



Confédération Internationale des Négociants en Œuvres d'Art • Founded in 1935

Short submission in respect of worked pre-1947 ivory

CINOA, the international confederation of art dealers' associations, includes in its membership 19 EU dealer associations representing antique dealers based in 14 Member States. This submission has been prepared on behalf of CINOA's EU members, following the stakeholder meeting held at the European Commission on 28 January 2019. Its brevity is necessitated by the very restrictive deadline of 6 February 2019 given for submission of information before the Commission discusses its ivory proposals with the permanent representatives of Member States.

The antiques sector is the largest business sector that would be affected by changes to the rules governing the sale of antique and pre-1947 ivory; it is also the sector best placed to explain the impact on its micro business members. The various antique trade bodies representing dealers from Member States very much regret that many of them were not included in the original invitation list to the stakeholder meeting, notably France, which represents the second largest art and antiques market in the European Union. It is hoped that the Commission will in future be able to consult all the relevant trade associations, whose names and contact details can be found at <https://www.cinoa.org/cinoa/associations> as well as representatives from cultural bodies, such as museums and other public collections of works of art.

Introduction

The trade body members of CINOA support all measures that have a realistic chance of preventing the poaching and slaughter of elephants.

Not all measures proposed by some wildlife organisations will necessarily manage to prevent the poaching of elephants.

For example, although the EU Commission is not proposing to ban all trade in ivory, were it to do so this would eliminate the valuable involvement of those knowledgeable dealers, who are able to identify and date old ivory items brought to them and who can distinguish them from modern items. Ivory items would continue to be handled by private people and non-experts, some of whom would avoid contact with the knowledgeable trade; as a result the trade in ivory items would be pushed into an underground world, where it is not monitored.

Most observers recognise that the main problem is poaching in Africa and the workshops in Asia, especially in China, where there is a thousand-year cultural tradition of ivory carving and superstition about ivory carvings. This will not end with the banning of trade.

The newly-confident and affluent Chinese now have an opportunity to re-acquire their cultural heritage from the art markets of Europe, following the Cultural Revolution, when many of the objects in China were destroyed and ignored. It is inevitable that Chinese collectors desire not only Chinese ceramics, but also historical antique ivory carvings and other objects incorporating ivory.

Art market specialists are able to identify old cultural objects

Recently worked ivory carvings imported from China or Africa (in all probability from poached ivory) are readily recognisable by specialist antique dealers and other experts, often because of the poor quality of workmanship. When stopped by customs authorities such items are usually in transit through the EU, destined for Asia. There is no, or very low interest in these objects in the EU. They sometimes appear in street markets, but the sellers of such items are not serious antique dealers and the buyers are not serious collectors of antiques.

The Commission will understand that professional antique dealers or museum curators continually make decisions about the age and authenticity of any of the items they handle, whether European furniture, Indian jewellery or Chinese ceramics. They are able to make informed judgements as a result of many years of observing and handling thousands of old objects. If a dealer uses €10,000 of his or her money to acquire a 17th-century antique there is a strong incentive to ensure they have not made a mistake; it is their money that is lost if the object turns out to be a 20th-century copy.

Dealers who are members of CINOA trade bodies are vetted by their peer group and must demonstrate that they have sufficient knowledge of the antique objects they handle. This also applies to experts who are members of other bodies, such as associations that provide expert witnesses and valuations.

In **Annex I** to this paper there is a summary of the factors considered by specialist art dealers or by museum curators when determining the age of old objects made from ivory.

Scientific testing

It is important to understand that there are a number of significant limitations to the dating of antique ivory using the ^{14}C isotope method.

- Since a sample of ivory needs to be taken from an object and destroyed in the process of carbon dating, this damages the cultural integrity of the piece and could physically damage and devalue it.
- With small ivory elements that do not retain the shape of a tusk it is not possible to know whether the ivory was taken from the proximal or distal end of the tusk. The age of the material at different ends of the tusk can be several decades apart.
- One given level of ^{14}C found in an ivory object from the second half of the twentieth century can suggest two possible ages for the ivory: the earlier date taken from the upward part of the ^{14}C curve – which peaked in 1965 – and the later date from the downward part of the curve. We question the assumption (implicit in some interpretations of ^{14}C results) that simply because the downward ^{14}C curve is shallower than the upward curve there is always a greater chance that the ivory originated in a period when ^{14}C levels were reducing (i.e. after 1965).
- The cost of this testing can be as much as €500, which could exceed the value of the piece being tested.
- Scientific analysis of this nature is really only useful when specialist antique experts are inspecting a modern-looking item but are unable to form a judgement as to its decade of likely manufacture.

Ivory tusks and ivory from after 1947

It is the sale of raw ivory tusks that feeds workshops in the Far East and CINOA welcomes the EU's current rules which now ban the export of tusks.

A number of reports about seizures indicate that the largest seizures by customs authorities relate to the transit of raw ivory and recently-carved ivory items from Africa in transit to Asia. These large seizures do not relate to items destined for the European market or the trade.

In the case of worked ivory objects on sale in the Member States of the European Union it is very important to understand the types of objects and to understand why these objects are currently located in Europe. Many European countries continued to have strong colonial connections with African countries long after 1947 and some of those African countries only obtained independence as recently as the 1970s. It is inevitable that many carved items made after 1947 found their way to Europe, not only as a result of colonial connections, but also because tourists returned home

with souvenirs from vacations in Africa. For many decades after 1947 the movement of such ivory items from both Africa and Asia into Europe was entirely legal.

However, under current EU rules, in order to sell or export worked ivory items dating from after 3 March 1947 an EU certificate is needed. Unfortunately some legally acquired souvenir carvings are offered for sale in the EU by market stall holders, who have no experience in handling antique objects and who do not realise the age of the items they offer for sale. The same applies to private people selling possessions on the internet. The sale of some pre-Convention items is illegal because they are not accompanied by the correct permits. This does not mean that these items were illegally acquired or are made from recently-poached ivory.

Decisions should be based on facts and not emotion

The European Union is neither a large destination for poached ivory, nor is it a major exporter of ivory.

Looking at exports, the Traffic report commissioned by the Commission in March 2018 and revised in January 2019 refers to some worked exports of ivory as including piano keys. Unfortunately CITES data only provides separate figures for piano key exports from 2016 onwards and the Traffic report has assumed low exports of piano keys between 2012 and 2015. However, we know that pianos were in fact exported in those years but were categorised as “ivory carvings” and not as “piano keys”. Based on CITES data CINOA has computed that in 2016 66% of the number of exports of worked ivory (where measured by number and not weight) were of piano keys. CINOA has also estimated that about 300 kg of worked ivory, including piano keys, was exported from the EU Member States in 2016.

It is important to put the total weight of pre-1947 ivory exports in the context of the amount of ivory taken every year from the poaching of elephants. The annual slaughter of 25,000 elephants will produce 50,000 tusks. Using a conservative estimate of 5.5 kg average weight for each tusk, these poached tusks would weigh 275 tonnes.

Proposal by CINOA

Based on the Commission’s proposals in the non-paper, CINOA suggests the following arrangements for a workable and simple certification system that targets the ivory objects of greatest concern: solid ivory carvings.

- I. CINOA supports the prohibition of all commercial trade in or transport of raw ivory in the EU, with exemptions for ivory used to restore musical

instruments and objects containing small volumes of ivory, such as cutlery or small pieces of inlay.

2. In respect of the proposals for worked ivory acquired between 1976 and 1990 and between 1947 and 1976, CINOA supports the Commission's proposals, but it is not in a position to assist in obtaining evidence of age, since CINOA's members' expertise and concern is with works of art created before 1947.
3. CINOA supports further new checks that would use the experience and knowledge of, amongst others, specialists from the professional antiques trade, in respect of worked ivory objects dating from before 3 March 1947 as follows:
 - a) To ensure efforts are proportionate and focused on the higher risk tourist carvings from the second half of the twentieth century, all solid ivory objects and objects containing more than 50 per cent ivory should be subjected to independent certification before they can be purchased, sold or re-exported.
 - b) Musical instruments, portrait miniatures and low weight items would be exempt from this certification.
 - c) Certificates would confirm that the object is a worked item that was acquired before 3 March 1947.
 - d) The certificate would be issued by an independent registered specialist who is experienced in handling old objects. In most cases certification would not be based on scientific testing, since (as explained above) this is invasive and damages the integrity of objects; also it is not fully reliable.
 - e) In cases where a CINOA trade body operates in a Member State that trade body could recommend the names of specialist dealers for inclusion on a list of assessors held by the CITES management authority of the Member State. Other organisations such as expert valuer bodies or museums could also submit names for the list; this would have to be the case in countries with no CINOA trade body present. The list of assessors would be held confidentially by the management authority and would enable them to check that certificates have been issued by authorised assessors.
 - f) Certification can only be carried out by assessors whose names appear on the list. There could be a restriction on the length of service of each assessor, for example every ten years the assessors may have to be tested and re-approved.
 - g) The CINOA trade association or the CITES management authority would be able to remove an assessor from the list of assessors in cases where the assessor's certification was found to have shown a pattern of serious errors in the assessment of ivory objects.

- h) A CINOA trade body in one Member State may also submit the names of assessors for the consideration by other Member States (for example where there is no CINOA trade body in a neighbouring Member State).
- i) It is important to note that the management authorities of at least three Member States, **Germany, Spain and France**, already recognise the expertise of antique dealers from CINOA, and often other expert groups, in respect of antiques incorporating ivory. See Annex 2 for details of the protocol and certificates issued by nominated members of the Federación Española de Anticuarios.
- j) All certificates used in every Member State will conform to a standard format agreed and published by the European Commission. This will incorporate a minimum of two images of the item certified. Certificates will be issued either by the person who has carried out the assessment or by their trade body. They would be valid throughout the EU.
- k) A register of all certificates will need to be maintained. The certificates listed on the register would not be viewable by the public. Someone with a certificate would be able to ask the organisation which maintains the register to confirm whether their certificate is genuine and can be found on the register.
- l) As a further additional level of scrutiny it could be that, as in France, the object and certificate will have to be registered on a national database maintained by the CITES management authority of the relevant state. This arrangement would obviously use resources and it is not clear whether it would be practical or affordable for all Member States to do this. CINOA would not however oppose this arrangement, provided the system is easy to use and is available online.

CINOA, Bruxelles / Brussel, 5 February, 2019

ANNEX I

FACTORS USED TO ASSESS THE AGE OF CULTURAL AND HISTORICAL OBJECTS THAT INCORPORATE OR ARE MADE FROM IVORY

- **Style**

In the absence of an inscription, stylistic analysis is often the best way of dating an object. This requires the evaluator to have knowledge of different periods of art historical styles, as well as an understanding of the subtleties of carving and manufacturing techniques. Those who have long experience of handling large numbers of cultural objects and derive a living from them are well placed to apply this knowledge to objects made from or incorporating ivory.

- **Techniques used to create the piece**

The carving techniques employed in a worked ivory object or in objects incorporating ivory decoration vary according to the date of manufacture. For example, prior to the 19th century raw ivory was hand turned on a lathe, hand-cut or hand-sawn. From the mid-19th century onwards raw ivory could be machine-cut to prepare it for carving or inlay.

- **Subject matter**

The subject matter of an object can suggest attribution to a particular historical culture, maker or country of origin, based on comparable examples in the literature, museum collections, auction catalogues and other known published works.

- **Extent of wear and physical ageing**

Certain physical clues are also of value to the specialist in determining age and these include the changes in appearance that occur over time. Ivory, like other organic materials found in antiques, is susceptible to wear and tear from historical handling and damage through exposure to or lack of natural or artificial light. In the case of ivory, sunlight bleaches it and lack of light turns it yellow. If the amount of ivory incorporated into an object is not predominant then the extent of wear of the host materials, such as wood or silver, can be indicators of the age of the piece. An old object that has been regularly handled over the centuries will often demonstrate inconsistencies in light and dark colouration and its edges and exposed elements will be less sharply-defined than when first produced. Contrasts in temperature and humidity over the years can also cause splitting and cracking of ivory; and cracks can trap dust.

- **Dates, initials, marks, names or artistic styles of makers, designers or artists**

Dates, initials, marks or signatures in the distinctive style of the creator may have been carved into or painted on the ivory or the other component materials from which the object has been made. This could be the case for signed and designed wooden furniture incorporating ivory inlay work. The style of painting used by a known historic portrait miniaturist will help date the underlying ivory base.

- **Records of age and provenance**

Historical documents which refer to or show images of a piece at a particular date or when in the possession of a particular owner or family can provide additional confirmation of age. It is important to recognise, however, that the existence of such records is the exception and not the rule for the majority of objects, as this type of evidence is likely to have been retained only for the most significant or historically important objects. It can include photographs, references in art history publications, documents assigning the work to a known historical period, past auction or dealers' exhibition catalogues, inventories of public

or private collections (whether in museums or historic houses), insurance policies, family records and statements taken from family members.

- **Old CITES import and re-export permits**

CITES import permits will have been required for objects imported to the EU from places outside the EU in the decades following the addition of the African and Asian elephants to the appropriate annexes of the regulations. Although it is accepted that copies of all import or re-export permits may not have been retained in the decades that have passed since the introduction of the ivory restrictions, if old permits do exist they can supplement other information about the age, provenance or origin of an ivory object.

- **Statements or declarations by third party specialists**

Assessments of antique objects by third parties can provide additional confirmation of age. Examples of this would include reports made by specialist valuers for insurance or probate purposes, certificates of antiquity provided by trade bodies for customs purposes and records of objects having passed the vetting procedures of the major fine art and antiques fairs.

- **Scientific testing**

Nuclear testing in the early 1950s and thereafter released into the atmosphere higher than natural levels of carbon-14, which is absorbed by mammals (including elephants) from the foliage they consume. Through use of scientific tests that measure the levels of carbon-14 present in ivory it is possible to distinguish between ivory originating from elephants which died prior to or from the 1950s onwards. Unfortunately the test is invasive, requiring a small sample, the taking of which may either damage or destroy many objects or be detrimental to their integrity. Such testing should be regarded as a last resort, but can prove useful in cases where the authenticity of the piece is in question and the place on the object from where the sample is taken is not visible.

It should however be noted that since carbon-14 levels peaked in 1965 the levels of carbon-14 for some objects suggest two different dates, sometimes 40 or 50 years apart, with one date being before 1965 and the other after 1965. This has implications for whether or not an item is believed to date from before or after the Asian or African elephants were added to Appendices of the CITES Convention (i.e. “pre-Convention” or “post-Convention”).

ANNEX 2

CERTIFICATES OF FEDERACIÓN ESPAÑOLA DE ANTICUARIOS



PROTOCOL FOR THE ISSUANCE OF EVALUATION DOCUMENTS BY THE SPANISH FEDERATION OF ANTIQUARIES

OBJECT

Implementing a procedure to prove the age of pieces made of ivory, coral and hawksbill, prior to the year 1947, according to the article 2, letter (W) of the regulation (E) 338/97.

ACTION PROTOCOL

SFA will ensure the proper execution of it throughout a severe control for its proper functioning.

1.

After being restructured all national centers, only four experts have been left by the Spanish Federation of Antiquarians. Each one has both a number and a stamp, which will appear on all issued certificates. (See Annex 1)

By this way, we try to offer a high-quality service both different associations and national guilds, as well as individuals, without excluding any territory. We maintain a rigid and exhaustive control of each certificate.

2.

All certifiers have been selected after a very rigorous selection. Also, new control measurements s have been written in order to avoid any disloyalties that may give rise to old problems.

DESCRIPTION OF THE PROTOCOL

- A) After having reached an agreement with both Associations and Guilds, pieces of art may be hold in their offices in order to carry out a technical inspection.
- B) The expert will be able to visit the house or the establishment if there is a big amount of pieces. By this way, we want to avoid unnecessary risks.
- C) ALL OF THEM, no exceptions, will be evaluated personally.
- D) All of these data will be included in the Evaluation Documents. They will allow to identify both the piece and the periters:

- Material
- Sort of animal
- Measures
- Weight
- Epoch / Period of production
- Description of the piece
- Date of personal verification of the piece
- Color photographs
- President's Signature in each copy
- Expert's Signature in each copy
- Dry stamp in each copy
- Stamp with the number of the expert in each copy
- Association stamp in each copy

E) Three copies will be done:

- 1- Copy for the owner
- 2.- Copy for the expert
- 3.- Copy for SFA

F) Regarding to the text, the expert will be required a detailed description of the piece, not leaving any doubt in that respect.

G) Once SFA gets the copies, they will be scanned in order to computerize them as well as send them to the pertinent Department of Animal Protection of the Ministry of Commerce (In our case, SOIVRE)

3.

A new control of quality has been created in order to emit those Documents. Such Control is made by a number of experts who will decide if a piece of art is authentic and suitable for the Evaluation Document. These experts will be led by the President of SFA.

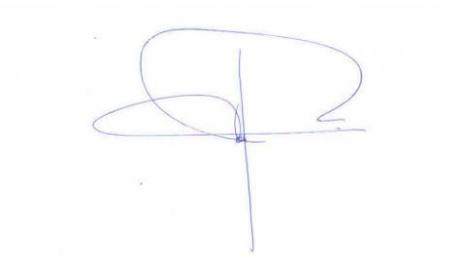
4.

An Advisory Committee will be created, meeting every three months. Its purpose should be to ensure the rigor and proper functioning of the issuance of such certificates and improve, if possible, the descriptions of the pieces.

Its mission is the exchanging of experiences and knowledge for a better operation thereof. It is proposed to be composed by people not related to the trade of antiquites and totally independent. Its composition will be totally flexible:

- 1.- Mr. José Gabriel Moya Valgañón, former director of Patrimonio Nacional.
- 2.- Mr. Gregorio Galgo, artisan and carver of recognized prestige in noble carvings.
- 3.- Mr. Vicente de la Parra, collector of prestigious ivories.

A member of the SOIVRE may be invited to the meetings of this committee. In this case, it will be appointed by the Directorate General for Trade Policy and Competitiveness

A handwritten signature in blue ink, consisting of a large, stylized 'F' and 'L' intertwined, with a vertical line extending downwards from the center.

Ferrán López Alagarda
President of the Spanish Federation of Antiquaries

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DOCUMENTO DE PERITACIÓN

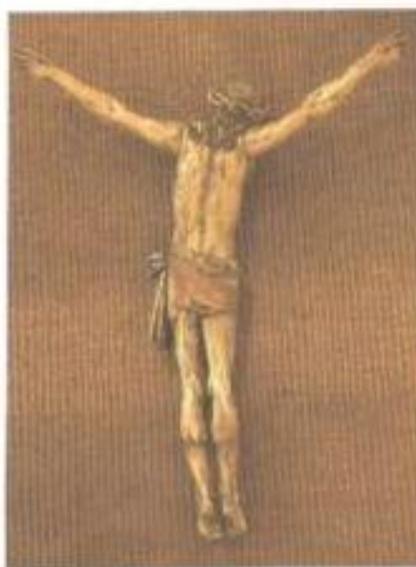
La pieza a continuación detallada ha sido realizada antes de 1947.

MATERIAL: Marfil de elefante (DENTINA DE ELEPHAS)

PESO: 5,070 Kg total MEDIDAS: 65cm hasta corona
54,5cm brazos abiertos

DESCRIPCIÓN Y ÉPOCA: Cristo marfil S.XIX

FECHA DE INSPECCIÓN FÍSICA: 7 de Noviembre de 2017



La Federación Española de Anticuarios garantiza que el Experto Oficial, abajo firmante, posee una contrastada cualificación. La segunda firma, de la Asociación o Federación, refrenda la validez del título.



El Experto

El Presidente de la Asociación o Federación

Ferran Lopez Alagardo
Experto Perito Tasador

Fecha: 8 de Noviembre de 2017

Carles Xarrié Sánchez
President

Nº B00436



DOCUMENTO DE PERITACIÓN

La pieza a continuación detallada ha sido realizada antes de 1947.

MATERIAL: _____

PESO: _____ MEDIDAS: _____

DESCRIPCIÓN Y ÉPOCA: _____

FECHA DE INSPECCIÓN FÍSICA: _____



La Federación Española de Anticuarios garantiza que el Experto Oficial, abajo firmante, posee una contrastada cualificación. La segunda firma, de la Asociación o Federación, refrenda la validez del título.

El Experto

El Presidente de la Asociación o Federación

Fecha:

Nº B001051