

**The proponents** of a total and blind ban have failed. French law enacted on May 4, 2017, regulates the trade in antique ivory but falls short of obliterating centuries of art and culture.

Whether collectors or dealers, the participants in the *Parcours des Mondes* international tribal art show, which will be held once again this year in early September, can rest assured: Trade in antique ivory artworks and objects is not illegal in France. That is the main point that can be gleaned from a new law passed on May 4, 2017, which has significantly modified the hotly contested one of August 16, 2016, as it related to a “ban on trade in elephant ivory and rhinoceros horn on French soil.”

The hysteria is over. The ill-informed statements of the minister of ecology and the sermons of the militants of the NGOs have failed to prevail. For elephant ivory or rhinoceros horn objects “manufactured” before March 2, 1947, a “simple” declaration procedure will be required, and objects that are less than 20% elephant ivory or rhinoceros horn by volume are exempt from any restriction or declaration. Additionally, objects made after March 2, 1947, but before July 1, 1975—the effective date of the Washington Convention, known as CITES (Convention on International Trade in Endangered Species of Fauna and Flora)—are subject to exceptions established by the Environmental Code (Articles L. 411-2 and R. 411-6 through R. 411-14) if the amount of ivory or horn present in them is under 200 grams. Other exceptions are specified, but these have no relevance to the tribal art marketplace.

Some will undoubtedly complain, legitimately, about what seems to be improvised or arbitrary judicial stipulations. Why March 2, 1947? Why thresholds of 20% or 200 grams? And then there is the issue of placing too much confidence in the efficiency and capability of the bureaucratic offices that will be charged with enforcing the declaration procedures and maintaining the national database. In order to form an accurate assessment, we will have to wait for the publication of the announced decree, which will define its provisions more thoroughly.



In the meantime, the new law and the declaration procedures it allows give the expert a quasi monopoly on determinations. In the absence of relevant documents dating to prior to 1947, which in actual practice are rare, or without recourse to radiocarbon dating, experts will attest to the age of the works that will be declared and registered in the “national database.” In addition, Article 2 of the May 4, 2017, law clearly states that the “age of the specimen is to be clearly established by its owner,” which in practice will mean at the owner’s expense.

The fight against the illegal trade in elephant tusk and rhinoceros horn that threatens these animals with extinction is both laudable and indispensable, and it is worthy of support by all reasonable people. However, it is a very curious application indeed of the chicken-or-the-egg paradox that casts the trade in antique art objects as one of the causes of contemporary poaching. According to nature conservation associations, more than 20,000 elephants were il-



## The Possibility of Trade in Antique Ivory

By Yves-Bernard Debie

legally killed for their ivory in 2016 alone, and, according to the World Wildlife Fund (WWF), there are only 415,000 of them left in Africa. This is clearly a tragedy that must be stopped, but it is difficult to see how prohibiting the sale of a miniature painted on an ivory plaque during the nineteenth century or an *ikoko* pendant sculpted in 1910 would do anything to prevent these contemporary massacres.

Like Germany and the United Kingdom, France took a series of measures in 2015 that were designed to combat the illegal ivory trade, notably by forbidding the import of raw unworked ivory. In fact, the trade in elephant

ivory in the European Union had been strictly regulated since January 18, 1990, the date the African elephant appeared on the CITES Appendix I roster, which lists the most endangered animal and vegetal species. In Europe, trade was already limited to objects made before 1947 and considered antique or to raw ivory that entered the European Union before 1990.

Statistics on poaching show that these legislative efforts fail to address the true causes and are completely ineffective. The reason for this is obvious: The market for antiques is completely unconnected to the phenomenon of elephant and rhinoceros poaching. The true cause is discussed less than it should be: nowadays Asia, and particularly China, are the destinations and markets for most contraband ivory and horn, and they are used there both for the manufacture of modern “artistic” creations as well as for traditional medicine. This is a clearly identifiable market and its supply networks are what need to be addressed. Some awareness

FIG. 1 (left): Horizontal trumpet (detail of finial). Bafo, Cameroon. 19th century.

Ivory. L: 24 cm.  
Ex Josef Mueller.  
Fundación la Fontana,  
inv. FI.2006.01.11.  
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Below, left to right  
FIG. 2: Whistle. Pende, DR Congo. 19th century.

Ivory. L: 10.5 cm.  
Fundación la Fontana,  
inv. FI.2013.01.01.  
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FIG. 3: Group of Hungana pendants from DR Congo in the storage of the Musée Royal de l'Afrique Centrale in Tervuren, Belgium.

FIG. 4: Worn pendant. Hungana, DR Congo.

FIG. 5: Bracelet (detail). Mossi, Burkina Faso.

FIG. 6: Ornament. Dinka, Sudan.

Figs. 4–6: Private collection.  
Figs. 3–6: Photos by A. Arthur.

lating appetites and demand, and it inevitably ultimately fails. Only a targeted ban on the modern ivory trade coupled with an implacable fight against poachers and contraband runners can ensure the protection of endangered species. Again, the objection might be raised that it is easier to ban everything and that the politics of protection require measures that are sadly lacking in Africa. Yet in April 2016, Kenya destroyed its entire stock of ivory—105 tons of it—and there is apparently only 600 tons left in all the other African nations combined. This was a providential godsend that literally went up in smoke. Sold under appropriately strict conditions, it could have been used as an effective countermeasure against illegal and deadly trafficking.

Some propose legalizing and regulating the ivory trade, but given the pachyderms' slow rate of growth, this is not a realistic option. The measures needed to deal with the current problem must be taken more rapidly.



of this is apparently taking hold in China since Beijing just announced in December of 2016 that the sale and transformation of ivory into new objects would be entirely banned in China by the end of 2017.

Supporters of a total ban will probably object that without blanket worldwide interdiction in the ivory trade without regard for its state as raw material or manufactured items, whatever their age, contraband trade and illicit networks will continue to exist in order to feed parallel markets. These arguments fail to recall that this extreme position of total prohibition has historically resulted only in stimu-

For the antique trade, there is now relief and some uncertainties have been cleared up, but the “simple declarations” will undoubtedly lead to administrative difficulties. Nonetheless, the worst appears to have been nullified. The position taken by the Minister of Ecology in April of 2016, when he announced in tandem with the great ceremony of ivory destruction in Nairobi that France would soon ban “any and all trade in ivory on its territory” thanks to a measure that was to have come into force on August 16, 2016, has thankfully been modified and amended by the legislation of May 4, 2017.