

A RAPID ASSESSMENT OF U.S. PHYSICAL IVORY MARKETS

Rachel Kramer, Sal Amato, Robin Sawyer, Giavanna Grein, Crawford Allan, Peter LaFontaine

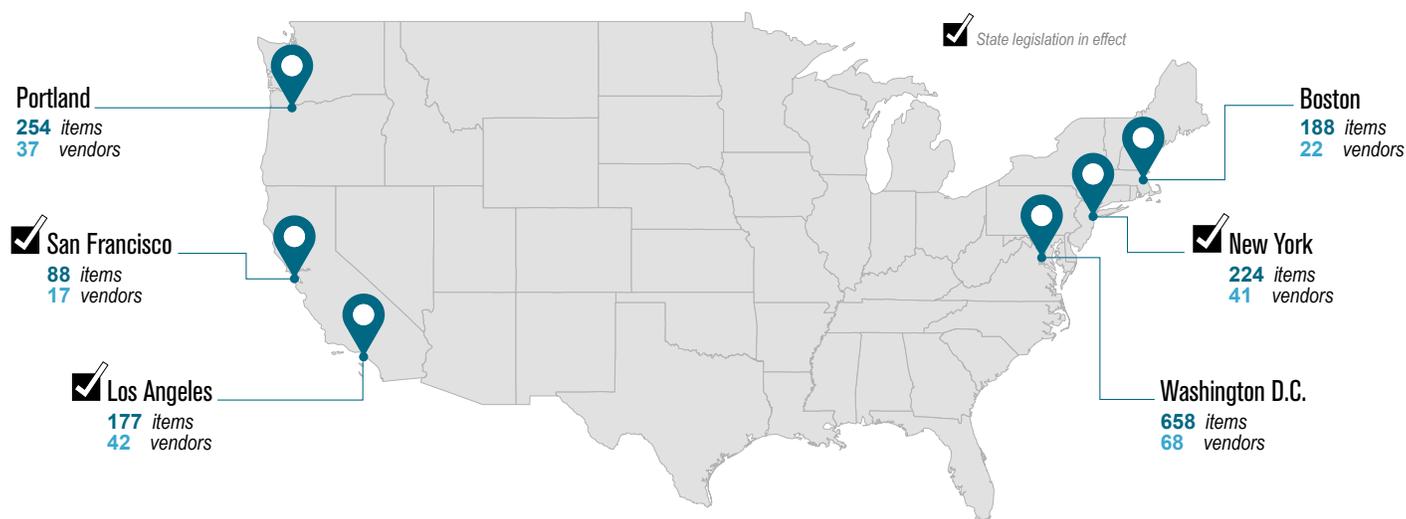


NOTE: THIS DOCUMENT IS A SNAPSHOT OF ONE PART OF A SUBSTANTIVE REPORT ON THE U.S. IVORY MARKET THAT WILL BE PUBLISHED BY TRAFFIC, FUNDED BY WWF AND IFAW IN 2016.

Physical Markets for Elephant Ivory in the United States

In 2008, the United States was determined from a market assessment to be the second largest elephant ivory market for openly available product by volume, after China/Hong Kong (Martin & Stiles 2008). That assessment, which was conducted between March and December 2006 and March and May 2007, covered 16 towns and cities in the U.S. and ranked New York (with 11,376 observed elephant ivory items), San Francisco (2,777 items) and Los Angeles (2,605 items) as the top three U.S. locales for elephant ivory. One-third of the ivory observed in that assessment was estimated to be illegal (Martin & Stiles 2008).

In May-July 2016, a rapid assessment of a smaller sample size of six major U.S. metropolitan areas was performed by TRAFFIC in order to assess the availability, quantity and price of elephant ivory items in physical markets with and without state-level legislation in place to regulate commercial sales. The locations surveyed in this assessment included greater Boston, greater Los Angeles, New York City, Portland, San Francisco, and greater Washington, DC. Researchers found a total of 1,589 ivory items offered for sale by 227 vendors. With certain outliers under investigation by law enforcement at the time of this analysis, vendors selling elephant ivory had an average of merely 7 items for sale. Greater Washington, DC was found to have the highest number of observed elephant ivory items (68 vendors with 658 items), followed by Portland, OR (37 vendors with 254 items), New York City, NY (41 vendors with 224 items¹), greater Boston, MA (22 vendors with 188 items), greater Los Angeles (42 vendors with 177 items), and San Francisco (17 vendors with 88 items).



The age and provenance of items could not be verified by researchers without lab testing and historical documentation — therefore the legality of these items could not be conclusively assessed. Although by no means a comprehensive catalogue of all physical ivory for sale in the U.S. in this study period, this assessment provides a snapshot of a segment of the U.S. physical market so that future analyses can evaluate the effectiveness of a recent Federal rulemaking to restrict commercial elephant ivory sales, imports and exports in the U.S. These findings also provide insight into the general lack of understanding of domestic laws by the U.S. sellers surveyed.

¹ Two New York City-based retailers with significant inventory indicated to be “mammoth” and “bone” could not be validated by the researchers and were therefore not included in this accounting. Information on these vendors was provided to the authorities.



Carved elephant ivory tusk in a Portland, Oregon antique shop.

Physical Survey Methods



Researchers posed as prospective buyers

For this rapid assessment, physical surveys were conducted by TRAFFIC staff and an experienced and trained consultant. As has been done in similar surveys, researchers posed as prospective buyers in order to solicit information from vendors regarding the elephant ivory that they had on display or in stock. Where possible, and within legal limits, photos and/or videos were obtained in order to assist with species identification, verification of presence and offer for sale, as well as estimates as to the quantity of ivory present. Data collected included details on vendor locations, as well as the type, quantity, and price of elephant ivory and elephant ivory look-alikes on display. Where time-sensitive information was collected concerning potential violations, researchers supplied observation reports directly to law enforcement for follow up, as appropriate.



Three urban centers where state legislation was in effect

Three urban centers were selected for this study in the states of New York and California where state legislation was in effect at the time of this data collection. Three urban centers in the states of Oregon, Massachusetts and the greater District of Columbia were selected based on anecdotal information from law enforcement and other sources which indicated that significant ivory markets were in place². Although Oregon, Massachusetts and the District of Columbia have introduced state ivory legislation or ballot initiatives, these measures were not enacted at the time of this study. These locations have therefore afforded the opportunity to assess their relative markets and to establish 'baselines' for states that do not currently have legislation in place to regulate intrastate sales.



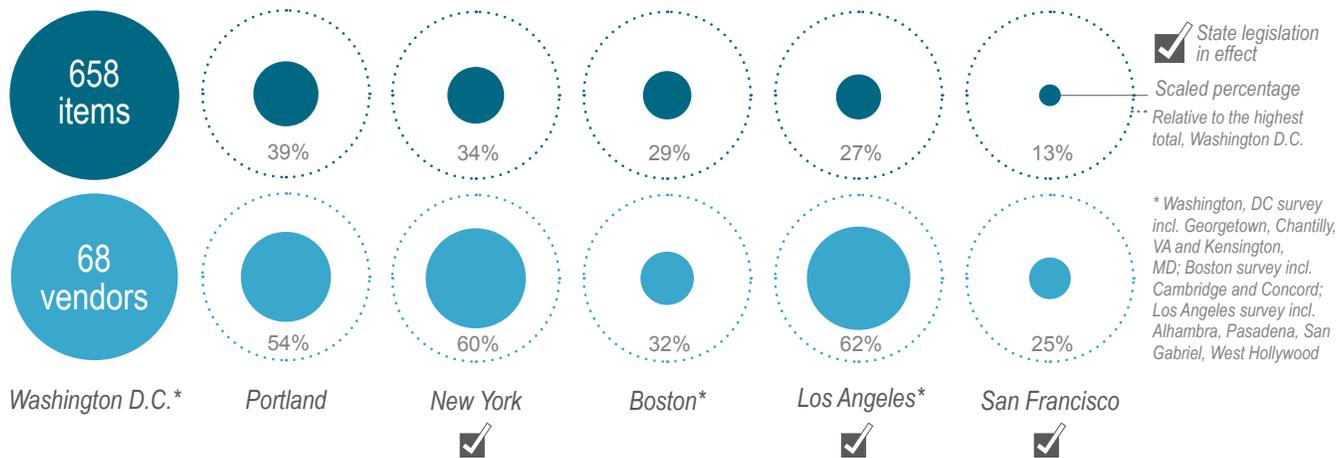
Three urban centers where state legislation was not in effect

As opposed to a comprehensive 'blanket' assessment of all possible ivory trade occurring in a given location, this study adopted a targeted approach. Physical surveys focused on outlets where ivory sales were most likely to be present. Research was performed in a broad range of outlet "types," including art and antique stores, gift shops, jewelry stores, auction houses, musical instrument dealers, firearm and knife shows, and flea markets. The retail selection criteria included:

- Reference to a business, either specifically or generally, in a previous ivory market survey;
- Information gathered from area experts including local law enforcement and businesses;
- Current or recent advertisements of ivory either on a website or social media site associated with a business;
- Reference to a business, either specifically or generally, in an online article regarding ivory sales;
- Information collected during TRAFFIC and partner organization informal physical scoping visits and remote scoping using Google and Google Maps.

² It should be noted that although Boston and the District of Columbia areas were included in the 2008 Martin & Stiles assessment, there is no existing baseline for Portland.

Snapshot: 2016 Physical Market Findings



The term “ivory” can be used to describe any mammalian tooth or tusk that is large enough to be carved or scrimshawed³ (WWF TRAFFIC CITES 1999). Elephant ivory look-alikes that were observed and noted by researchers in this survey of the U.S. market included: mammoth ivory, walrus teeth, whale tooth, whale bone, narwhal tusk, hippopotamus tooth, warthog tusk, animal bone and antler, vegetable ivory, shell, and synthetic materials and resins. Despite best efforts, there were cases in which researchers could not visually confirm the material of suspected elephant ivory articles in trade. These items were not incorporated into final figures for elephant ivory quantities observed in U.S. cities.

Ultimately, this rapid assessment found limited volumes of elephant ivory openly available for sale in the previous top three U.S. physical markets delineated in 2008 (Martin & Stiles). Greater Washington, DC was found to have the highest number of observed elephant ivory items (68 vendors with 658 items), followed by Portland, OR (37 vendors with 254 items), New York City, NY (41 vendors with 224 items⁴), greater Boston, MA (22 vendors with 188 items), greater Los Angeles (42 vendors with 177 items), and San Francisco (17 vendors with 88 items). Although for San Francisco, an informal one-day scoping assessment conducted in April 2016 by TRAFFIC using a Chinese investigator (prior to the implementation of a California state ivory trade ban) did show a much larger availability of elephant ivory openly for sale (20 vendors with an estimated 703 items).

These results may be attributed to increased regulation and law enforcement effort in the states of New York and California. Certain vendors told the researchers that in some cases, elephant ivory items are being relocated from states with intrastate commercial restrictions to states lacking legislation, for purposes of sale. Expanded, regular monitoring will be essential to adequately measure shifts in the U.S. market against this 2016 data, to assess whether sales are pivoting from historical physical markets to new commercial spaces, online platforms, and/or are being driven to covert illegal markets.

Researchers found that surveyed vendors generally lacked a clear understanding of Federal and state laws regulating the commercial sale of elephant ivory in the U.S. None of the vendors surveyed in physical markets had visible permits showing either legal origins of importation or state level sales permits where required. The researchers found that elephant ivory was available in the greatest volumes at ‘antique’ expos and flea markets, with limited availability in physical storefronts or gun shows. Vendors told researchers that this was a result of rising rents and higher risks associated with displaying ivory on store and gallery shelves.

The price of elephant ivory, particularly raw ivory, can be an essential indicator of trends in the market. The majority of items observed for sale in the U.S. physical market during this survey period were carved items available in small quantities (an average of 4 items per vendor in the greater Los Angeles area, ranging to an average of 9 items per vendor in the greater Boston area). Generally, elephant ivory items were mixed with miscellaneous antiques, jewelry and other pieces. Prices for worked elephant ivory items varied widely according to size, age and quality of carving. Researchers were offered a pair of intact elephant tusks for \$15,000 (New York City, NY), an Asian-style carved intact elephant tusk for \$15,000 (New York City, NY), and an African-style carved intact elephant tusk for \$1,800 (Portland, OR). In New York City, several vendors told the researchers that they knew it was illegal to sell their elephant ivory pieces and that they would offer discounted prices in order to rid themselves of risky inventory.

³ For more information, see the WWF-TRAFFIC-CITES handbook that is “designed to offer wildlife law enforcement officers, scientists and managers a tentative visual means of distinguishing legal from illegal ivory, and a ‘probable cause’ justification for seizure of the suspected illegal material”: <https://cites.org/sites/default/files/eng/resources/pub/E-Ivory-guide.pdf>

⁴ Two New York City-based retailers with significant inventory that was indicated to be “mammoth” and “bone” could not be validated by the researchers and were therefore not included in this accounting. Information on these vendors was provided to the authorities.

Discussion

During this investigation period, a major shift in applicable laws was underway. On July 6, 2016 the U.S. Fish and Wildlife Service completed a series of changes to U.S. federal regulations that it termed a “near-total ban” on imports, exports, and domestic trade of African elephant ivory, with limited exemptions for certain antiques, de minimus objects, imports and exports, and intrastate commerce. It is important to note that, under the newly revised Federal regulations, sellers now assume the burden of proving that their ivory item qualifies for a given exemption. The USFWS has given guidance on what evidence or documentation may be used to meet this standard, but has declined to provide an exhaustive list, instead allowing enforcement agents to make their best judgments based on available evidence.

In this new regulatory climate, the following findings from this 2016 ‘baseline’ should be taken into consideration:

- The **U.S. physical ivory market appears to be generally declining** in the face of strong regulatory and public awareness measures by the U.S. government to ban the elephant ivory trade.
- **State bans seem to have had a significant impact** on reducing the open availability of elephant ivory in formerly significant markets.
- In surveyed states with active bans, **vendors were confused about specific details** but many stated that they believed they were breaking the law by selling elephant ivory. Most were nonetheless interested in negotiating lower prices to get rid of their stocks.
- Certain vendors indicated verbally to the researchers that **they are holding back inventory**, in case laws change in future that may allow legal sale.
- **Shifts may be occurring to new centers of trade** in states where oversight is lax and/or laws have not been enacted.

Recommendations

- In order to measure shifts in the U.S. market against this baseline and in particular the impact of U.S. Federal regulations that went into effect on July 6, 2016, regular monitoring will be needed to assess whether physical sales are pivoting to new locations⁵, to online platforms, and/or being driven underground.
- The USFWS could enhance understanding of Federal and state regulations amongst buyers and sellers through targeted outreach, to lessen confusion.
- Random inspections by law enforcement are recommended for traders who have been previously found to sell elephant ivory in significant quantities.
- High profile publicity on prosecutions of traders who violate the law is recommended for deterrence.



Elephant ivory-filled case at The Big Flea in Chantilly, VA.

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⁵ Anecdotal information indicates that Miami, FL and Las Vegas, NV are emerging locations of interest.

ANNEX

Summary of U.S. state legislation regulating the intrastate commercial trade in elephant ivory at the time of this survey.

U.S. State	Legislation Status ⁶
California*	Bill 96: signed into law October 4, 2015; implemented July, 2016 Restricts sales of ivory from elephant, hippo, mammoth, mastodon, walrus, warthog, whale, narwhal, rhino horn. Exemptions for antiques (a) documented 100+ years old and (b) less than 5% wildlife product; and ivory-containing instruments (a) made no later than 1975 and (b) less than 20% wildlife product.
Connecticut	Legislation proposed.
Colorado	Legislation proposed.
Delaware	Legislation proposed.
Hawaii	Bill S2647: signed into law June 23, 2016; will be implemented June 30, 2017. Similar to Washington (see below). Exemptions for antiques, guns, knives, and musical instruments that are (a) documented as manufactured before 1976 (or 100+ years old), (b) less than 20% wildlife product, (c) where the wildlife product is "fixed" (i.e. an integrated, immovable component), (d) where the wildlife product is not the source of the item's value.
Maryland*	Legislation proposed.
Massachusetts*	Legislation proposed.
New York*	Bill S7890: signed into law on June 19, 2014; implemented immediately. A ban on sales of elephant and mammoth ivory, and rhino horn. Exemptions for antiques that are (a) documented 100+ years old and (b) consist of less than 20% ivory/horn; and for ivory-containing musical instruments made no later than 1975.
New Jersey	Bill S2012: signed into law on August 1, 2014; implemented six months later. Ban extends to all animals with ivory and rhino horn.
Oregon*	Appears poised to pass an initiative in the November 2016 election. Measure 100 which covers several groups of imperiled wildlife species with exemptions for legally acquired musical instruments and antiques documented 100+ years provided any wildlife it contains is fixed, and less than 200 grams.
Vermont	Legislation proposed.
Washington	I-1401: passed November 3, 2015. Ban on sales of ivory and products of wildlife species such as rhinos, pangolins, marine turtles, tigers, and others with exemptions for antiques (a) documented 100+ years old and (b) with less than 15% wildlife product.

*States with urban centers covered by this rapid assessment.



Ivory-framed image of George Washington



Signage by one vendor in Kensington, MD

⁶ Under U.S. law, federal oversight of intrastate trade is largely reserved to state governments. USFWS can enforce CITES "use after import" provisions (50 C.F.R. 2355) but that limits intrastate ivory sales to items that were legally imported to the U.S. prior to January 18, 1990 (the date of listing in CITES Appendix I), or those imported under a CITES Pre-Convention certificate. This presents a plausible loophole for sellers to claim they are involved solely in intrastate trade—without proof of intent to sell across a state border, enforcement officials may be stuck. In recent years, numerous states have passed legislation or ballot initiatives to close this gap, and brighten the line between legal and illegal trade. All of the following laws contain exemptions for scientific and law enforcement specimens.