

# ST. LOUIS POST-DISPATCH

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## Ivory ban hurts musicians, collectors

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Musicians might be forgiven for feeling like canaries in the coal mine of international travel regulations.

Since the Sept. 11 attacks, their instruments have been targeted for special scrutiny by the Transportation Security Agency, resulting in everything from backups in security lines to damage or destruction. Now, musicians are threatened by new rules from the U.S. Fish and Wildlife Service that make it difficult to bring ivory into the United States: Most quality bows for violins and other string instruments contain a small quantity of the once-common material.

When rules on interstate commerce of ivory are revised later this year, it could become illegal to buy or sell any object containing ivory that can't be proven to be more than 100 years old. That would affect millions of Americans who own instruments, chess sets, Japanese netsuke, jewelry or other items with any amount of ivory, no matter how minuscule.

The rules are intended to aid efforts to crack down on elephant poaching.

In February, the director of the U.S. Fish and Wildlife Service ordered what the agency called a "nearly complete ban" on commercial elephant ivory allowed into the United States. That stemmed from an executive order issued last July by President Barack Obama, committing the U.S. to step up efforts to combat wildlife trafficking, which Fish and Wildlife says amounts to billions of dollars annually around the globe.

Those actions meant for a time that any musical instrument purchased after 1976 that contained the ivory might not be allowed into the U.S., even if the owner were returning from a trip scheduled before the crackdown.

The February order set off three months of fear and confusion for many musicians, who typically schedule foreign performances far in advance. Mary Luehrsen, director of public affairs for the National Association of Music Merchants, said she knows of one American player who declined an audition with a foreign orchestra because of uncertainty over whether an instrument would be allowed through customs.

Fish and Wildlife eased the restrictions last month, moving the purchase date to after Feb. 25 of this year. But musicians still have to certify that their instruments are in compliance with endangered species regulations, a difficult task involving detective work on their instruments and

multiple jurisdictions. It's a bureaucratic challenge that puts the burden squarely on the instrument owner.

The Fish and Wildlife Service says it's getting serious about enforcing bans in a four-decade-old international treaty. Both sides say they have the same goal in mind: to protect endangered species.

### **'into COMPLIANCE'**

"We had not been aware of the use of these materials in a lot of these instruments, and the musicians and the orchestras had not been aware of the requirements," said Craig Hoover, chief of the U.S. Fish and Wildlife's Trade and Conservation branch. "We are really trying to bring the musical instrument world into compliance."

On May 31, customs seized seven violin bows belonging to members of the Budapest Festival Orchestra on their way to play a pair of concerts at New York's Lincoln Center. According to New York radio station WQXR, the Hungarians said that the bows had no African elephant ivory, and had certificates from a Hungarian expert saying so. They were the wrong kind of certificates, however, and customs disagreed about the ivory. Loaners were found in time for the concerts to be played; the bows were released when the orchestra left the country and a \$525 fine was paid.

Five internationally touring string players approached for this story declined to speak about the restrictions, saying they feared reprisal from customs officials.

Renowned violinist Itzhak Perlman, former artistic adviser to the St. Louis Symphony Orchestra, did speak out.

"I think it's ridiculous," he said. "The tip of the bow is going to save the African elephant? Why don't they go after the poachers? It's very terrible what's happening there, but why do you have to make a point on the backs of string players?"

Working musicians, he said, "don't go for the bow that looks good; you go for the bow that feels good with the arm, so you can do things musically. When you are a working musician, you choose a stick that feels good in the hand, so that you can make the proper sound."

The problem, said SLSO concertmaster David Halen, is that "almost every great bow ever made has a little bit of ivory. Any soloist that plays worldwide is going to be deeply affected by this." Less expensive and more recent bows may use metal or white plastic instead of ivory, but cheaper bows, he said, don't sound as good.

"Bows are a miracle of invention," he added. "The great bows made by the 18th-century masters are works of art. My bow makes me play better. To engender a beautiful (musical) phrase, there's nothing like it."

The price of a good bow can range between \$10,000 and \$250,000. The new rules could have an effect on the instrument market. Musicians constantly upgrade instruments as their careers progress, said Heather Noonan, director of advocacy for the League of American Orchestras.

“They choose (a better instrument) not because it has ivory in it but because it has impeccable music quality.”

It’s not just bows. Virtually every older piano and organ has ivory keys; plastic is unforgiving of sweaty fingers, but ivory is relatively absorbent. Many high-quality guitars, mandolins and a surprising range of other instruments have ivory pieces.

Complicating matters, it can be hard to distinguish between African elephant ivory and ivory from its long-extinct cousin, the mammoth. There can be confusion between the two, Noonan said.

## **NOT JUST INSTRUMENTS**

Photographs of hideously slaughtered elephants make clear that poaching is a serious problem. Killings like that of Satao, an iconic “tusker” whose body was recently found in Kenya, bring it home.

Serious though the problem is, Hoover said that very little illegal ivory is coming to the U.S.; most illegal ivory is destined for the Asian market, specifically China. “We don’t believe the United States is among the top few consumers,” Hoover said. “But we continue to be a significant market ... which is why we believe these actions are necessary.”

Ivory bow tips are just the tip of the regulatory iceberg. “There is the possibility that we will ultimately treat African elephant ivory the same way we’re currently treating Asian elephant ivory, hawksbill turtle shell, and a variety of other endangered species products,” said Hoover of Fish and Wildlife, “and that is under the Endangered Species Act, those objects are prohibited from interstate commerce, unless the seller can demonstrate that they meet the (Act’s) definition of antique.”

That means that the object must be certified to be 100 years old or older and cannot have been repaired or modified since 1973, among other specifications. It will be illegal to buy or sell anything across state lines that does not fit within those narrow parameters.

Why go after ivory sold when it was legal? Fish and Wildlife tried having different rules for old and new ivory, Hoover said, but “it’s relatively easy to make new ivory look old.”

Doug Bandow, a senior fellow at the libertarian-leaning Cato Institute, believes that a ban won’t help elephants and would make the problem worse, because it would divert resources from finding poached ivory.

Providing documentation, he said, will be almost impossible for most people who own antique ivory. “This has never been required, until Feb. 1. You would buy an undoubted antique; nobody

would provide you with documentation, because they didn't have it. The government didn't require it. It's something that just does not exist."

Bandow said that the new rules could end necessary repairs of items like bows. "You have an antique, but it has a repair of ivory from 50 or 80 years ago: It suddenly falls into the new category. So you can't sell it across state lines."

It could mean that collectors could not sell their investments, and that other decorative items could become white elephants, not even eligible for tax deductions if donated to a museum.

Matthew Hathaway, a spokesman for the St. Louis Art Museum, said curators are concerned. "The Art Museum has hundreds of works of art made from ivory or containing ivory inlays, many of which are several hundred years old," he said. "We're reviewing the proposed federal regulations closely to determine how they could affect future exhibitions as well as outgoing, international loans of art."

Luehrsen said the National Association of Music Merchants is "working full time on ivory advocacy now."

She said Fish and Wildlife officials have shown a willingness to work with musicians who may not know the exact origins of all the material in their instruments, and that in some circumstances the government has accepted affidavits from the owners to meet the requirements of certification. But she said she worries that Fish and Wildlife does not adequately understand that ivory often is a "very minute part of musical instruments," and that musicians' concern is the artistic value of the instrument.

With new rules on interstate commerce now being formulated, the league is heading up an advocacy group that also includes the American Federation of Musicians, Chamber Music America, NAMM, the National Association of Music Merchants and others aimed at making sure that musical concerns are heard and heeded.

Bandow believes the ill effects of a ban will far outweigh any benefits to elephants. "We're potentially talking about millions of Americans who own at least something with some ivory, and one can imagine millions of items worth tens of millions of dollars," he said.

"This is not just a tiny thing; this is not just, 'Oh, a few rich people own this stuff.' Lots of people have ivory, stuff that's legal, stuff that does no harm. Selling that won't hurt a single elephant — but suddenly all of that (could be) valueless. People don't even know this is happening."