



## Second contribution to the public consultation on the draft revised guidance document on the EU regime governing trade in ivory, interpreting Commission regulation (EC) No 338/97 and Commission Regulation (EC) No 865/2006

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We, CSFI, FIM and Pearle\*, wish to publish a **second contribution** to this public consultation, after our joint contribution submitted on February 10<sup>th</sup>.

Following a recent exchange of e-mails with DG Environment, it appears that the Commission's proposal is not consistent with previous announcements. The draft guidance document does not refer to the date when the ivory was taken from the wild anymore. It now refers to the date when the items were made, which makes a massive difference for musical instruments. According to this draft revised guidance, any musical instrument or bow containing ivory and made after 1975 would be illegal, even if it exclusively contains legally acquired pre-Convention ivory.

This new approach is hugely worrying. Indeed, pre-1975 ivory has been and continues to be used for the making of musical instruments and bows.

As the Commission rightly points out: *"the value for any musical instrument is intrinsic and the fact that it contains ivory is secondary when determining the value. Additionally, trade in musical instruments has never been reported as contributing to current poaching or illegal trade in ivory."*

Our sector is continuously looking for quality substitutes for ivory. However, it remains uneasy to find such substitutes with equivalent, intrinsic properties. Again, the value of musical instruments **never depends on the value of ivory**. It exclusively depends on the physical quality of the materials and the art and talent of the maker.

Should this new, revised guidance be adopted, the resale of bows and musical instruments would instantly become illegal. For innumerable musicians, instruments and bows are the investment of a lifetime. They generally take precedence over purchasing a house or apartment because they are crucial for a successful career. When musicians retire, selling their instrument often represents an irreplaceable financial resource at a moment when family income sharply declines. In general, it would lead to a situation where instruments and bows must be taken out of the market prematurely as they can't be (re-)sold anymore, even if their state is perfectly fine to play music.

Substituting ivory with another material on an existing instrument to make it resalable is not a reasonable option. Such modification could entail irreversible damages to either the acoustic quality or the value of the instrument, or both. This is an objective risk that no professional musician or competent maker would accept to take.

In light of the above, we respectfully request the Commission to reconsider its position and clarify that the dates indicated in this draft guidance document **are the dates of the ivory used and not the dates the items were made**.

We also wish to recall that the use of ivory in the making of new instruments remains marginal. It concerns mainly bows and some facsimile of period instruments. Against this backdrop, we propose that professional instrument makers who are already active and own stockpiles of legally acquired, pre-Convention ivory be authorised to keep using them until exhaustion. Similar permission was given to piano makers in the 1990s when it was no longer allowed to make pianos with ivory keys. This solution would have no impact on the raw ivory trade since the ivory used would come from existing stockpiles.

We believe that the explanations and arguments developed above are both reasonable and pragmatic. We urge the Commission to take them into account in the final version of its guidance document.

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**French Musical Instrument Organisation (La Chambre Syndicale de la Facture Instrumentale, CSFI)** was founded in 1890 in Paris. It gathers companies and craftsmen who make, distribute and export musical instruments and their accessories. The CSFI also welcomes resellers and other instrument makers associations (violin, guitar, piano). Its main objectives are the protection of its members and of the musical instrument making as a whole and the development of the instrumental practice for everybody. <http://www.csfi-musique.fr/>

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**The International Federation of Musicians (FIM)**, founded in 1948, is the only body representing musicians' unions globally, with members in about 65 countries covering all regions of the world. FIM is recognised as an NGO by diverse international authorities such as WIPO (World Intellectual Property Organisation), UNESCO (United Nations Educational, Scientific and Cultural Organisation), the ILO (International Labour Office), the European Commission, the European Parliament or the Council of Europe. <https://www.fim-musicians.org/>

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**PEARLE\* – Live Performance Europe** represents through its member associations the interests of more than 10,000 organisations including orchestras, music ensembles, groups, festivals, concert halls, producers, promoters and service suppliers in the event technology across Europe. This includes profit as well as non-profit organisations, ranging from micro-enterprises to companies over 250 employees. Pearle\* is recognised by the European Commission as a European sectoral social partner, representing the employers in the European sectoral social dialogue committee live performance. Pearle\* is member of the CITES working group on annotations and electronic systems. Pearle\* also has an observer status with WIPO (World Intellectual Property Organisation) and ILO (International Labour Organisation). <https://www.pearle.eu/>

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