



FIM PEARLE* JOINT STATEMENT ON THE PROPOSED REVISIONS TO THE EU ACTION PLAN ON IVORY

Brussels, 06 February 2019

1. Introduction

FIM and Pearle* - Live Performance Europe thank the European Commission for the opportunity to give input to the non-paper "Background on elephant ivory trade in the EU and possible additional measures", which was discussed at the stakeholder meeting of 28 January 2019 in Brussels.

We are aware of the current poaching crisis and welcome the initiative of the European Commission to adapt and harmonise EU legislation on ivory with the aim to ban illegal cross-border trade in ivory and protect elephants.

Whilst there is an urgent need to further protect elephants, it is recognised that the cross-border movement of musical instruments does not and is very unlikely to contribute to the poaching or illegal trade of ivory. We therefore share the Commission's opinion that musical instruments fall within the scope of the exemption referred to in CITES Resolution 10.10 (Rev. CoP17).

An exemption for the movement of musical instruments, including both commercial and non-commercial travelling, is essential for musicians, orchestras and music groups, as it allows them to continue to make and use their instruments and accessories safely, without being unnecessarily threatened with seizures or fines.

2. Specific concerns regarding musical instruments

Musical instruments containing small amounts of ivory have been legally crafted for decades; as they have a very long lifespan, they are still used today and travel with orchestras, music ensembles or groups for the non-commercial purpose of a live performance, a concert, a competition or other cultural activities.

Whereas travelling of orchestras, music groups and musicians for the purpose of a live performance or other cultural activities falls under the definition of non-commercial travelling, musicians and orchestras rely on the commercial travelling for other purposes, such as the acquisition, sale or reparation of an instrument.

For a professional musician, acquiring an instrument constitutes both an artistic and a financial investment that requires extreme care. It is often the most significant investment that musicians make in their entire career. The instrument is a musician's most personal item and, for this reason, substituting this instrument with another one is almost never an option.

It has been observed that bows were dismantled and damaged during travels abroad – in particular to the US. Because of this risk, musicians and orchestras may prefer not to travel with their usual bows anymore. Instead, they will acquire additional bows that do not contain ivory for the sole purpose of travelling and continue to play with their usual bows the rest of the time. Such replacement bows are generally cheaper and of a lower quality, which may directly impact the quality of the performance.

3. Comments to the Commission non-paper

We fully support the proposed exemption for the use of raw ivory in the context of the production or repair of musical instruments.

We also welcome the proposed exemptions for finished musical instruments as outlined in the Commission non-paper.

We strongly advocate for the exemption of musical instruments containing small parts of ivory that are imported for commercial purpose, as musicians or orchestras frequently acquire their high value instruments from sellers that are located abroad.

We recommend adopting a *de minimis* rule of either 400 g or 20% of the overall material of an instrument as regards the derogation for finished musical instruments. 400 g represent an unusually high amount of ivory that concerns only rare, traditional instruments such as the shamisen (used in traditional Japanese music), which may include up to 370 g of ivory (14% of the instrument's weight).

The Commission proposes that certificates are issued based on tightened rules which can demonstrate the age of the ivory items. In this context, the Commission refers to "approved scientific evidence and methods". As the very small parts of ivory in a musical instrument cannot be dismantled and examined by means of an intrusive method without being destroyed, musicians, orchestras and music groups rely on the opinion of recognized experts, as referred to in Annex I of the existing Commission guidance document.

Music instrument makers still have stockpiles of legally acquired raw ivory that they continue to use, in particular for repair and restauration of instruments or accessories. We believe that the use of these stockpiles, subject to a registration procedure to be harmonised at EU level, should be allowed until exhaustion. That would give reasonable time for research to identify or develop substitution materials with adequate artistic and technical characteristics, validated by the professionals concerned.

4. Conclusions

As the sales and repairs of musical instruments as well as artistic activities of musicians, orchestras and music groups have no measurable impact on ivory poaching, we believe that an exemption – as proposed in the European Commission's non-paper – for the commercial and non-commercial travelling of musical instruments is justified and reasonable.

A complete ban on ivory would have a devastating impact on the use of historical and antique musical instruments that many professional musicians play worldwide because of their outstanding quality. Such a decision would also have major artistic and economic implications for European world-class orchestras and ensembles as well as on the music sector as a whole and hinder the dissemination of culture at large.

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.

PEARLE* – Live Performance Europe, is the 'Performing Arts Employers' Associations League Europe'. Pearle* represents through its member associations the interests of more than 10,000 organisations including orchestras, music ensembles, groups, festivals, concert halls and producers 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.