

**WRITTEN TESTIMONY OF MARGARET WILLIAMS  
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FOR THE SENATE ENVIRONMENT AND PUBLIC WORKS SUBCOMMITTEE  
ON FISHERIES, WATER AND WILDLIFE  
U.S. SENATE**

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Chairman Sullivan, Ranking Member Whitehouse, and members of the subcommittee, thank you for the opportunity to testify on the steps that the U.S. government has taken to protect African elephants by restricting the sale and importation of products made from African elephant ivory and what impacts, if any, this will have on Alaskan Native carvers. WWF is the largest private conservation organization working internationally to protect wildlife and wildlife habitats. We currently sponsor conservation programs in more than 100 countries with the support of over 1.2 million members in the United States and more than 5 million members worldwide. WWF has over 40 years of experience in elephant conservation, and through our African Elephant Program, we aim to conserve forest and savanna elephant populations through both conservation projects and policy development with elephant range state governments, local people and non-governmental partners. WWF also has 17 years of experience working in Alaska and collaborates with a diverse group of partners, including Alaska state agencies, federal agencies, Alaska Native organizations, and coastal Alaskan villages.

As an organization that has deep knowledge and expertise in both African elephant conservation and the conservation of Alaskan species, including walrus, and one with deep experience collaborating with local and indigenous communities on conservation and the sustainable use of local natural resources, WWF strongly supports the recent steps by U.S. Fish and Wildlife Service (FWS) to finalize and implement the revised 4(d) rule on African elephants, which institutes a near-total ban on elephant ivory commerce in the U.S. We believe this action by FWS is: 1) a critically important step to ensure that United States consumers are not wittingly or unwittingly driving the illegal trade in African elephant ivory; 2) essential to continuing to spur complementary actions by major ivory consumer nations, including China; and 3) no threat to Alaskan Native carvers working in walrus ivory or other non-elephant ivories, because FWS has made explicit that this new rule only applies to African elephants and African elephant ivory and has no impact on “ivory” from other species, including walrus and extinct species, such as mammoths.

***The Poaching Crisis and the Status of Elephants in Africa***

African elephants are currently facing the worst poaching crisis in a generation. These animals once numbered in the millions across Africa, but by the mid-1980s their populations had been devastated by poaching. An international ban on the sale of ivory, put in place in 1989, helped to slow the rate of decline significantly for the past two decades in many parts of Africa, and the status of the species now varies greatly across the continent. Some populations have remained in danger due to poaching for meat and ivory, habitat loss and conflict with humans. In Central Africa, where enforcement capacity is weakest, estimates indicate that populations of forest elephants in the region declined by 62% between 2002 and 2011 and lost 30% of their geographical range,<sup>1</sup> primarily due to poaching.

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<sup>1</sup> Maisels F, Strindberg S, Blake S, Wittemyer G, Hart J, et al. (2013) Devastating Decline of Forest Elephants in Central Africa. PLoS ONE 8(3):e59469. doi: 10.1371/journal.pone.0059469  
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Elephants in Central Africa are also heavily impacted by the existence of large, unregulated domestic ivory markets, especially those still functioning in Kinshasa, Democratic Republic of Congo (DRC) and Luanda, Angola. In other parts of Africa, populations have remained stable or grown until recently, but evidence now shows that African Elephants are in the midst of the most serious crisis at least since the 1989 ban, and conservation gains made over the past 25 years are in the process of being reversed.

Tens of thousands of African elephants are being killed every year to supply the illegal ivory market, with an average of 18 tons of ivory seized per year over the past 20 years and annual highs of over 32 tons seized. CITES has reported that roughly 25,000 elephants were illegally killed on the African continent in 2011 and that another 22,000 fell victim to poaching in 2012, but many independent experts see these estimates as conservative and believe the number to be significantly higher, with some estimates ranging from 30,000 to as high as 50,000. The consensus is that in the three years from the start of 2012 through the end of 2014, approximately 100,000 elephants were illegally killed across the African continent – a brutal loss for the species. Just last month, at the start of the Convention on International Trade in Endangered Species of Fauna and Flora (CITES) in Johannesburg, South Africa, the International Union for the Conservation of Nature (IUCN) released an African Elephant Status Report that concluded that Africa’s elephant population has crashed by an estimated 111,000 in the past decade primarily due to poaching. The [authoritative report](#)<sup>2</sup> estimates that there are now 415,000 elephants across the 37 range states in Africa, which constitutes a huge drop since the last full update in 2006 and amounts to the worst decline in 25 years. The main driver of the decline has been the surge in poaching for ivory that began approximately a decade ago – the worst that Africa has experienced since the 1970s and 1980s.

Data clearly show an increasing pattern of illegal killing of elephants throughout Africa and demonstrate an escalating pattern of illegal trade – one that has reached new heights over the past five years. Those working on the ground throughout Africa have seen an alarming rise in the number of elephants being illegally killed, even in areas that were until recently relatively secure and free from large-scale poaching, such as southern Tanzania and northern Mozambique.<sup>3</sup> Reports from those two countries last year indicated that elephant populations had declined by 60 percent in the former and 50 percent in the latter in just five years’ time – shocking declines. Witnesses have also seen a disturbing change in the sophistication and lethality of the methods being used by the poachers, who are frequently well armed with automatic weapons, professional marksmen and even helicopters. In most cases, poachers are better equipped than park guards and supervisors. In some instances, they are better equipped even than local military forces.

Illegal trade in ivory has been steadily increasing since 2004 with the real surge beginning in 2009. Each of the subsequent years has hit historic highs for large-scale ivory seizures. Successive years of high-volume, illegal trade in ivory is not a pattern that has been previously observed in data collected by the Elephant Trade Information System, or ETIS. This new trend represents a highly worrying development and is jeopardizing two decades of conservation gains for the African elephant, one of Africa’s iconic flagship species and an animal that the U.S. public feels adamant about protecting.

Because large-scale movements of ivory require greater finance, levels of organization and an ability to corrupt and subvert effective law enforcement, they are a clear indication that organized criminal

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<sup>2</sup> <https://www.iucn.org/news/poaching-behind-worst-african-elephant-losses-25-years-%E2%80%93-iucn-report>

<sup>3</sup> <http://namnewsnetwork.org/v3/read.php?id=180566>; <http://www.sanwild.org/NOTICEBOARD/2011a/Elephant%20poachers%20use%20helicopter%20in%20Mozambique%20National%20Park.HTM>; <http://www.savetheelephants.org/news-reader/items/selous-the-killing-fields-40tanzania41.html>

syndicates are becoming increasingly more entrenched in the illicit trade in ivory between Africa and Asia. In fact, illegal wildlife trafficking and poaching to supply the illegal trade in wild fauna and flora, (including elephant ivory) is not only one of the greatest current threats to many of our planet's most charismatic, valuable and ecologically important species – it also poses significant threats to security, good governance and economic development objectives around the globe. Wildlife trafficking has become a transnational criminal enterprise worth billions of dollars annually – one which is strongly connected to other transnational organized crimes, such as drug and arms trafficking, and is helping to finance agents of instability and corruption in many developing countries.<sup>4</sup> According to the best estimates, the illegal wildlife trade has a value of \$7.8 – \$10 billion per year, a figure which puts it the top 5 largest illicit transnational activities worldwide, along with counterfeiting and the illegal trades in drugs, people, and oil.<sup>5</sup> If the illegal trades in timber and fish are included in the total, then the estimated value of illegal wildlife trafficking rises to \$19-20 billion annually. In terms of its size, wildlife trade outranks the small arms trade. It also has strong connections to other illegal activities – guns, drugs and ivory may be smuggled by the same criminal networks and using the same techniques and smuggling routes.

The illegal trafficking of ivory in particular has been strongly linked to the financing of armed groups and security threats in Africa. Poachers who profit from killing elephants and harvesting illegal ivory may also have ties to criminal gangs and militias based in countries such as Sudan (in the case of Central Africa) and Somalia (in the case of East Africa). Longstanding historical ties between slave trading, elephant poaching and the tribes that form Sudan's Janjaweed militia (responsible for many of the worst atrocities in Darfur), mean that illegal ivory may well be being used as powerful currency to fund some of the most destabilizing forces in Central Africa. In parts of West and Central Africa, the situation has been dire for some time, and severe poaching is already resulting in the local extinction of elephant populations. In the past few years, the situation has grown even worse as we have seen a disturbing change in the sophistication and lethality of the methods being used by the poachers, who are frequently well armed with automatic weapons, professional marksmen and even helicopters. In most cases, poachers are better equipped than the park supervisors and guards. In some instances, they are better equipped even than local military forces. The security and intelligence agencies of the U.S. government recognized these linkages in a 2013 report issued by the Office of the Director of National Intelligence, entitled *Wildlife Poaching Threatens Economic, Security Priorities in Africa*.<sup>6</sup> Among other things, the report concluded the following:

“Criminal elements of all kinds, including some terrorist entities and rogue security personnel, often in collusion with government officials in source countries are involved in poaching and movement of ivory and rhino horn across east, central, and southern Africa. We assess with high confidence that traffickers use sophisticated networks and the complicity of public officials in order to move ivory and rhino horn from relatively remote areas to markets and ports of export, perpetuating corruption and border insecurity in key eastern, central and southern African states. We judge some of these networks probably are the same or overlap with those of other illicit goods such as drugs and weapons.”

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<sup>4</sup> [www.dni.gov/files/documents/Wildlife\\_Poaching\\_White\\_Paper\\_2013.pdf](http://www.dni.gov/files/documents/Wildlife_Poaching_White_Paper_2013.pdf)

<sup>5</sup> <http://transcrime.gfintegrity.org/>

<sup>6</sup> [https://www.dni.gov/files/documents/Wildlife\\_Poaching\\_White\\_Paper\\_2013.pdf](https://www.dni.gov/files/documents/Wildlife_Poaching_White_Paper_2013.pdf)

## *Demand for Elephant Ivory*

At the root of the current elephant poaching crisis and the recent surge in the illegal ivory trade is consumer demand, particularly rising demand for ivory over the past decade by newly affluent consumers in Asia. China and Thailand are the two paramount destinations for illegal ivory consignments from Africa. While repeated seizures of large consignments of ivory have occurred in Malaysia, the Philippines and Viet Nam since 2009, these countries essentially play the role of transit countries to China or Thailand. Directing large shipments of ivory to other Asian countries for onward shipment is an adaptation by the criminal syndicates to the improved surveillance and law enforcement action in China and Thailand where targeting of cargo from Africa has increased. Importation into other Asian countries allows the shipping documents to be changed, concealing the African origin of the containers in question. In the case of Viet Nam, which shares a long terrestrial border with China, ivory is being smuggled overland into China. CITES data also suggest that Cambodia, Laos and most recently Sri Lanka have been emerging as new trade routes into China and Thailand, reflecting further adaptations by criminal trading networks.

Without any doubt, ivory consumption in China is the primary driver of illegal trade in ivory today, and China remains the key for stopping the growing poaching crisis facing Africa's elephants. The Chinese government recognizes ivory trafficking as the country's greatest wildlife trade problem, and law enforcement officials are making almost two ivory seizures every single day, more than any other country in the world. Regardless, strict implementation of China's domestic ivory trade control system seriously faltered in the wake of the CITES-approved one-off ivory sale held in four southern African countries in late 2008. Various observers to China, including TRAFFIC monitors, have found government-accredited ivory trading retail outlets persistently selling ivory products without the benefit of product identification certificates, which previously were an integral discriminating feature in the Chinese control system. The ability of retail vendors to sell ivory products without these certificates means that they do not become part of China's database system, which is designed to track ivory products at the retail level back to the legal stocks of raw ivory at approved manufacturing outlets. This circumvention creates the opportunity to substitute products from illicit sources of ivory into the legal control system. Within the country, stricter internal market monitoring and regulation are needed, as well as scaled up and dedicated investigative efforts directed at fighting the criminal syndicates behind the ivory trade. Chinese nationals based throughout Africa have become the principle middleman traders behind the large illegal movements of ivory to Asia, and the advent of Asian criminal syndicates in Africa's wildlife trade stands as the most serious contemporary challenge. China needs to collaborate with African counterparts to address the growing Chinese dimension in Africa's illegal trade in ivory and other wildlife products.

At the same time, the United States – which was historically one of the primary consumers of ivory products – remains a destination for significant amounts of illegal ivory. In 2012, prosecutors in New York City arrested two midtown Manhattan jewelers for possessing and attempting to sell \$2 million in illegal ivory, one of the largest such busts in U.S. history. In 2011, an African art dealer in Philadelphia was arrested for possessing one ton of illegal ivory, worth over \$1 million. The felony indictment said the dealer paid a co-conspirator to travel to Africa to purchase raw elephant ivory, carve it to specifications and stain or dye it to appear old before smuggling it into the U.S. Cases such as these and surveys of the U.S. market have demonstrated that, up until very recently, the U.S. ivory market has provided a cover for the smuggling and laundering of illegal ivory into the U.S. to be sold to U.S. consumers. Because of inconsistent and often lax requirements under state laws and the manner in which federal laws on African elephant ivory had been regulated, the previous system was not able to prevent illegal ivory from being laundered into the legal U.S. market once it was smuggled into the

country, putting U.S. consumers at risk of driving the poaching crisis and adding to the demand that makes illegal elephant poaching profitable.

### ***The U.S. Response to the African Elephant Poaching Crisis***

Over the past three years, the U.S. government has taken strong and significant steps to recognize that wildlife crime is a serious crime with serious consequences. Congress has increased the resources available U.S. agencies working to combat wildlife trafficking, including elephant poaching and the illegal ivory trade, and just this fall Congress passed and the President signed into law the END Wildlife Trafficking Act, which strengthens U.S. laws and programs designed to combat wildlife trafficking and build anti-poaching capacity in developing countries. The Administration has also taken unprecedented action, including President Obama's Executive Order 13648 and subsequent release by the Administration in February 2014 of the first ever National Strategy for Combatting Wildlife Trafficking. Included as a key part of that strategy was the call to "immediately pursue a series of administrative actions to establish a U.S. ban with limited exceptions on elephant ivory and rhino horn trade in response to unparalleled and escalating threats to these species."

On June 6, 2016, after 18 months of drafting and consultation, the US Fish and Wildlife Service (FWS) instituted a near-total ban on the commercial trade in elephant ivory in the United States by publishing a final rule revising the African elephant rule under section 4(d) of the Endangered Species Act (ESA). The new regulations do nothing to affect possession of elephant ivory, but focus on its commercial trade (or buying and selling). FWS has effectively shifted the burden on to the seller to demonstrate that items made from African elephant ivory are in fact legal to sell under federal law. Some states, such as California, Washington and New York, have instituted stricter measures than the federal rule, but given that WWF has only actively engaged at the federal level and not in these individual states, I will limit my testimony to the federal action. It is important to note for the purposes of this hearing that these new federal regulations only apply to elephant ivory of African origin and in no way impacts ivory from other species, such as walrus, or extinct species, such as mammoth.

In short, the federal rule now prohibits the sale of African elephant ivory except when it meets either of two exemptions:

- A) It is a bona fide antique. In order to qualify as an antique under the law, it must be 100 years or older, must be composed in whole or in part of an ESA-listed species, must not have been repaired or modified with any such species after December 27, 1973, and must have been imported through a designated endangered species "antique port."<sup>7</sup>
- B) It contains a *de minimis* amount of African elephant ivory. Certain manufactured or handcrafted items are exempted from prohibitions on selling or offering for sale in interstate and foreign commerce if they contain only a small (or *de minimis*) amount of African elephant ivory. To these items must meet either (i) or (ii) of the criteria below and all of the criteria (iii) – (vii):
  - i) If the item is located within the United States, the ivory was imported into the United States prior to January 18, 1990, or was imported into the United States under a Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) pre-Convention certificate with no limitation on its commercial use;
  - ii) If the item is located outside the United States, the ivory was removed from the wild prior to February 26, 1976;

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<sup>7</sup> Under FWS Director's Order 210, as a matter of enforcement discretion, items imported prior to September 22, 1982, and items created in the United States and never imported must comply with the first three elements but not the final one, concerning importation.

- iii) The ivory is a fixed or integral component or components of a larger manufactured or handcrafted item and is not in its current form the primary source of the value of the item, that is, the ivory does not account for more than 50 % of the value of the item;
- iv) The ivory is not raw;
- v) The manufactured or handcrafted item is not made wholly or primarily of ivory, that is, the ivory component or components do not account for more than 50 % of the item by volume;
- vi) The total weight of the ivory component or components is less than 200 grams; and
- vii) The item was manufactured or handcrafted before July 6, 2016.

Current regulations prohibit the commercial import of African ivory and the import or export of raw ivory. Current regulations allow personal possession and noncommercial use, noncommercial movement within the U.S., sale across state lines of antique ivory (Asian or African) or African ivory meeting *de minimis* exemption, intrastate sale of Asian ivory imported prior to 1975 and African ivory imported prior to 1990, import of Asian ivory meeting the antiques exemption, and export of antique worked ivory (Asian or African).

In drafting and finalizing the revised rule, FWS actively engaged with stakeholders on both sides, including the regulated community, making significant changes to the original proposed rule in the process and working diligently to accommodate concerns raised by a variety of regulated interests over many months. The final rule reflects the agency's efforts to address those concerns while still improving the ability of the U.S. government to prevent illegal ivory from entering or being sold in the United States. The rule is broadly supported by the wildlife conservation community, and last year over 1 million Americans submitted comments supporting the revised FWS rule – the largest number of comments ever received by the agency on a single rulemaking. The degree to which the agency successfully accommodated stakeholder concerns is also reflected by the fact that some stakeholders that had originally been skeptical of the draft rule, such as musicians' representatives, ended up strongly supporting the final rule. After the final rule was published, the following statement was issued by the League of American Orchestras, which was deeply involved in discussions with FWS over the revised rule:

“The music community is fully committed to the goals of wildlife conservation and combating illegal trade in ivory and other protected species. The new rules present reasonable solutions that protect the domestic and international use of musicians' tools of their trade, and preserve the use of historically and legally made instruments now and for future generations to come.”<sup>8</sup>

### ***U.S. Action Spurs International Action***

Perhaps one of the greatest impacts of the revised U.S. rule on the elephant poaching crisis has been to help spur reciprocal and complementary actions by other major demand countries, particularly China. China is recognized to be the largest consumer market driving illegal ivory sales. For the past three years, the Obama Administration has been engaging the Chinese government on this issue diplomatically, particularly through the Strategic and Economic Dialogue, encouraging the Chinese to undertake needed reforms of their internal ivory market to prevent laundering of illegal ivory. The issue has even raised at the Presidential level on several occasions.

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<sup>8</sup> <http://americanorchestras.org/advocacy-government/travel-with-instruments/endangered-species-material/ivory-ban-impact-on-orchestras.html>

Up until the past year, China could point to the U.S. and our own inadequate regulatory regime as an excuse not to act on closing their own ivory markets. But the action by FWS to institute a near-total ban in the U.S. provided additional leverage for the U.S. State Department to engage China to do the same. The proposed FWS rule was specifically cited as a reason for China to partner with the U.S. on the issue. In May of 2015, the Chinese government stunned many when it announced its intentions to phase out its domestic ivory market entirely by 2017, and in September 2015, China and the U.S. issued a joint announcement on their commitment to enact nearly complete ivory trade bans in each country. Once finalized and implemented, this will be a game-changer for Africa's elephants, removing the largest source of demand that is driving the poaching crisis. Following the 2015 announcement, China had publically noted the need for the U.S. to take complementary steps and address the role of its own domestic ivory market in the problem – steps which FWS took when they finalized the revised 4(d) rule in June 2016. China announced in June that it would publicly lay out its own timeline for a ban by the end of the year, and the U.S. is now working to ensure the Chinese take that final step and announce specific time-bound measures to put their own ban in place.

WWF and our partner organization, TRAFFIC, have also launched a major public awareness campaign in early July to persuade Chinese citizens to 'Stop Buying Ivory' and support the government's preparations to phase out the country's domestic market. Using social and traditional media, the campaign dissuades people from buying ivory and raises awareness of the link to the slaughter of elephants, including by urging individuals to link their index fingers with others and pass the images along to show their commitment to protecting elephants. Also helping the push in China was the decision by Hong Kong leaders to join the global movement to shutter ivory markets by announcing plans to shut down Hong Kong's legal ivory market within five years, a plan which WWF praised while also calling for a much-faster timetable of two years to implement it.

The CITES meeting past September was also a key moment for governments of the Convention's 182 parties to discuss a range of issues relating to elephant conservation. WWF's delegation played a significant role in ensuring key proposals were accepted or rejected by the CITES parties. The overall results were impressive, including major steps forward to support elephant conservation and address illegal ivory trade. CITES countries voted to maintain the existing ban on international ivory trade and strengthened the National Ivory Action Plan (NIAP) process, which currently involves 19 countries that are most implicated in the illegal ivory trade chain, including 12 in Africa and 7 in Asia. WWF is very pleased to see that countries have now united behind a deal that strengthens the national ivory action plan process, which is absolutely central to the global fight against the illegal ivory trade. Under the process, these countries have had to develop and implement national ivory action plans to ramp up their efforts to tackle the illegal trade.

While the poaching trends have been inching in the right direction, they are still too high for elephants to begin to recover. WWF's continues to focus on targeting the fundamental drivers of illegal trade such as corruption, lack of enforcement and weak laws. But at the root of the problem is demand, which is why we strongly support steps such as those taken by FWS to shut down domestic ivory markets and continue to advocate strongly for other demand countries, particularly China, to take similar steps.

## *Alaska Natives and Walrus Ivory*

It is important to reiterate that the revised FWS 4(d) rule on African elephants applies only to elephant ivory of African origin and in no way impacts ivory from other species, such as walrus or mammoth. WWF recognizes and respects the culturally and economically important tradition of Alaska Native artists using the by-products of subsistence harvest to create and sell artwork. As a conservation organization, WWF is committed to working with people who depend on and value wildlife, to ensure that sustainable populations of key species remain intact for use and enjoyment by future generations of Alaskans. WWF relies upon peer reviewed science, traditional knowledge, and rigorous studies to guide our conservation positions, priorities, and actions. In order to inform our position on the impact of trade in walrus ivory on the population of walrus in Alaska, WWF commissioned a report, published by WWF Canada and TRAFFIC<sup>9</sup> in 2014, which examines the international trade in walrus parts and derivatives in view of the looming additional threat posed to this Arctic species from climate change and the breakup of sea ice.

Although commercial hunting of Walrus populations has not occurred since the mid-20<sup>th</sup> Century, hunting for subsistence purposes is still permitted in Canada, the United States, Greenland and Russia, with a small walrus sport hunt allowed in Canada. Norway is the only range State that prohibits the hunting of walrus. Hunting helps to maintain the cultural identity of Arctic peoples and contributes to a traditional subsistence economy in the region, both as a source of food and in generating income. According to the report *Hauling out: International trade and management of Walrus*<sup>10</sup>, on average up to 5,406 walruses (555 Atlantic Walruses *Odobenus rosmarus rosmarus* and 4,851 Pacific Walruses *O. r. divergens*) were hunted per year from 2006/2007 to 2010/2011. This equates to less than 3% and 4% respectively of the estimated global populations for each subspecies. International trade in walrus parts and derivatives is regulated by CITES, and based on CITES trade data on walrus skulls and tusks, between 461 and 772 walruses were represented in international trade during 2005 to 2009, an average of 92-154 per year. The majority of the skulls and tusks were from Atlantic Walrus. However, “Limitations in available trade data make it very difficult to make inferences on the impact of international trade, whether current provisions and regulations are adequate and whether further action is needed,” says the report. Overall, the report finds a lack of long-term data and poor quality of information on population estimates for walruses making it difficult to determine the true impact of international trade or what the current or future impact on walrus populations will be from climate change. **Currently neither illegal hunting nor illegal trade appear to be at levels that would cause conservation concern.**

### *Existing Walrus Regulations Under the Marine Mammal Protection Act*

Walrus are protected under the MMPA, which contains provisions for Alaska Natives to harvest walrus, use their parts for artwork, and to sell the walrus ivory carvings within the United States. In the United States, all marine mammals (including walrus) are protected under the MMPA<sup>11</sup>, enacted by the United States federal government in 1972<sup>12</sup>. The Marine Mammal Commission (MMC) is an independent agency of the federal government created under Title II of the MMPA to provide independent oversight of policies and programs pertaining to marine mammals carried out by the

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<sup>9</sup> TRAFFIC, the wildlife trade monitoring network, is a joint program of WWF and IUCN and is the leading non-governmental organization working globally on trade in wild animals and plants in the context of both biodiversity conservation and sustainable development.

<sup>10</sup> [http://d2ouvy59p0dg6k.cloudfront.net/downloads/haulingout\\_report.pdf](http://d2ouvy59p0dg6k.cloudfront.net/downloads/haulingout_report.pdf)

<sup>11</sup> Public Law 92-522

<sup>12</sup> Anon., 1972

federal regulatory agencies<sup>13</sup>. The primary focus is on the protection and conservation of marine mammals<sup>14</sup>.

The MMPA also has provisions under section 119 for cooperative management agreements with Alaskan Native organizations to provide co-management of subsistence use by Alaskan Natives. In 1997, the USFWS signed a formal co-management agreement<sup>15</sup> with the Eskimo Walrus Commission (EWC). The Alaska Department of Fish and Game (ADF&G) works closely with the USFWS through their marine mammal program, which conducts research projects that complement and/or supplement those undertaken by Alaska Native organizations and federal agencies. The ADF&G promotes co-management of marine mammals with Alaska Native marine mammal organizations.<sup>16</sup> A conservation plan for walrus in Alaska was developed in 1994 to ensure walrus in Alaska are healthy functioning components of the Bering-Chukchi Shelf ecosystems and to maintain the populations within their optimum sustainable range. This also ensures that walrus remain a sustained resource for coastal Native inhabitants of the region<sup>17</sup>.

The introduction of the MMPA transferred the authority for walrus management from the State of Alaska to the USFWS. The MMPA provides for more liberal regulations on walrus hunting compared to the previous Alaska state regulations. Under the MMPA, qualified Alaskan Natives are permitted to take walrus at any time of the year for subsistence purposes, or for the purposes of making and selling traditional clothing and handicrafts, without regulations on the sex, age, time of hunt and number of walrus providing the harvest is not wasteful and the population is not determined to be depleted.<sup>18</sup> Although the MMPA has not needed to take action to regulate the harvest (i.e. there are no federally imposed quotas), some local management programs have been developed.<sup>19</sup> For example, the communities of Gambell and Savoonga on St. Lawrence Island formed Marine Mammal Advisory Committees to implement local regulations imposing limits on the number of adult/sub-adult walrus that can be killed per hunting trip. In the early 1990s, the Board of Game was petitioned by hunters from Bristol Bay to reinstate subsistence access to traditional hunting grounds.<sup>20</sup> After several years, permission was granted, and in 1995 the Qayassiq Walrus Commission (QWC) was formed. In September 1995, the USFWS entered into a cooperative agreement with the ADF&G, the QWC and the EWC to establish a co-management plan for a limited subsistence walrus hunt on Round Island.<sup>21</sup> Under the terms of this agreement, Native hunters honor a self-imposed harvest limit and season.<sup>22</sup> A maximum of 20 walruses may be taken including any walrus struck and lost, and the QWC Commissioners and hunters decide the allocation for each village prior to each season.<sup>23</sup> Struck and lost animals are subtracted from the total allowable catch for the villages.<sup>24</sup>

The MMPA implemented a moratorium on hunting and importation of marine mammals (including walrus) unless exempted or authorized under the MMPA, which requires permits issued by the Secretary of the Interior. However, coastal-dwelling Alaskan Natives are exempt from the moratorium.

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<sup>13</sup> MMC, 2010a

<sup>14</sup> MMC, 2010a

<sup>15</sup> Garlich-Miller et al., 2011

<sup>16</sup> ADF&G, 2010

<sup>17</sup> USFWS, 1994

<sup>18</sup> USFWS, 1994; Anon 1972

<sup>19</sup> Garlich-Miller et al., 2011

<sup>20</sup> BBNA, 2009

<sup>21</sup> EWC, 1997

<sup>22</sup> Okonek and Snively, 2005

<sup>23</sup> Okonek and Snively, 2005

<sup>24</sup> Okonek and Snively, 2005

Any qualified Alaskan Native that lives on the coast of the north Pacific Ocean or the Arctic Ocean is permitted to take marine mammals for subsistence purposes or for making and selling authentic Native clothing and handicrafts, provided it is not done in a wasteful manner.<sup>25</sup> Amendments to the MMPA in 1994 allowed for marine mammal products to be imported into the United States if they were<sup>26</sup>:

- legally possessed and exported in conjunction with travel out of the United States providing the products were then imported back into the United States by the same individual; or
- acquired out of the United States as a part of cultural exchange by an Alaskan Native residing in Alaska; or
- owned by a Native inhabitant of Russia, Canada or Greenland and imported for non-commercial purposes in conjunction with travel to the United States or as part of a cultural exchange<sup>27</sup>.

Walrus hunting is monitored through two separate programs administered by the USFWS: the Marking Tagging and Reporting Program (MTRP) and the Walrus Harvest Monitoring Program (WHMP).<sup>28</sup> The USFWS derives its harvest estimates by comparing and extrapolating data from these programs.<sup>29</sup> Created in 1988, the MTRP is a federally mandated, year-round state-wide program which requires hunters to present walrus tusks to USFWS representatives for tagging within 30 days of harvest.<sup>30</sup> In the 1960s and 70s the ADF&G carried out a harvest monitoring program, which was taken over by the USFWS in 1980.<sup>31</sup> The WHMP was established as a co-managed effort between the EWC and the USFWS. This program began monitoring the subsistence harvest of walrus in Gambell, Diomedea, Wales and Savoonga,<sup>32</sup> but now operates only in Gambell and Savoonga.<sup>33</sup> Once hunters return from a hunting trip, village residents (under contract to the USFWS) meet their boats and collect information on the size and demographics of the harvest by interviewing hunters and obtaining biological samples.<sup>34</sup> The value of a subsistence hunt cannot be determined solely by the monetary value of the animal parts because this does not take into account other aspects of the hunt, such as providing food to the community and the cultural importance of the hunt itself. The monetary value of the international trade in walrus and its parts and derivatives is not known. In 1994, the dollar value of the walrus harvest for Alaskan Natives was estimated to be in the millions.<sup>35</sup>

### *Trade in Walrus Ivory*

Items made from walrus ivory that are derived from the subsistence harvest (e.g. modern ivory post-1972) and beach-found ivory can be sold to non- Alaskan Natives (non-indigenous people), provided they are first fashioned into authentic Native handicrafts. To be considered Native handicrafts, items must be significantly altered from their raw appearance and cannot be fashioned using pantographs, multiple carvers or other mass copying devices (Anon., 1972). Non- Alaskan Natives can be in possession of raw beach-found ivory provided it has been registered within 30 days of its find, but this ivory cannot be transferred to another owner without written permission from the USFWS (USFWS,

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<sup>25</sup> Anon., 1972

<sup>26</sup> Anon., 1972

<sup>27</sup> Anon., 1972

<sup>28</sup> Garlich-Miller and Burn, 1999; MMC, 2010b

<sup>29</sup> MMC, 2003

<sup>30</sup> Garlich-Miller and Burn, 1999; USFWS, 2008b

<sup>31</sup> MMC, 2003

<sup>32</sup> EWC, 1997; Garlich-Miller and Burn, 1999

<sup>33</sup> USFWS in litt. to T. Shadbolt, March 25, 2013

<sup>34</sup> EWC, 1997; Garlich-Miller and Burn, 1999

<sup>35</sup> USFWS, 1994

2012). Fossil ivory does not need to be carved into a Native handicraft before being sold and can be sold to anyone as a raw tusk (USFWS, 2007b; 2012). There is also substantial trade in fossil ivory collected or mined from ancient walrus haul-out sites (e.g. on St. Lawrence Island and surrounding islands) (Hollowell, 2006). These areas provide a source of natural deposits of ivory, bones, and tusks from animals that died years ago (Hollowell, 2006). Fossil ivory can be collected from private or reservation lands with permission from the landowner (USFWS, 2001). It is not regulated under the MMPA and does not need to be registered before being traded or sold. However, this ivory cannot be collected if found on state or federal public lands (USFWS, 2001).

Walrus ivory cannot be exported out of the United States for commercial purposes unless the item is approved as a pre-Act specimen (i.e. antique or fossil ivory) (USFWS, 2012). Modern ivory (post-1972) and beach-found ivory cannot be exported for commercial purposes even if carved into a handicraft. However, modern ivory and beach-found ivory made into authentic Native handicrafts can be exported for non-commercial purposes (C. Hoover, Division of Management Authority, in litt. to T. Shadbolt, February 3, 2012). Walrus parts and derivatives can only be imported with issuance of permits under specific circumstances (e.g. pre-Act specimens, part of cultural exchange involving Alaskan Natives) (Anon., 1972; USFWS, 2012). Walrus parts and derivatives permitted for export out of the United States (as explained above) require a CITES permit or certificate, except for items which are considered personal or household effects (as per the definitions of the United States (USFWS, 2007b; 2012). Meat and other edible parts of a walrus may only be sold to an Alaska Native or sold within an Alaskan Native village (Anon., 1972).

Based on analysis from TRAFFIC, lack of long-term data and precise population estimates make it difficult to determine sustainable harvest levels and whether resulting trade is from sustainable sources. New and improved information gathering and reporting can help to assess various threats, including climate change, and ultimately can be used in adaptive management. There are substantial limitations to analyzing walrus CITES trade data as they are currently reported, and it is difficult to assess current levels of international trade and whether regulations are adequate to ensure sustainability of walrus populations. That said, neither illegal hunting nor illegal trade appear to be at levels that would cause conservation concern at present.

WWF respects and appreciates the co-management efforts of the Eskimo Walrus Commission (EWC)<sup>36</sup> and the US Fish and Wildlife Service (USFWS) in managing Alaska's walrus populations. WWF encourages thorough inquiry to increase understanding of walrus Traditional Ecological Knowledge (TEK) and scientific knowledge of walrus population status and the potential impacts of climate change and sea ice loss on Alaska's walrus populations. WWF urges EWC and USFWS to consider the best available science and TEK in their walrus management decisions and actions.

## ***Conclusion***

Africa's elephants are in crisis, and WWF strongly supports the FWS final revision to the 4(d) rule for African elephants. By finalizing new regulations that will help shut down commercial elephant ivory trade within its borders and stop wildlife crime overseas, the United States is setting a strong example for the world in the fight to save elephants. By shifting the burden of proof to the seller to prove that a piece of ivory is legal, FWS is significantly advance enforcement efforts and helping to disincentive illegal trade, thereby ensuring that US consumers are not unknowingly complicit in the slaughter of elephants. Not only do the new regulations make it much harder for criminals to use the United States

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<sup>36</sup> <http://eskimowalruscommission.org/>

as a staging ground for illegal ivory trade, they also send a strong signal to the international community that the US is committed to doing its part to save elephants in the wild and that other demand countries should take similar steps. This has already helped to spur positive actions by China – the largest demand country for ivory and subsequently the major driver of Africa’s poaching crisis – to move towards shutting down their own domestic market.

Nothing in the new FWS rule will affect Alaska Native carvers working in walrus ivory or other traditional materials. The new federal rule applies only to African elephants and their ivory, as is clearly stated by FWS:

“This rule regulates only African elephants and African elephant ivory. Asian elephants and parts or products from Asian elephants, including ivory, are regulated separately under the ESA. Ivory from marine species, such as walrus, is also regulated separately under the Marine Mammal Protection Act (16 U.S.C. 1361 et seq.). Ivory from extinct species, such as mammoths, is not regulated under statutes implemented by the Service... [This rule] does not impose any documentation requirements for non-African elephant ivory.”<sup>37</sup>

As individual states consider taking action to address illegal wildlife trafficking and the elephant poaching crisis, as some states have already done, WWF encourages state governments to consider the federal approach in their state-by-state regulations and to engage with Alaska Native subsistence users when considering potential regulations along these lines in order to avoid unintended outcomes. WWF also looks forward to continuing to work closely with Alaska Native communities, the Alaskan government and communities and individuals throughout the state on the conservation of Alaska’s wildlife and natural resources to ensure healthy ecosystems and sustainable livelihoods.

On behalf of WWF, I thank you for the opportunity to provide testimony to the subcommittee today.

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<sup>37</sup> <https://www.fws.gov/international/pdf/questions-and-answers-african-elephant-4d-final-rule.pdf>  
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