



United States
Department of the
Interior

FISH AND WILDLIFE SERVICE
Washington, D.C. 20240



DIRECTOR'S ORDER NO. 210

Subject: Administrative Actions to Strengthen U.S. Trade Controls for Elephant Ivory, Rhinoceros Horn, and Parts and Products of Other Species Listed Under the Endangered Species Act (ESA)

Sec. 1 What is the purpose of this Order?

a. The United States released the first National Strategy for Combating Wildlife Trafficking on February 11, 2014. One of the three strategic priorities of the National Strategy is to strengthen domestic and global enforcement, including assessing related laws, regulations, and enforcement tools.

b. This Order establishes policy and procedure for U.S. Fish and Wildlife Service (Service) employees to implement the National Strategy as it relates to the trade in elephant ivory, rhinoceros horn, and parts and products of other ESA-listed species.

c. The Order supersedes all previous policies on the June 9, 1989, African Elephant Conservation Act (AECA) import moratorium.

Sec. 2 What will Service employees do under this Order?

a. Service employees must strictly implement and enforce all criteria under the ESA antique exception (16 U.S.C. 1539 (h)). The ESA requires that any person claiming the benefit of a statutory exemption has the burden of proving that the exemption is applicable (16 U.S.C. 1539 (g)) so the burden of proof is on the importer, exporter, or seller to definitively show that an item meets all of the criteria under the exception. The burden of proof standard is high to ensure that items that people claim are antiques under the ESA exception are authentic and qualify for the exception. See Appendix 1 for additional guidance.

b. Service employees must strictly implement and enforce the June 9, 1989, AECA moratorium (54 Fed. Reg. 24758) on the importation of raw and worked African elephant ivory while, as a matter of law enforcement discretion, allowing importation of certain parts and products, as follows:

(1) Raw or worked African elephant ivory imported by an employee or agent of a Federal, State, or tribal government agency for law enforcement purposes.

(2) Raw or worked African elephant ivory imported for genuine scientific purposes that will contribute to conservation of the species.

(3) Worked African elephant ivory imported for personal use as part of a household move or as part of an inheritance, provided that the worked elephant ivory:

- Was legally acquired prior to February 26, 1976;
- Has not subsequently been transferred from one person to another person for financial gain or profit since February 26, 1976; and
- The item is accompanied by a valid Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) pre-Convention certificate.

(4) Worked African elephant ivory imported as part of a musical instrument, provided that the worked elephant ivory:

- Was legally acquired prior to February 26, 1976;
- Has not subsequently been transferred from one person to another person for financial gain or profit since February 26, 1976;
- The person or group qualifies for a CITES musical instrument certificate; and
- The musical instrument containing elephant ivory is accompanied by a valid CITES musical instrument certificate or an equivalent CITES document that meets all of the requirements of CITES Resolution Conf. 16.8.

(5) Worked African elephant ivory imported as part of a travelling exhibition, provided that the worked elephant ivory:

- Was legally acquired prior to February 26, 1976;

- Has not subsequently been transferred from one person to another person for financial gain or profit since February 26, 1976;
- The person or group qualifies for a CITES travelling exhibition certificate; and
- The item containing elephant ivory is accompanied by a valid CITES travelling exhibition certificate or an equivalent CITES document that meets the requirements of 50 CFR 23.49.

Sec. 3 Does this Order affect other legal requirements?

a. The AECA moratorium does not apply to raw or worked African elephant ivory imported as part of a sport-hunted trophy, or to ivory from other species.

b. Nothing in this Order affects the ESA or CITES in-transit standards and requirements.

c. The AECA moratorium does not apply to the tusks on live elephants, so nothing in this Order affects the importation of live elephants.

d. Nothing in this Order affects the prohibitions under the AECA or the ESA. In addition to the terms of the June 9, 1989, moratorium and the prohibitions under the AECA, all applicable legal requirements for the importation of African elephant ivory under 50 CFR Parts 13, 14, 17, and 23 must also be met.

Sec. 4. When is this Order effective? This Order is effective immediately. It remains in effect until incorporated into the Service Manual or until amended, superseded, or revoked, whichever comes first. If we do not amend, supersede, or revoke it, the Order will terminate in 18 months.

/sgd/ Daniel M. Ashe
DIRECTOR

Date: February 25, 2014