

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

IVORY BILL

Sixth Sitting

Tuesday 19 June 2018

(Afternoon)

CONTENTS

CLAUSES 35 TO 42 agreed to.
New clauses considered.
Bill to be reported, without amendment.
Written evidence reported to the House.

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor’s Room, House of Commons,

not later than

Saturday 23 June 2018

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The Committee consisted of the following Members:

Chairs: STEVE McCABE, †MARK PRITCHARD

† Cameron, Dr Lisa (*East Kilbride, Strathaven and Lesmahagow*) (SNP)

† Chalk, Alex (*Cheltenham*) (Con)

† Courts, Robert (*Witney*) (Con)

† Davies, Mims (*Eastleigh*) (Con)

† Debbonaire, Thangam (*Bristol West*) (Lab)

† Donelan, Michelle (*Chippenham*) (Con)

† Harrison, Trudy (*Copeland*) (Con)

† Hayman, Sue (*Workington*) (Lab)

Hoare, Simon (*North Dorset*) (Con)

† Latham, Mrs Pauline (*Mid Derbyshire*) (Con)

† McCarthy, Kerry (*Bristol East*) (Lab)

† Pollard, Luke (*Plymouth, Sutton and Devonport*) (Lab/Co-op)

† Rutley, David (*Parliamentary Under-Secretary of State for Environment, Food and Rural Affairs*)

† Smith, Henry (*Crawley*) (Con)

† Sobel, Alex (*Leeds North West*) (Lab/Co-op)

† Turley, Anna (*Redcar*) (Lab/Co-op)

Twist, Liz (*Blaydon*) (Lab)

Gail Poulton, *Committee Clerk*

† **attended the Committee**

Public Bill Committee

Tuesday 19 June 2018

(Afternoon)

[MARK PRITCHARD *in the Chair*]

Ivory Bill

Clause 35

MEANING OF “IVORY”

Amendment proposed (this day): 11, in clause 35, page 20, line 40, leave out “an elephant” and insert

“a hippopotamus, elephant, killer whale, narwhal, sperm whale, or walrus.”—(*Sue Hayman.*)

This amendment would include in the definition of ivory all the ivory-bearing species listed in an Appendix to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

2 pm

Question again proposed, That the amendment be made.

The Chair: I remind the Committee that with this we are discussing the following:

Amendment 12, in clause 35, page 21, line 3, leave out from “subsection” to the end of line 5

This amendment would allow the Secretary of State to make regulations in the future that would include any ivory species, even if not listed in an appendix to CITES.

Clause stand part.

It is rather warm and humid in here—with humour as well, hopefully—so Members should feel free to take off their jackets. Members who have already spoken in the debate but wish to make comments on parts of the group that they did not address in their first speech are welcome to do so. If they wish to be called again, they should catch my eye by standing. I understand that Liz Twist was speaking before lunch, but she is not here. Would anyone else like to speak?

Kerry McCarthy (Bristol East) (Lab): I feel that I have been slightly thrown into the middle here, because I was “slipped” for this morning and had not expected the Committee to have made such progress. Last week we took much oral evidence on broadening the definition of ivory beyond the tusk or tooth of an elephant to other ivory-bearing animals. It was disappointing that the consultation looked just at elephant ivory without the opportunity to consider narwhals, walrus or other animals. The hon. Member for Mid Derbyshire was particularly keen that mammoths should be included in the definition, although that would not come under a convention on international trade in endangered species definition, on the grounds that animals that are already extinct cannot be protected as endangered species. I suggest to the Minister that just because there was not a consultation on other species does not necessarily mean that they cannot be included in a definition.

We heard in evidence that the vast majority of trade is in elephant ivory. Exemptions for antiquities and precious items are nearly always concerned with elephant ivory; the new forms of ivory are very much secondary. There was a discussion about whether the Government would be subject to judicial review if a ban were to be implemented without consultation, and I will be interested to hear the Minister’s comments on that. My concern is that although the Bill makes provision to do things by statutory instrument, we will not have another ivory Bill for a long time. I therefore want reassurance that, if we are not to widen the definition in the Bill, those consultations and statutory instruments will be brought forward as soon as possible.

With regard to ivory-bearing animals mentioned in the CITES appendices, alongside African and Asian elephants in appendix I—those ranked as most severely under threat—are sperm whales, which are already under threat from ivory poaching. In 2013 the Spanish authorities seized 250 teeth, with a combined weight of 80 kg, which would have sold online for £1,000 each to be made into carved chess pieces. Appendix II includes narwhals, a single tusk of which can sell for up to \$12,500. It has been reported that there are, on average, more than 200 trades in narwhal tusk every year. Although these species may not be at such an immediate and apparent threat of extinction as the elephant, they are at risk.

Anna Turley (Redcar) (Lab/Co-op): We mentioned this morning the knock-on effect of some bans. Does my hon. Friend agree that, if we have such a small Bill, focused only on elephants, the knock-on effect for other species not currently endangered could escalate their endangerment? There would be purely a knock-on effect for other species.

Kerry McCarthy: I entirely agree with my hon. Friend. We have heard that this is big business. There are organised criminal gangs involved in poaching ivory. We have seen in the past how they will move from one lucrative criminal activity to another. If the elephant trade is closed to them, which we hope it will be, they will move on and find new pastures.

I have mentioned a couple of species involved. Alongside those in appendix II there are also killer whales, hippos and certain types of dolphin. Appendix III includes the walrus. It is estimated that up to 3% of their global population are hunted and killed every year.

I want to make a final plea for the poor old warthog, which no one seems to care very much about—*[Interruption.]* Maybe it was discussed this morning. We have to look at why we are introducing an ivory ban. It is mostly presented as a conservation issue that threatens the survival of the elephant, which could be wiped from the face of the earth. We should look at it from the point of view that taking an animal’s teeth just for the purpose of ornamentation or to make money out of it has to be wrong, whether it is rare, precious and wonderful to look at, or an ugly old warthog, of which there are many running around. I argue that we should not hunt animals for ivory, whether they are endangered or not.

Sue Hayman (Workington) (Lab): I will speak briefly to amendment 12, which I tabled following a suggestion from the hon. Member for North Dorset, who unfortunately

is not in his place at the moment. He suggested that in clause 35(3) everything following the word “only” should be deleted, so that it would read:

“The regulations may amend subsection (1) so as to include ivory from an animal or species not for the time being covered by that subsection.”

That would allow us to look at non-CITES species, a point raised by a number of hon. Members, including the hon. Member for Mid Derbyshire. That would include mammoth, for example. There is obviously also the dear warthog. My hon. Friend the Member for Bristol East missed a treat this morning when the hon. Member for North Dorset threatened to sing a song about the warthog in order to draw attention to its plight. She might like to have a word in private, to ask if he could entertain her.

Amendment 11 seeks to extend the scope of the Bill. Amendment 12 would allow us to consider any animal that might be affected in future by displacement or removal of other species from poaching, for example. This is an important area to consider. I hope that the Government will consider it seriously, because it is a simple amendment that would attract cross-party support.

The Parliamentary Under-Secretary of State for Environment, Food and Rural Affairs (David Rutley): I will speak to amendments 11 and 12 and clause stand part. I warn colleagues that this will be a lengthy contribution, but that is fitting, given the contributions we have heard. I will take interventions, and I know that the hon. Member for Workington will wrap up with her final thoughts. She made a few detailed points about consultation, and the fact that she is an associate of the Consultation Institute and is taking guidance and advice from it. We would be happy to look into that. As a Minister, I need to take guidance from other sources within Government too, so there are often different views on these matters. We will of course look at that.

The hon. Member for Leeds North West spoke with passion and conviction about narwhals, and he made some good points. I will write to him with the details on imports. The hon. Member for Plymouth, Sutton and Devonport talked about the risk of judicial review. Perhaps he could hold that thought, because in the main body of my remarks I will talk about the biggest risk here, which is of the European Court of Human Rights challenging the provisions in the Bill. We can answer questions as we go. I thank hon. Members for their amendments and would like to acknowledge the significant degree of support, in the House and from conservation organisations, for extending the scope of the Bill to cover other species.

Clause 35 provides the definition of ivory applied in the Bill. Ivory is defined as the tusk or tooth of any species of elephant. Subsection (6) defines elephant as any animal or species that is within the family *Elephantidae* and that is extant—meaning living—at the time the Bill is passed.

My hon. Friend the Member for Witney questioned whether we should be looking at the chemical composition of ivory, so let us put that on the table as well, as we are all keen to understand the situation. The chemical composition of ivory cannot be used here, or indeed in the CITES or EU wildlife trade regulations, to assist in defining elephant ivory. That is because the chemical composition of all mammal teeth is broadly the same,

so this is not a helpful method for distinguishing between species. Instead, a range of other approaches is used to distinguish elephant ivory from other species and other materials such as plastic, including physical characteristics and DNA testing. Therefore, chemical composition or any other practical means of testing ivory cannot be used as a legal definition for elephant ivory, either in the Bill or in international restrictions on ivory, with which it is important that we align.

Many will ask why back in October we consulted only on the sale of elephant ivory. We have moved quickly—not just in this Committee but before—but the short answer is that that is where the clear priority lay at the start. As we heard so clearly from the NGOs last week, their primary aim is to see a world-leading ban on elephant ivory sales enacted in the UK. That is where the Government have acted quickly in response. Also, the UK signed up to a resolution at the last CITES conference committing to close domestic elephant ivory markets. We therefore wanted to do what was necessary to get this legislation on to the statute book as soon as possible.

Elephant ivory is the most commonly found and traded form of ivory. Indeed, during initial consultations with NGOs it was stated that their primary focus was on banning the sale of elephant ivory as it forms the vast majority of the trade. Amendment 11 seeks to protect other endangered ivory-bearing species by extending the scope of the Bill to cover hippos, killer whales, narwhal, sperm whales and walrus. I stress that we share these concerns about other endangered ivory-bearing species and want to do all we can to protect them. Species such as the hippo and the narwhal—the unicorn of the sea—deserve as much protection as the elephant, and the poaching of such creatures for their ivory is equally abhorrent. However, I cannot say what proportion of the UK ivory market concerns non-elephant ivory, as we did not seek that information in our consultation—that consultation was narrower.

That is why the Bill includes, in clause 35, a power for the Secretary of State to lay regulations to widen its scope to cover other endangered ivory-bearing species, such as hippopotamus, narwhal and walrus. That power is broad, and it is not dependent on demonstrating that the banning of elephant ivory has caused the displacement of the market to other species. The hurdle is low.

Clause 35(3) states that regulations may be laid only in respect of ivory-bearing species listed on an appendix to CITES. That is an important qualification. A listing in one of the three appendices to CITES demonstrates that the animal or species requires a degree of protection from trade, for example through restrictions on the trade in that species. Currently, the listed ivory-bearing species to which that may apply are hippopotamus, walrus, killer whale, sperm whale and narwhal. Unfortunately for my hon. Friend the Member for North Dorset and the hon. Member for Bristol East, the Bill does not include walrus, but I will come to them in a second.

2.15 pm

The Secretary of State may make such regulations at any time of his choosing. In practice, we would need to gather evidence of the impact of extending the scope of the ban before taking action. That is because—colleagues will forgive me for discussing technical legal procedures—we

would have to assess whether there would be any interference in respect of those who possessed ivory items from other ivory-bearing species. That information would be required to assess whether any extension of the ban was compliant with the European convention on human rights. That is distinct from judicial review, which we talked about.

It would also be necessary to understand whether ivory items exist for which new exemptions may be required. For example, it would be important to clarify whether such items were directly or indirectly linked to ongoing poaching of these endangered species. It is critical to follow the high bar we set for the elephant ivory consultation and take time to ensure that we get the right regulations in place and that they work to achieve our objectives.

Subsection (4) requires regulations made under subsection (2) to be made by statutory instrument, to which the affirmative resolution procedure would apply. From the evidence we received through the consultation, we were able to assess the impact of a sales ban on individuals and businesses—most pertinently on their property rights. Analysis concluded that that impact would be proportionate and justified, and that the Bill is therefore compliant with the European convention on human rights. We seek that compliance to ensure that enforcement is appropriate. If we decided to extend the scope of the ban, we would want to ensure that any legislation was robust, defensible and enforceable. That would likely require us to conduct analysis focused on those who might be affected.

Amendment 12 would remove the reference to CITES from subsection (3), meaning that any ivory-bearing species could be added to regulations, regardless of whether it was endangered. A CITES listing means that an animal is endangered and therefore that its existence would be threatened by unregulated trade. Colleagues will recognise that the overriding purpose of the Bill is to conserve an endangered species: the elephant. Removing reference to CITES, and thus to the endangered status of an animal, would undermine the objective of the Bill.

I again refer to the European convention on human rights and the analysis—a “fair balance” review—that must be undertaken when considering any measure that might impact people’s human rights, which in this case, as I said, means their property rights. Generally, a fair balance exercise involves weighing the general public interest in a ban against the impact of a ban on private individuals and their businesses and property. The general interest argument for banning elephant ivory is as follows: elephants are an endangered species, elephants are killed for their ivory, and in order to protect elephants we must eliminate the ivory market by imposing a ban. The same argument cannot be made for warthogs because, however much we like them—they are my favourite animal—they are not an endangered species. In the absence of a general interest in banning warthog ivory, we cannot justify interfering with the property rights of owners of warthog ivory. Similarly, it is difficult to identify general interest grounds for banning the sale of ivory from mammoths, since mammoths are extinct as opposed to endangered.

Let us reflect on mammoths for a second. Members raised concerns about elephant ivory being presented as mammoth ivory, and about that fuelling demand for

elephant ivory. As mammoths are extinct, they do not directly fit with the overriding purpose of protecting endangered species. However, robust enforcement will underpin the ban. It is possible to distinguish elephant ivory from mammoth ivory from the angle of Schreger lines, which are distinctive markings on the ivory. There are methods that those who seek to enforce the ban can use to distinguish between mammoth and elephant ivory. Steps are available to tackle concerns about mammoth ivory, and I can reassure the Committee that we will consider further possible steps.

Some people have argued that it is necessary to ban the sale of all forms of ivory in order to ensure that ivory has no value, thus protecting endangered species such as the elephant. To rely on that argument, we would need good evidence of the connection between the trade in non-elephant ivory and the killing of elephants. Some have argued that it is necessary to ban the sale of non-elephant ivory in order to address the risk that the displacement effect will cause other species to become endangered. Again, we would need good evidence of the connection between trade in non-elephant ivory and the killing of elephants.

I have discussed the need to establish a general interest for banning non-elephant ivory, but a general interest in itself is not enough. The general interest must be weighed against the impact of a ban on owners of, and dealers in, non-elephant ivory. At present, we do not have adequate evidence to judge that impact.

I also reassure colleagues that subsection (3) refers to species currently listed under CITES. In effect, this means that species listed under CITES at the time any regulations are laid will be covered. For instance, warthogs are not endangered and are therefore not listed on any CITES appendices—I have checked this meticulously. CITES does not even operate a watch list, but the International Union for the Conservation of Nature, which monitors the threat of species becoming endangered, classes warthogs, very sadly, as being “of least concern”, so they are nowhere near being endangered.

Anna Turley: The Minister is being generous with his time, but I refer him to the point made by my hon. Friend the Member for Bristol East. It is important that we look at this issue through the prism of endangered species, but there is also a moral obligation. How much has that formed part of the thinking behind the Bill? We ought to be driving out poaching and the hunting of animals for the use of their body parts for culture and marketing because it is a moral imperative.

David Rutley: I completely understand that. I think we need to pause for a moment, though, to reflect on the fact that we are trying to make a real difference with elephant ivory. There are provisions for all other forms of ivory and I will take away the hon. Lady’s point, but it is worth reflecting on the evidence we had from the NGOs, which was that they like the ban, that it is meaningful that and it is going to make a difference. It will also set a standard for others to follow.

I am sure Opposition Members as well as the Government will reflect on these matters. We will do everything we can to make these provisions as wide-ranging and impactful as possible. As I hope I have described,

we need to get through a balance test, and at the moment we do not have enough evidence to support a balance review taking place.

Should warthogs become endangered and listed under CITES, the Bill provides the ability to amend the regulations to reflect that. With my rather lengthy explanation, I hope I have addressed most of the points to be made regarding clause stand part. I say to my hon. Friends and Opposition Members that I am committed to considering whether steps can be taken to use the subsection (3) powers as soon as possible after commencement so that all statutory instruments and guidance to enforce the ban on elephant ivory are in place. However, I am happy to consider the evidence and data required for a balance review.

Sue Hayman: I thank the Minister. During the discussion on amendment 11 and extending the scope of the Bill, it appeared that the Government's main concern was about further consultation and a potential judicial review.

David Rutley: The key point is that this is not about judicial review. I know I am getting a bit techy, but the key thing is that it would be a challenge under the European convention on human rights. To satisfy the requirements of the ECHR, we need to review whether we have looked not just at the general interest in the ban but in the rights of individuals, in particular to do with possessions, that are enshrined in the ECHR. That is why we have to do the balance test. What I am trying to get across to the Committee is that we need to ensure that we have the evidence—we want to gather it as quickly as possible—but there is still a requirement to do the balance test.

Sue Hayman: We have talked about how we could do the consultation quickly, and the Minister has made a commitment to talk to the Consultation Institute about that. As far as human rights go, according to the legal advice I have taken primary legislation can be challenged only on human rights and EU law grounds. I have been informed that in the case of human rights, the argument would have to rest on article 1 of protocol 1, on the “peaceful enjoyment” of property, but that is subject to a public interest caveat. On those grounds, we can justify the inclusion of other creatures—such as on the grounds of endangerment—in the same way as we can elephants. That is the legal information that I have received, so I put it on the record.

David Rutley: I thank the hon. Lady for setting out her view. At this point, I think we strongly agree with each other. On helping to get people familiar with the provisions, that is exactly what the Government say—it is an ECHR requirement, so it is about getting the fair balance review in place. We are perhaps using slightly different language about what we are trying to describe, but we are saying the same thing.

Sue Hayman: The legal advice I have been given is that that need not mean that we cannot extend the scope of the Bill and miss the conference deadline in October, which the Government are clearly keen to meet. I would be keen to look at how to extend the scope now, because that is what most people would

prefer from the Bill at the beginning, rather than coming back to it through secondary legislation at a later date—we do not know when that would happen.

In response to points made during the debate, including by the Minister, I would say that the most important thing is to get the Bill absolutely right and to get it into legislation as quickly as possible. However, I do not think a conference date should be the ultimate deadline. We need to get the legislation correct regardless of whether that means we miss the conference deadline by a week or two—it is more important to get it right. A lot seems to be about the Government having the will to make the Bill the best they possibly can. We are in Committee to work with the Government, genuinely, to make a positive and helpful addition to what can be achieved through this groundbreaking piece of legislation.

I am disappointed that the Government are not prepared to consider amendment 12, because we know that non-CITES species are already being affected and are likely to be further affected by the displacement that we all agree will occur, or is likely to occur, once the ban on ivory comes into effect. We know that mislabelling as mammoth is used to confuse or misrepresent potential purchasers. The Minister talked about Schreger lines—I am not even sure of the spelling of that, and it is something I have learned during the debate. I had not heard of them, I would not know what they looked like and I do not think that the average punter would either, so I think it is important to understand more about what is happening with the use of mammoth.

Finally, I reinforce what my hon. Friends the Members for Bristol East and for Redcar said. We do not want to wait for an animal to become endangered before we step in and do something about its persecution. I ask the Minister to look again at amendment 12, but in the case of amendment 11, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

2.30 pm

Amendment proposed: 12, in clause 35, page 21, line 3, leave out from “subsection” to the end of line 5.—
(*Sue Hayman.*)

This amendment would allow the Secretary of State to make regulations in the future that would include any ivory species, even if not listed in an appendix to CITES.

Question put, That the amendment be made.

The Committee divided: Ayes 7, Noes 8.

Division No. 2]

AYES

Cameron, Dr Lisa	Pollard, Luke
Debonnaire, Thangam	Sobel, Alex
Hayman, Sue	Turley, Anna
McCarthy, Kerry	

NOES

Chalk, Alex	Harrison, Trudy
Courts, Robert	Latham, Mrs Pauline
Davies, Mims	Rutley, David
Donelan, Michelle	Smith, Henry

Question accordingly negated.

Clause 35 ordered to stand part of the Bill.

Clauses 36 to 39 ordered to stand part of the Bill.

Clause 40

EXTENT

Question proposed, That the clause stand part of the Bill.

Luke Pollard (Plymouth, Sutton and Devonport) (Lab/Co-op): I wonder, regarding the geographical extent of the Bill, whether it will include British sovereign bases on Cyprus and elsewhere, and what its geographical extent to overseas territories will be.

David Rutley: I thank the hon. Gentleman for his question. The answer is that it will not. I can write to him to give him a bit more detail as to why that is the case.

Question put and agreed to.

Clause 40 accordingly ordered to stand part of the Bill.

Clauses 41 to 42 ordered to stand part of the Bill.

New Clause 1

REPORTING REQUIREMENTS: EXEMPTION CERTIFICATES

‘(1) As soon as reasonably practicable after the end of each calendar year, the Secretary of State must—

- (a) prepare a report on applications for exemption certificates that have been granted during that year, and—
 - (i) lay a copy of that report before Parliament, and
 - (ii) publish the report.

(2) Subsection (1) does not apply in relation to a year if section 3 of this Act has not been in force at any time in that year.

(3) A report prepared under this section must include the following in respect of each exemption certificate granted—

- (a) the description or descriptions provided in accordance with section 3(1)(b) by the person that applied for the exemption certificate,
- (b) the photograph or photographs provided in accordance with section 3(1)(c) by the person that applied for the exemption certificate,
- (c) when the certificate was granted, and
- (d) any other information that the Secretary of State considers appropriate.’—(*Sue Hayman.*)

This new clause requires an annual report to be published with details and pictures of all items that are granted an exemption certificate under section 3.

Brought up, and read the First time.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 7, Noes 8.

Division No. 3]**AYES**

Cameron, Dr Lisa	Pollard, Luke
Debonnaire, Thangam	Sobel, Alex
Hayman, Sue	Turley, Anna
McCarthy, Kerry	

NOES

Chalk, Alex	Harrison, Trudy
Courts, Robert	Latham, Mrs Pauline
Davies, Mims	Rutley, David
Donelan, Michelle	Smith, Henry

Question accordingly negated.

New Clause 2

REPORT ON THE INTERNATIONAL IVORY MARKET

‘(1) Within 12 months of section 1 of this Act coming into force, the Secretary of State must publish and lay before each House of Parliament a report on the international ivory market.

(2) The report must as far as practicable analyse the impact of this Act on the demand for ivory in the United Kingdom and in other countries.

(3) The report must consider—

- (a) the impact on nations or communities that generate income from ivory of—
 - (i) the provisions of this Act, and
 - (ii) international agreements related to the ivory trade, and
- (b) the work of the Department for International Development in—
 - (i) reducing the global demand for ivory, and
 - (ii) mitigating any negative impact of the provisions of this Act on nations or communities that generate an income from ivory.’—(*Sue Hayman.*)

This new clause would require a report to be laid before each House of Parliament on the international ivory market, including how the Department for International Development is working to reduce global demand for ivory.

Brought up, and read the First time.

Sue Hayman: I beg to move, That the clause be read a Second time.

New clause 2 is about reporting on the international ivory market. We are asking that:

“Within 12 months of section 1 of this Act coming into force, the Secretary of State must publish and lay before each House of Parliament a report on the international ivory market.”

The idea is that the report would provide practical analysis of the impact of the Bill on demand for ivory in the United Kingdom and in other countries. Importantly, we would want it to consider the impact on nations or communities that generate income from ivory. We are also looking at the work of the Department for International Development in reducing the global demand for ivory and mitigating any negative impact that the provisions of this Bill would have on those nations or communities.

The reason for tabling the new clause is that it is important to keep a close, watchful eye on any implications of the Bill on the international ivory market and the communities that will be most affected by an ivory ban. During the evidence sessions, a number of hon. Members asked about the international ivory market and what contribution the Bill could make specifically toward deterring poaching and having a wider impact on the illegal worldwide trade.

Recent analysis has shown that the United Kingdom is the largest supplier to the world’s legal ivory market, with more than 36,000 legal ivory items exported from the UK in the five years between 2010 and 2015. It is also one of the largest importers to China and Hong Kong. As we also heard during the evidence sessions, seizure data shows that, alongside the legal market, the UK plays an increasing role in the illegal ivory trade in import, in export and as a transit country. The president of the Born Free Foundation, for example, said:

“Investment in wildlife law enforcement in Africa is really important.”

He also said that, in his view,

“there is a common linkage with our clear objectives in overseas development,”

which are to do with poverty and providing opportunities, and that:

“If we are not investing in the...areas where elephants and other species live, we are not doing a great service either...to the people who live...downstream from those protected areas.”—[*Official Report, Ivory Public Bill Committee*, 12 June 2018; c. 9, Q12.]

In the evidence session, the International Fund for Animal Welfare made reference to the discussion on Second Reading about how some of the Department for International Development’s budget might be used. I am aware that the hon. Member for Cheltenham also mentioned that on Second Reading. IFAW said that

“the impact of poaching on communities is not isolated from the illegal wildlife trade...There are good opportunities that exist with our overseas development budget to take a more integrated approach to delivering holistic aid and support and anti-poaching measures, to help build communities and tackle corruption...It is all part of a jigsaw that really helps, but our overseas aid is another part that we could potentially re-examine and look at, to provide better integrated aid.”—[*Official Report, Ivory Public Bill Committee*, 12 June 2018; c. 14, Q18.]

I do not know whether hon. Members saw it, but this morning CNN released a very interesting report on what has happened to the poaching of African elephants following the ban that the Chinese Government imposed on ivory on 1 January. CNN went to Mozambique specifically to see whether that ban was having an impact on poaching. I will just mention a few things about that report, because if we are looking to introduce our own legislation we need to look at the impact of other legislation on ivory from around the world, to see what areas we need to work in; perhaps that other legislation is not being as effective as it could have been.

One of the things that the CNN investigation found was that six months after that ban smugglers were still working with near-impunity. As I said, CNN went to Mozambique, to the Niassa reserve, which is one of the last great wildernesses in southern Africa. What the CNN team found was that the different officers who work there trying to stop poaching told them that corruption is the source of poaching. Looking to invest, along with DFID, to start to tackle that corruption will be really important if this Bill is to have the effect we want.

CNN said that the huge Niassa reserve should be home to thousands of elephants, but it is now thought that less than 2,000 are left there, which is really shocking. As part of its investigation, CNN also interviewed the people actually doing the poaching. Just as the drug lord obviously does not go and harvest his own cocaine, in the same way the people who are actually making money out of poaching do not go out and shoot the elephants themselves.

CNN went to a prison where there was a suspected poacher, and he said: “We were in the bush when we found a group of elephants. I shot the first one, then I shot the second one.” He then said that he had already spent a year in jail for a separate poaching incident. But his choices are limited; he said that he would do anything to help his family escape grinding poverty. He said, “I went poaching because I was suffering. I had nothing to survive on and I was desperate.”

So the poachers who kill elephants are usually poor and just looking for a way to feed themselves and their family, and often they do not have alternatives to wildlife crime. Poverty is causing poaching in Mozambique. Even if the Chinese ban had ended the market, or if the ban that we are putting place ended it, the poachers on the ground would continue this behaviour.

The new clause is designed to consider how we can do something to tackle that problem, take the focus of the Bill beyond just this country and do something to look at what causes poaching in the first place.

David Rutley: I thank the hon. Lady for tabling the new clause, the intention of which is clear, and it would potentially provide useful information. However, gaining such information could be a considerable and potentially expensive undertaking that is likely to require the engagement of outside experts or organisations, even though the full costs and benefits of this ban may not be fully known within the first 12 months of its coming into force.

As explained in the accompanying impact assessment of the Bill, no single comprehensive data source exists about the domestic ivory trade. Recent studies, including by TRAFFIC, the University of Portsmouth and Two Million Tusks have provided some useful evidence. However, each of these sources has its limitations with regard to generalising to wider regions or sectors.

Internationally, a key assumption is that other countries will be positively influenced by the UK lead and implement their own bans, which will reduce demand, prices, and therefore the poaching and killing of elephants. That is what we all want. However, while there have been many reports into various aspects of ivory and its trade—the UK has conducted some—I am not aware that there is a single comprehensive data source that would allow for the type of analysis that is being proposed.

Furthermore, I am conscious that such an undertaking may in effect duplicate some of the work being undertaken under the auspices of CITES, whereby reports on the illegal killing of elephants and the trade in ivory are presented every three years to each CITES conference of the parties. All countries implicated in the ivory trade, including the UK, appear in the cluster analysis of the ivory trade reports.

Those reports are “Monitoring of Illegal Trade in Ivory and Other Elephant Specimens” and the “Elephant Trade Information System”—ETIS. While the reports are not perfect and have their critics, they are the best we have at this time.

I also believe that a report objectively analysing the effect of the illegal ivory trade on the UK would be best carried out by an organisation outside Government. That should probably be a conservation organisation experienced in analysing regulations on the illegal wildlife trade and in reporting its findings to the public and the Government.

2.45 pm

The hon. Member for Workington made some important points regarding the impact of other bans and lessons from overseas. We will work closely with colleagues from the Foreign Office and in posts around the world to understand the impact of others’ bans and to lobby for further action, so we will address that. She quite

rightly made an impassioned speech about the communities that could be affected by the ban. One of the four pillars of the Government's illegal wildlife trade—IWT—strategy is to promote sustainable communities and to support alternative livelihoods to poaching. Many of the 47 IWT challenge fund projects funded to date have addressed these issues in developing countries.

I will take this opportunity to highlight some of the Government's other work to tackle the illegal wildlife trade. We have allocated £26 million between 2014 and 2021 to fund practical projects around the world aimed at addressing all aspects of the problem—preventing poaching, reducing demand and strengthening law enforcement. As I said, a lot of that, particularly around the IWT challenge fund, is about promoting sustainable communities and supporting alternative livelihoods.

To summarise, I am not able to agree to inserting the new clause in the Bill, but its intention has merit and we will consider the ways in which we might report on the Bill's impact. With that explanation, I ask the hon. Lady to withdraw the motion.

Sue Hayman: I just make the point that, if we are serious about stopping poaching and having a real impact on the ivory trade with any legislation, it is important that we look at that global aspect, not just through the Department for Environment, Food and Rural Affairs but through the Department for International Development and maybe through the Foreign Office, in order to have a clear and holistic approach. It is easy for us to sit here and pat ourselves on the back and be smug about this marvellous piece of legislation, but if it does not actually stop the poaching and does not do what we say it will, we do not have any right to feel smug or pleased with ourselves.

David Rutley: I understand the hon. Lady's point. It was clear on Second Reading and in Committee that we have to appreciate the wider sense of what is going on and the wider global implications. We also have to recognise that the Bill is one piece of the co-ordinated approach that we are taking to tackling this problem.

Sue Hayman: I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 3

ASSESSMENT OF ENFORCEMENT RESOURCES

“(1) Within 12 months of section 12 of this Act coming into force, the Secretary of State must make an assessment on the resources available to enforce the prohibition.

(2) The report shall consider in particular—

- (a) the resources allocated or planned to be allocated towards enforcing the prohibition,
- (b) the potential impact of any change in resources so allocated or planned to be allocated, and
- (c) the impact on other law or border enforcement activities of the resources so allocated or planned to be allocated.

(3) The Secretary of State shall lay a report of the assessment under this section before each House of Parliament as soon as practicable after its completion.”—(*Sue Hayman.*)

This new clause requires an assessment to be made and laid before Parliament regarding the level of resources allocated or proposed to be allocated to enforcing the prohibition against ivory dealing.

Brought up, and read the First time.

Question put, That the clause be read a Second time.

The Committee divided: Ayes 7, Noes 8.

Division No. 4]

AYES

Cameron, Dr Lisa	Pollard, Luke
Debonnaire, Thangam	Sobel, Alex
Hayman, Sue	Turley, Anna
McCarthy, Kerry	

NOES

Chalk, Alex	Harrison, Trudy
Courts, Robert	Latham, Mrs Pauline
Davies, Mims	Rutley, David
Donelan, Michelle	Smith, Henry

Question accordingly negatived.

New Clause 5

POWER TO REQUIRE SERVICE PROVIDERS TO BLOCK ACCESS TO MATERIAL THAT FACILITATES A BREACH OF THE PROHIBITION

“(1) Where a person (“the non-complying person”) is making material available on the internet to persons in the United Kingdom in order to—

- (a) breach the prohibition,
- (b) cause the prohibition to be breached, or
- (c) facilitate a breach of the prohibition,

the Secretary of State may give a notice under this subsection to any internet service provider.

(2) The notice must—

- (a) identify the non-complying person in such manner as the Secretary of State considers appropriate,
- (b) require the internet service provider—
 - (i) to take steps specified in the notice, or
 - (ii) (if no such steps are specified) to put in place arrangements that appear to the provider to be appropriate,

so as to prevent persons in the United Kingdom from being able to access the offending material using the service it provides,

- (c) provide such information as the Secretary of State considers may assist the internet service provider in complying with any requirement imposed by the notice,
- (d) provide such further particulars as the Secretary of State considers appropriate.

(3) The notice may specify the time by which the internet service provider must have complied with any requirement imposed by the notice.

(4) The notice may be varied or revoked by a further notice under subsection (1).

(5) It is the duty of an internet service provider to comply with any requirement imposed on it by a notice under subsection (1).

(6) That duty is enforceable in civil proceedings by the Secretary of State—

- (a) for an injunction,
- (b) for specific performance of a statutory duty under section 45 of the Court of Session Act 1988, or
- (c) for any other appropriate relief or remedy.

(7) In this section “the offending material”, in relation to a non-complying person, means the material which the Secretary of State considers is being made available in order to—

- (a) breach the prohibition,
- (b) cause the prohibition to be breached, or
- (c) facilitate a breach of the prohibition.’—(*Sue Hayman*).

This new clause ensures that ISPs may be requested by the Secretary of State to block access to online material that facilitates a breach of the prohibition, and that the Secretary of State may obtain court orders to ensure that ISPs comply with such a request.

Brought up, and read the First time.

Sue Hayman: I beg to move, That the clause be read a Second time. The new clause is about internet services, about which we had quite a lot of discussion during the evidence sessions and on Second Reading. The new clause provides for the power to require service providers to block access to material that facilitates a breach of the prohibition. I will not run through all the detail—we have all had it in front of us—but under the new clause, internet service providers may be requested by the Secretary of State to block access to any online deal that facilitates a breach of the prohibition, and the Secretary of State may obtain court orders to ensure that the internet service providers comply with such a request.

The matter has been discussed in quite a lot of detail. I am aware that the Minister has said previously that he feels the Bill is robust when it comes to internet services, but I respectfully say that not every hon. Member and every person giving evidence has agreed with that. That is why we decided to table the new clause: to try to toughen up the rules on internet sales and the Secretary of State’s ability to step in if they felt the internet service providers were not behaving as they should.

During discussions, we had a look at a number of items being sold on eBay. On Second Reading, the hon. Member for Richmond Park (Zac Goldsmith) talked about a recent International Fund for Animal Welfare report on wildlife cyber-crime and said that eBay had removed 25,000 ivory listings from its site in just one year. It is a huge number and it is a good start, but from what we have been made aware of during the evidence sessions, it is clearly only scratching the surface of the problem.

In response to one of my questions during the evidence session, Chief Inspector Hubble said:

“We would certainly welcome better self-policing and self-regulating by online auction houses with some responsibility on them for the items that they are making money from the sale of.”—[*Official Report, Ivory Public Bill Committee, 12 June 2018; c. 43, Q92.*]

By putting this responsibility on them through the new clause, they will know that if they do not take the ban seriously, action will be taken to shut them down.

We know, from having dealt in the House with issues around other internet providers and online digital companies, that they are not always the easiest to work with when it comes to looking at different legal aspects. It is important that they take responsibility for what they are selling. It is often a problem that they like to push what they are selling and what is said on their sites to one side. It is important to think about how they can be properly held to account.

During the evidence session, my hon. Friend the Member for Blaydon asked a question of Alexander Rhodes and he replied,

“if it were possible the Bill should say that ivory may not be bought and sold over the internet because that would make it so much simpler for the enforcement guys.”—[*Official Report, Ivory Public Bill Committee, 12 June 2018; c. 27, Q49.*]

We know that that is not a practical solution either, so it is about how we can introduce proper enforcement.

Chief Inspector Hubble again said something that was worth considering:

“I would love to have a dedicated cyber-team looking at this day in, day out, with real training and a focused effort. Lots of people in the NGOs we work with are doing work around cyber-related crime. We are in the process of setting up a cyber-working group”—

that is with the NWC—

“to try to pull some of that effort and interaction together”.—[*Official Report, Ivory Public Bill Committee, 12 June 2018; c. 36, Q63.*]

That will be a significant resource.

We have talked about resources previously and I do not particularly want to do that now, but it is important that the size of the problem when it comes to cyber-crime and managing the internet is properly recognised and that sufficient safeguards are put in place. We need to ensure that we pursue every single avenue we can to stop the trade in ivory. Tackling internet ivory trading will be the best way to stop this. We know that, right across the country, no matter what is being sold, more and more people are selling online, so we know that that trade is likely to increase. From what we have seen on eBay, it is also likely that that is where the illegal trade—items described as bone or as mammoth—will increase.

I am not convinced that the Bill provides for tackling the internet’s facilitating the global ivory trade sufficiently to make a real difference. That is why we have tabled the new clause. I would like to hear the Minister’s views on that.

David Rutley: I thank the hon. Lady for tabling the new clause. Most people recognise that while the internet can be a helpful tool, it can also be used to facilitate and perpetuate criminal acts. In that context, I understand the intention of the new clause. Paragraph 5(1)(a) of schedule 1 allows the Secretary of State to serve a stop notice on a body such as an internet service provider to stop it displaying material that facilitates a breach of the prohibition. It is an important point. It is possible to serve a stop notice, and that in essence mirrors what the new clause seeks to achieve. The schedule could apply to an online sales forum such as eBay or an internet service provider, although in practice the latter, whether it be British Telecom or another internet service provider, would be a higher bar for the enforcement body. The better focus of attention through such stop notices would be the online sales forum itself.

Moreover, the Bill confers broad powers on the regulatory body, whose role should not be forgotten: the Office for Product Safety and Standards addresses online breaches of the ban. Clause 21, for example, allows a regulator to require the production of documents where the officer thinks they are relevant to an offence. This may mean documents or other materials from online companies and sales forums that provide evidence that an online company has facilitated a breach of the ban.

In addition, the NWC is an intelligence unit that plays an important role in supporting police forces, as we have already highlighted. They have observed an increase in the use of the internet to enable and facilitate many types of wildlife crime. They have identified cyber-crime as a thematic threat area on which they are going to focus. Working with the OPSS will help with this task.

[David Rutley]

It is also worth considering this amendment with respect to the broader picture around the governance of the internet. The hon. Lady will know that this is a big, important question that is currently being addressed by the UK and Governments around the world. The way in which Government and society approach internet governance is a major strategic challenge, and it will not be tackled by this Bill alone. In January 2018, the Secretary of State for Digital, Culture, Media and Sport launched the digital charter. It is to be a rolling programme of work to agree norms and rules for the online world and put them into practice, and it should give confidence. In some cases it will involve shifting behavioural expectations. We will need to agree new standards, or we may need to update our laws and regulations. Our starting point is that we will have the same rights and expect the same behaviour online as we do offline. That is important. With that explanation, I ask the hon. Lady to consider withdrawing the motion.

3 pm

Sue Hayman: I thank the Minister for that explanation. Schedule 1 states that a stop notice may be served on “a person”. It does not mention service providers or organisations; it specifically refers to “a person”, and the explanatory notes do not mention organisations, the internet—or online at all. I am not convinced that it covers what we are trying to achieve with the new clause.

David Rutley: It is my turn to scurry around. I cannot readily find the definition of “person”. All I can say is that we are very committed—[*Interruption.*] Inspiration has arrived. The definition of “person” is wide enough to capture businesses, and therefore ISPs. We can see that from clause 34. The definition of “person” is broad enough to satisfy that requirement.

Sue Hayman: Again, I thank the Minister for that explanation. It would help if it were properly laid out in the Bill that internet service providers are included, so that we have absolute clarity when the Bill becomes law and that people realise that that is not the best way of going about trying to sideline what the Bill seeks to achieve.

David Rutley: Excellent points have been made. We will certainly clarify that and put it into English—not just legal English—to help everyone understand what has been said. We can do that in guidance notes and by clarifying the scope of the Bill for people who are not so familiar with it. There is a real commitment to address this issue. I hope I have been able to reassure the hon. Lady that there are provisions in the Bill itself, but that we will explain that better. I hope that satisfies her.

Sue Hayman: I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

Question proposed, That the Chair do report the Bill to the House.

The Chair: I thank the Committee Clerk, who has kept us all—especially me—on the straight and narrow, which is not easy. I also thank the attendants, who did such a great job of trying to cool us all down; the officials, who behaved themselves; the *Hansard* reporters, who are the unsung heroes of our democracy, and the broadcasting unit. Finally, may I say to all of you that you have been a lovely Committee?

Question put and agreed to.

Bill accordingly to be reported, without amendment.

3.2 pm

Committee rose.

Written evidence reported to the House

IVB 14 British Art Market Federatio (supplementary evidence)

IVB 15 Neil Davey, Japanese art consultant

IVB 16 Michael Wiltshire

IVB 17 Caroline Cox, The University of Portsmouth Ivory Project

IVB 18 Edric van Vredenburgh

IVB 19 British Antique Dealers Association (BADA and the Association of Art & Antiques Dealers (LAPADA))

IVB 19A BADA background information, not for publication

IVB 19B BADA Annex, not for publication

IVB 20 Wildlife and Countryside Link (Link)

IVB 21 Alastair Gibbon

IVB 22 Two Million Tusks

