acquisition and/or origin of a specimen; or
- a valuation certificate provided by an expert in the field or an antique dealer, which verifies the age of the item.⁷⁸

2.42 Australia has implemented stricter measures than those found in CITES.⁷⁹ Specifically, stricter domestic measures exist for African lions, cetaceans, elephants and rhinoceros.⁸⁰ African elephant populations, which are categorised under Appendix II of CITES, are included in Appendix I under subsection 303CA(1) of the EPBC Act.⁸¹ Australia has also introduced measures that restrict the trade of rhino specimens including:

- the discontinuation of permits being issued to importing rhino hunting trophies of southern white rhino (Appendix II listed);
- the ban of rhino hunting trophies being imported as personal and household effects; and
- a requirement that radiocarbon dating is compulsory to prove the age of vintage rhino horn for export.⁸²

2.43 For the export or re-export of rhinoceros horn (or products derived from rhinoceros horn), the exporter must prove the item was obtained before 1975. The DoEE specifies that satisfaction of this requirement is only met when a radiocarbon dating result shows the carbon date is pre-1957.⁸³ If the result indicates the item was

77 DoEE, *Pre-CITES certificates*, <http://www.environment.gov.au/biodiversity/wildlife-trade/permits/pre-cites-certificates> (accessed 11 April 2018).

78 DoEE, *Pre-CITES certificates*.

79 The Minister may enact stricter domestic measures. See EPBC Act, s. 303CB.

80 DoEE, *Australia's stricter domestic measures*, <http://www.environment.gov.au/biodiversity/wildlife-trade/cites/stricter-measures> (accessed 11 April 2018).

81 Commonwealth of Australia, *Listing of CITES Species: Declaration of Stricter Domestic Measures*, December 2002.

82 DoEE, *Trade in Rhinoceros Specimens*, <http://www.environment.gov.au/biodiversity/wildlife-trade/cites/stricter-measures/rhino> (accessed 11 April 2018).

83 DoEE, *Pre-CITES certificates*.

obtained post-1957, the 'margin of error associated with that result means that there is not a high degree of certainty that the item was obtained prior to 1975'.⁸⁴

2.44 The importation and exportation of newer elephant ivory and rhino horn is only permitted in a limited number of non-commercial purposes, such as for research or a museum exhibition.⁸⁵

2.45 Tables 1 and 2 show the number of imports of ivory⁸⁶ to Australia by number of items and weight, between 2010 and 2015. Table 1 shows the total number of ivory items imported into Australia over a five year period was 6455.5. Of this total, the majority (4077 items) were personal items (3769 were imported with pre-CITES certification), and 2101.5 items were imported for commercial purposes.

2.46 For the same period, the total weight was 78.805 kilograms, split between personal (32.905 kilograms) and commercial (45.9 kilograms).

Table 1: Imports of ivory (number of items) to Australia, 2010–2015:⁸⁷

Purpose of trade	Education	Hunting trophy	Personal	Exhibition	Scientific	Commercial	Blank	Total
Australian reported imports								
Pre-Convention	0	0	0	18	0	0	0	18
Other	0	0	0	5	0	0	0	5
Imports not reported by Australia								
Pre-Convention	25	0	3769	200	10	2089.5	8	6101.5
Other	0	11	308	0	0	12	0	331
Total	25	11	4077	223	10	2101.5	8	6455.5

84 DoEE, *Pre-CITES certificates*.

85 Mr Murphy, DoEE, *Proof Hansard*, 3 July 2018, p. 10.

86 The DoEE defines ivory to include: carvings, ivory carvings, ivory pieces, jewellery – ivory, piano keys, tusks, teeth, and items that are not identified (blank). Trade terms not included: bone pieces, derivatives, feet, garments, hair, leather products (small), leather products (large), skin, skin pieces, specimens, tails. See DoEE, *Submission 30*, p. 11.

87 DoEE, *Submission 30*, p. 12.

Table 2: Imports of ivory (by weight, kilograms) to Australia, 2010–2015:⁸⁸

Purpose of trade	Education	Hunting trophy	Personal	Exhibition	Scientific	Commercial	Blank	Total
Australian reported imports								
Pre-Convention	0	0	0	0	0	0	0	0
Non pre-Convention	0	0	0	0	0	0	0	0
Imports not reported by Australia								
Pre-Convention	0	0	32.804	0	0	45.9	0	78.704
Non pre-Convention	0	0	0.101	0	0	0	0	0.101
Total	0	0	32.905	0	0	45.9	0	78.805

2.47 Table 3 and 4 show the total number of ivory items (by number of items and weight) exported from Australia between 2010 and 2015. Table 3 shows that there were 1978 items exported from Australia over this period, the majority (1328) were for personal reasons, followed by commercial (435) and exhibition (215). Forty-eight of these items were not supported by pre-CITES certification.

2.48 Table 4 shows ivory exports by weight. The total was 0.751 grams and is listed entirely as personal items supported by per-CITES certification. Nothing is listed for exhibition or commercial despite Table 3 indicating that items were exported.

Table 3: Exports of ivory (number of items) from Australia, 2010–2015:⁸⁹

Purpose of trade	Personal	Exhibition	Commercial	Total
Australian reported exports				
Pre-Convention	1309	203	418	1930
Other	19	12	17	48
Total	1328	215	435	1978

88 DoEE, *Submission 30*, p. 12.

89 DoEE, *Submission 30*, p. 13.

Table 4: Exports of ivory (be weight, kilograms) from Australia, 2010–2015:⁹⁰

Purpose of trade	Personal	Exhibition	Commercial	Total
Australian reported exports				
Pre-Convention	0.751	0	0	0.751
Other	0	0	0	0
Total	0.751	0	0	0.751

2.49 Table 5 shows the number of rhino horn items imported into Australia between 2010 and 2015. There were 22 items in total, 14 of which were for commercial purposes, seven for personal use, and one item was a hunting trophy, which was not imported with a pre-CITES certificate. Table 6 shows the number of rhino items exported from Australia between 2010 and 2015. Eleven items were for personal use, and seven were commercial (total 18). Two commercial items did not come with pre-CITES certification. No data was provided for the weight of those items.⁹¹

Table 5: Imports of rhino horn (by number of items) into Australia, 2010–2015:⁹²

Purpose of trade	Hunting trophy	Personal	Commercial	Total
Australian reported imports				
Pre-Convention	0	0	0	0
Other	0	0	0	0
Imports not reported by Australia				
Pre-Convention	0	7	14	21
Other	1	0	0	1
Total	1	7	14	22

90 DoEE, *Submission 30*, p. 13.

91 DoEE, *Submission 30*, p. 14.

92 DoEE, *Submission 30*, p. 14.

Table 6: Exports of rhino horn (by number of items) into Australia, 2010–2015:⁹³

Purpose of trade	Personal	Commercial	Total
Australian reported exports			
Pre-Convention	11	5	16
Other	0	2	2
Total	11	7	18

Enforcement and detection of elephant ivory and rhino horn at Australia's border

2.50 The enforcement of Australia's CITES obligations is the responsibility of the DoEE and the Australian Border Force (ABF) and, if necessary, the Australian Federal Police (AFP).⁹⁴ The maximum penalty for a wildlife trade offence under the EPBC Act is 10 years imprisonment and a \$210 000 fine for individuals and \$1 050 000 fine for corporations. Wildlife items may be seized post-border if authorities suspect an item has illegally entered Australia.⁹⁵

17th Meeting of the Conference of the Parties

2.51 South Africa hosted the 17th Meeting of the Conference of the Parties (CoP17) of the CITES between 24 September and 5 October 2016. During the two week negotiations, 152 governments agreed to a resolution that:

...recommends that all Parties and non-Parties in whose jurisdiction where there is a legal domestic market for ivory that is contributing to poaching or illegal trade, take all necessary legislative, regulatory and enforcement measures to close their domestic markets for commercial trade in raw and worked ivory as a matter of priority.⁹⁶

2.52 Under the resolution, CITES parties are required to report to the CITES Secretariat the 'status of the legality of their domestic ivory markets', which results in that information being reported to the CITES Standing Committee meetings and at

93 DoEE, *Submission 30*, p. 15.

94 According to the Department of Home Affairs, the Australian Federal Police 'contributes to Australia's role in addressing wildlife crime, through sharing information with the DoEE and other law enforcement partners in relation to illegal trade in protected wildlife'. See Department of Home Affairs (Home Affairs), *Submission 35*, p. 3.

95 DoEE, *Submission 30*, p. 9.

96 Julia Larsen Maher, 'CITES CoP17 Delegates Adopt Resolution Recommending Closure of Domestic Elephant Ivory Markets Globally', *National Geographic*, 2 October 2016, <https://blog.nationalgeographic.org/2016/10/02/cites-cop17-delegates-adopt-resolution-recommending-closure-of-domestic-elephant-ivory-markets-globally/> (accessed 10 May 2018).

future CoPs.⁹⁷ Although the resolution is not legally binding, it does elevate the issue, 'and increase pressure on countries that have not closed their [domestic] markets'.⁹⁸

2.53 This resolution led to a number of countries announcing and/or implementing a ban on the domestic trade in elephant ivory. Recent announcements include: the United States (June 2016);⁹⁹ China (January 2018); Hong Kong (by 2021);¹⁰⁰ Taiwan (by 2020);¹⁰¹ and the United Kingdom (UK).¹⁰² In late 2017, the European Union embarked on a consultation process about restrictive measures against the ivory trade. The outcome of this consultation is yet to be released.¹⁰³ France has had a near-total ban for post-1947 ivory items since 2016, whilst Canada banned the domestic ivory trade in 1992.¹⁰⁴

2.54 Global support for the implementation of the CoP17 resolution was further advanced in 2017, with the United Nations General Assembly resolution (item 27) on *Tackling illicit trafficking in wildlife*, that called upon:

...Member States to ensure that legal domestic markets for wildlife products are not used to mask the trade in illegal wildlife products, and in this regard urges parties to implement the decision adopted at the 17th meeting of the Conference of Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora recommending that all Governments close legal domestic ivory markets, as a matter of urgency, if these markets contribute to poaching or illegal trade.¹⁰⁵

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- 97 Maher, 'CITES CoP17 Delegates Adopt Resolution Recommending Closure of Domestic Elephant Ivory Markets Globally', *National Geographic*, 2 October 2016.
- 98 Maher, 'CITES CoP17 Delegates Adopt Resolution Recommending Closure of Domestic Elephant Ivory Markets Globally', *National Geographic*, 2 October 2016.
- 99 US Fish and Wildlife Service, 'Administration Takes Bold Step for African Elephant Conservation: Completes Near-Total Elephant Ivory Ban to Cut Off Opportunities for Traffickers', *Press release*, 2 June 2016, https://www.fws.gov/news/ShowNews.cfm?ref=administration-takes-bold-step-for-african-elephant-conservation%3A-&_ID=35686#.V1BhTjFIG2Q.twitter (accessed 16 May 2018).
- 100 Author undisclosed, 'SAR to phase out ivory trade, increase penalties for illicit endangered species trade from May', *The Standard*, 23 April 2018, <http://www.thestandard.com.hk/breaking-news.php?id=106217&sid=4> (accessed 3 May 2018).
- 101 Author undisclosed, 'Taiwan to revise laws for 2020 ban on ivory trade', *The Standard*, 4 April 2018, http://www.thestandard.com.hk/breaking-news.php?id=105203&story_id=105203&d_str=20180404&sid=3 (accessed 3 May 2018).
- 102 Department for Environment, Food & Rural Affairs (DEFRA), *Banning UK sales of ivory: Summary of responses and government response*, April 2018, <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/> (accessed 30 May 2018).
- 103 Stefan Gabrynowicz, *Submission 22*, p. 12.
- 104 Georgina Lee, 'Is the UK lagging behind on stopping the ivory trade?', *Channel 4 News*, <https://www.channel4.com/news/factcheck/factcheck-is-the-uk-lagging-behind-on-stopping-the-ivory-trade> (accessed 6 June 2018).
- 105 UNODC, *Submission 71*, p. 12.

Australia's domestic trade regulations

2.55 The Commonwealth government does not regulate the domestic trade of wildlife (including ivory and rhino horn); however, it is an offence under section 303GN of the EPBC Act to be in possession of a wildlife specimen that has been illegally imported into Australia.¹⁰⁶ The internal movement of wildlife species is governed by the laws found within each state and territory.¹⁰⁷ There is no specific state and territory regulation of the domestic trade in non-live elephant and rhino specimens.¹⁰⁸

2.56 Further, there is no legal requirement for domestic sellers or facilitators of ivory and rhino horn to provide evidence at the point of sale (for example at an auction house) that demonstrates the item is a legal import, or proves the provenance or age of a specimen. The DoEE may request an owner of a wildlife specimen to produce evidence of its legal source.¹⁰⁹

2.57 Despite the absence of domestic regulation, the DoEE stated that the CITES Elephant Trade Information System's 2016 assessment of Australia's domestic ivory market as 'small and/or well-regulated' and noted 'most seizures of ivory in Australia is of small, worked items being traded as personal effects'.¹¹⁰ The DoEE stated that the trading of these items within Australia is legal and that it is 'legal elsewhere in the world';¹¹¹ because the domestic trade is legal, no Commonwealth, state or territory agency is responsible for, or required to monitor the elephant and rhino horn trade within Australia.¹¹²

106 EPBC Act, s.303GN(6)(a)

107 IFAW, *Under the Hammer: Are Auction Houses in Australia and New Zealand Contributing to the Demise of Elephants and Rhinos?* (Under the Hammer), September 2016, p. 19.

108 IFAW, *Under the Hammer*, September 2016, p. 19.

109 IFAW, *Under the Hammer*, September 2016, p. 19.

110 Mr Murphy, DoEE, *Proof Hansard*, 3 July 2018, p. 16.

111 Mr Murphy, DoEE, *Proof Hansard*, 3 July 2018, p. 16.

112 Mr Murphy, DoEE, *Proof Hansard*, 3 July 2018, pp. 14–15.