



UK Centre for Animal Law (A-Law)

Wildlife Working Group

UK hunting trophy import ban

Rob Espin

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1. Executive Summary

The UK's current hunting trophy framework is piecemeal, complicated, overly reliant on conservation status and is difficult to enforce. Public and wildlife stakeholders' responses to both consultations and calls for evidence has demonstrated the demand for reform of the current regime.

The government's intention to back a private members bill to prohibit the import of hunting trophies into the UK where these trophies come from a wider range of endangered species is a welcome step in the right attention.

The government should however go further than the scope of their current proposals and outlaw both the domestic and import/export trade of hunting trophies from any species. This approach best reflects both public sentiment and animal sentience whilst being easier for enforcement authorities to properly, understand, interpret and apply.

2. What is the current regime for hunting trophies?

Patchwork regime: The UK has not enacted a single piece of comprehensive legislation which regulates the domestic or international trade of trophies from hunting, instead relying upon several pieces of conservation legislation. It should be noted that there is no outright prohibition on a person possessing or displaying trophies taken from hunting in the UK publicly or privately.

(a) CITES - implementation: The UK is a signatory of the Convention on International Endangered Species of Wild Fauna and Flora ("CITES"). CITES is an international convention between 178 different nations which restricts the trade in certain species of endangered wildlife including animal products.

The UK implements CITES through its retention of the EU legislation Wildlife Trade Regulations (EC338/97)¹ in a post-brexite landscape (the "WTR"). The UK has also enacted the the Control of Trade in Endangered Species (Enforcement) Regulations 2018 ("COTES") which means that certain contraventions of the WTR are subject to criminal penalties.

(b) CITES – WTR and Hunting trophies: The WTR define hunting trophies as being "*a whole animal, or a readily recognisable part or derivative of an animal, specified on any accompanying CITES permit or certificate, that was legally obtained by the hunter through hunting for the hunter's personal use*". Article 4 WTR implements CITES prohibitions on importing specimens (which includes hunting trophies) listed on Annexes A and B of WTR unless certain preconditions are met. Annex A lists the species which are already threatened with extinction whilst Annex B covers species which are at some risk of becoming threatened with extinction.

1. Through the The Trade in Endangered Species of Wild Fauna and Flora (Council Regulation (EC) No 338/97) (Amendment) (No. 1 & 2) Regulations 2021.

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2. What is the current regime for hunting trophies (cont)?

(b) CITES – WTR and Hunting trophies (continued): The starting point is that a person wanting to import a trophy of an Annex A species, require permits from: (i) the Animal and Plant Health Agency (“**APHA**”) as the UK managing authority; and (ii) the relevant authority from the state which the trophy is hunted. The requirement for Annex B species is less stringent and a person only needs a permit from APHA².

Despite these requirements, Article 7(3) WTR exempts “*personal or household effects*”. Personal effects have been interpreted to include hunting trophies, however Article 57(1) Commission Regulation No 865/2006 (the “**2006 Regulation**”) clarifies that personal or household effects do *not* cover hunting trophies which are being imported for commercial purposes (i.e. to be sold on as part of a business).

Articles 57(2)-(3) mean that the WTR’s standard prohibitions on importing animal products from protected species do not apply for privately kept hunting trophies, meaning they can be exported and imported. Under Article 57(3a), this derogation permitting import of hunting trophies does not include trophies from certain species for which there are indications of significant trade, such species including the white rhino and common hippopotamus³.

(c) COTES – enforcement: Under Article 16(1)(J) COTES, a person commits a criminal offence if they attempt to buy or sell a hunting trophy of any species listed in Annex A of WTR without lawful excuse (not Annex B notably). A person will also commit an offence if they import for commercial use a hunting trophy of a species listed in Annex B into the UK from abroad without first obtaining the required permit under Article 10 WTR.

The penalty for such offences goes up to five years’ imprisonment on indictment the UK from abroad without first obtaining the required permit under Article 10 WTR.



2. Persons need to comply with various obligations in order to get these permits, such detail is available online and not the in depth focus of this paper.
3. The current list in the UK being the white rhinoceros, hippopotamus, African bush elephant, argali, lion, and polar bear.

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2. What is the current regime for hunting trophies (cont)?

(d) The Ivory Act 2018: In addition to the commercial import/export prohibition for hunting trophies provided by WTR, there are further restrictions on the trade of the trophies which include ivory from the Ivory Act 2018 (the “IA”). The definition of ivory in the IA is wide, covering any item made of ivory or which has ivory in it. This would therefore catch hunting trophies made of or containing ivory such



as elephant tusks and the government has consulted to expand the ban to non-elephant species as elk and hippopotamus.

Section 1(1) IA prohibits anyone from dealing in ivory which includes advertising, buying, selling, importing, exporting or retaining for sale of ivory. These would apply to anyone undertaking commercial activities with hunting trophies containing ivory.

Whilst there are some limited exemptions to the IA none of these exemptions would apply to ivory hunting trophies. Section 12(4) IA provides a maximum punishment on indictment of a prison sentence up to 5 years for a person breaching the IA.

(e) Other legislation: In addition to the WTR and IA, other pieces of UK legislation prevent people from possessing or selling hunting trophies from of wild birds (under section 1(2) Wildlife and Countryside Act 1981 (the “WCA”)) and certain European Protected Species (pursuant to regulation 43(4)(b) of the Conservation of Habitats and Species Regulations 2017 (the “CHSR”)). Persons contravening these provisions are liable to be charged with a criminal offence unless their possession is exempted pursuant to a defence under the applicable legislation.

3. What are the issues with the current regime?

Despite various different laws applying to somewhat restrict the trade of hunting trophies in the UK, the current regime has significant weaknesses:

(a) Conservation and animal Sentience: The WTR, IA and CHSR (and to a lesser extent, the WCA) all only prohibit activities involving trophies from endangered species of wildlife, applying different metrics to determine the extent of endangerment and stringency of restrictions which should apply.



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3. What are the issues with the current regime? (continued)

(a) Conservation and animal sentience (continued): Such an approach fails to recognise the widely accepted principle that all animals (including wildlife) are sentient and capable of suffering and experiencing pain⁴, with such principle to be enshrined in UK law pursuant to the Animal Welfare (Sentience) Bill (2021-2022).

Whilst endangered species certainly merit protection, only restricting hunting trophies to threatened species wrongly conflates the worth of animal with its conservation status. Killing any animal for sport is wrong and violates their inherent and intrinsic value for themselves. Allowing hunting trophies for some types of wildlife but not other therefore wrongly implies that it is ok to kill one for sport, yet not the other.



(b) Personal and household effects: The exemption provided by WTR to permit persons to import and export trophies from their own activities is deplorable because, as discussed above, it legitimises hunting for sport, even where such hunting is of endangered species. This exemption is also rife for exploitation as persons pass off trophies they pretend to keep personally only to sell these, often online, which are very difficult to police and monitor.

(c) Detection and governance: The WTR implement CITES, which is the subject of many criticisms as to how effectively it protects wildlife from threats including trophy hunting. A key criticism of CITES is that, in the absence of total ban on the trade of certain species, the countries which the vast majority of endangered species inhabit lack (due to no fault of their own) the governance structures required to ensure that wildlife is not illegally exported or exploited and legal trade can cover up illegal trade under CITES⁵.

The infrastructure is not only required in the jurisdictions where the species are located but also in countries such as the UK where hunters bring back their trophies. The difficulties faced by UK Boarder Force in preventing hunting trophies from illegally entering the jurisdiction are worsened by the fact that the WTR and IA only prohibit trophies from certain species of animals and that personal exemptions apply.

4. See for example the Cambridge Declaration on Consciousness

5 <https://www.synchronicityearth.org/spotlight-on-cites/> and *The Law Relating to Animals* S. Brooman and D. Legge (1999), page 385-388).

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3. What are the issues with the current regime (continued)?



(c) Detection and governance (continued): This means that instead of confiscating any hunting trophy, UK Border force are obliged to expend valuable time and expense to check whether the trophies originate from listed species or determine whether they will be used for commercial activities.

In the UK the UK Boarder Force are responsible for enforcing the provisions of WTR and whilst the UK has a specialist CITES team this team is only based at Heathrow airport, meaning their expertise is missed at all the other points of entry to the UK. Furthermore, UK Boarder Force have many other responsibilities meaning detection of wildlife crime may be less of a priority⁶.

(d) Enforcement within the UK: The principal enforcement point for the WTR and the IA is at the points of entry within the UK through UK Boarder Force. However once hunting trophies have (legally or otherwise) entered into the UK, it can be very difficult to monitor commercial activities concerning the trophies. This is increasingly the case where trophies are advertised and sales negotiated over closed social media groups and platforms. The Wildlife and Countryside Link (“WCL”) have comprehensively highlighted the difficulties the police face tackling wildlife crime such as illegal trophy trading due to lack of specialised training, resource, prioritisation and detection⁷.

(e) Hunting and conservation: The exemption allowing hunting trophies to be imported into the UK relies upon those trophies being “obtained legally”, which often relies on “canned hunting” or licensed game shooting. Whilst some may argue that such activities are beneficial as they can raise funds for conservation activities⁸ such arguments are often self serving as they are put forward by hunting groups and there are many well evidenced arguments demonstrating that game management is not conservation, and that trophy hunting does not significantly benefit conservation of threatened species⁹.

6. WCL have questioned why the number of successful prosecutions under WTR have decreased in the last 4 years– see “Wildlife Crime in 2020: A report on the scale of wildlife crime in England and Wales” WCL November 2021, page 29 .

7. Above, n.6, page 29.

8. See for example <https://www.rmef.org/hunting-is-conservation/>

9. See for example <https://rewilding.org/hunting-isnt-conservation/> and <https://www.bornfree.org.uk/articles/trophy-hunting-facts>

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4. Government consultation and call for evidence



Consultation: Following years of campaigns by welfare and conservation organisations such as Ban Trophy Hunting UK¹⁰ and in light of the government’s commitment in its own 25 Year Environment Plan to providing international leadership in protecting and improving international biodiversity¹¹ DEFRA launched a public call for evidence and consultation on controls on the import and export of hunting trophies in November of 2019¹².

Whilst the consultation did include several references to welfare, the thrust of the consultation was to provide better protection to international biodiversity and conservation.

The consultation asked respondents questions concerning four proposed “actions” which were:

1. A ban on the import and export of hunting trophies from certain species;
2. Stricter requirements for clear benefits to conservation and local communities to be demonstrated before hunting trophies from certain species are permitted to enter or leave the UK;
3. A ban on *all* hunting trophies entering or leaving the UK; and
4. Do nothing - continue to apply current controls.

Consultation response: DEFRA published its response to the consultation and call for evidence in December 2021¹³. The response states that an overwhelming majority of 84% respondents to the consultation supported option three above, with the next most popular option only attracting 8% of respondent support. Other key questions in the consultation received responses as follows:

(a) Enforcement: 25% of respondents envisaged difficulties arising from the definition of hunting trophy within the WTR when enforcing the proposed ban.

10. <https://bantrophyhunting.org.uk/about-us/>

11. “A Green Future: Our 25 Year Plan to Improve the Environment” HM Government, 2018, Chapter 6 Page 110

12. Available here https://consult.defra.gov.uk/wildlife-management/trophy-hunting-consultation/supporting_documents/huntingtrophyconsultdocumentupdated.pdf

13. Available here <https://www.gov.uk/government/consultations/hunting-trophies-controlling-imports-to-and-exports-from-the-uk/outcome/summary-of-responses-and-government-response-2>

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4. Government consultation and call for evidence (cont)

(a) Enforcement: (continued): the concerns around enforcement included issues with the wider CITES framework, the difficulty in validating the information required for permits (e.g. verifying whether animals were wild or captive bred, identifying species) and the potential for loopholes.

(b) Implementation barriers: Nearly 50% of respondents to the question of whether there would be insurmountable barriers to implementation answered in the negative and stated that option 3 would be the simplest to implement. Other potential barriers included the interests of the hunting industry.



(c) Species based restrictions: Options 1 and 2 focused on species specific restrictions and 17% of consultation respondents believed that any new restrictions should be expanded to species listed on the the International Union for Conservation of Nature (“IUCN”) Red List. 22% of respondents thought differently to this however and the majority¹⁴ stated that further restrictions should apply to all animal species.

(d) Captive bred trophies: 87% of consultation respondents argued that there should not be different restrictions on hunting trophies obtained from captive bred animals, wild animals, or animals hunted in confined enclosures.

Call for evidence responses: Whilst DEFRA did not provide a percentage breakdown of responses received to its call of evidence, it did to summarise the responses it received on key themes:

(a) Conservation impacts: Many respondents cited the evidence that trophy hunting has negative impacts on species conservation and evidence was submitted questioning the positive impacts of hunting on conservation.

(b) Animal welfare: Whilst some respondents suggested that trophy hunting was not harmful to animal welfare because *“hunters are expected to perform ‘clean kills’ and that it does not create any greater suffering than natural death”* this was well countered by responses citing welfare concerns associated with trophy hunting and particularly canned hunting.

14. DEFRA did not provide an exact figure.

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5. Government proposals



Policy statement: In DEFRA's published policy statement following the consultation process, it announced its proposal to introduce or support¹⁵ legislation to ban the import and export of hunting trophies of species: (i) covered in Annexes A or B of the WTR; and (ii) listed as near threatened, vulnerable, endangered, critically endangered or extinct in the wild on the IUCN Red List. The ban will apply all such species, whether they are hunted in the wild or captivity, and will sit alongside the existing CITES and WTR regimes in respect of trade of endangered wild species.

DEFRA stated that the UK Border Force will lead the enforcement of the new ban and that criminal and civil offences will be in line with those set out in COTES. DEFRA also suggested that the ban would be subject to certain exemptions which will include: (i) "antique" hunting trophies; and (ii) other personal effects not from hunting.

6. Are the government's proposals satisfactory?

Positives: DEFRA and the government should be applauded for addressing the issue of trophy hunting and taking action to back up the UK's stated desire to be an international leader on conservation. Expansion of the ban on trophy hunting to include species on the IUCN Red List will include tens of thousands of additional species of wildlife.

The IUCN Red List is also updated more often than CITES (which feeds into the WTR) and because it is governed by the IUCN instead of a conference of member states, inclusion on the list is less subject to political and diplomatic tensions. It is hoped and appears necessary that, for the new ban to be operationally enforceable, the existing and complex WTR derogation for non-commercially traded hunting trophies will be removed, which will make the ban somewhat easier to enforce.

DEFRA's refusal to grant any derogation to trophies originating from hunting of animals in captivity is also a welcome step forward and recognises the weaknesses in the arguments advanced by some that conditioned hunting aids conservation.

15. The current approach seems to be for DEFRA to support the private member's bill "Hunting Trophy Import (Prohibition) Bill (2021-22)"

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6. Are the government’s proposals satisfactory (continued)?

Issues to address: Notwithstanding the positive developments already discussed, the government’s proposals are questionable in several aspects:

(a) Delay: The government has already received criticism for the time it has taken to firstly fully explain its proposals, with the Campaign to Ban Trophy Hunting citing that the pledge has been present in the Queen’s speech since 2019 and that the ban is still in place whilst animals have been hunted for sport and their trophies imported into the UK for nearly three years¹⁶.

The issues caused such existing delay will only be exasperated by the parliamentary process which can take a long time for proposals to be formed into a bill to becoming enacted law and the absolute earliest the government can table a bill will be February 2022. The proposals will also likely include a transition period, namely the time between which the legislation is enacted before it comes binding law to allow for proper implementation and this is the case for the Ivory Act which was enacted in 2018 but under section 43 is still yet to come into legal force.

(b) Speciesism: Despite the widening of the criteria under which hunting trophies would be banned, the proposals will still only prohibit importation and exportation of hunting trophies from animals determined to be threatened or endangered. This fails to address the two issues already discussed; firstly that it does not protect animals not considered to be threatened and therefore implicitly accepts that hunting such animals for sport is acceptable.

Such an omission flies in the face of the statement in the government’s own Action Plan for Animal Welfare that “*high standards of animal welfare are one of the hallmarks of a civilised society. We have a long tradition of protecting animals and that will continue – and we will continue to support such efforts overseas.*”¹⁷ It also causes the possibility that wildlife is hunted and trophies imported until it is endangered, which plainly defeats the conservation benefit of the ban.

The second issue is that banning hunting trophies only from certain species still requires UK Border Force as the enforcing authority to maintain a level of training and awareness to determine in every single incidence of which trophies cannot be imported and which can be.

This necessitates additional time and resources from an already stretched enforcement agency which would be negated by banning all hunting trophies. Then UK Border Force would only need to identify whether any items are trophies or not instead of having to determine which species they are from and whether any exemptions apply.

16. <https://www.theguardian.com/environment/2021/nov/15/ministers-accused-of-dithering-as-trophy-hunting-law-delayed-again>

17. Government Policy Paper, May 2021 available here <https://www.gov.uk/government/publications/action-plan-for-animal-welfare/action-plan-for-animal-welfare>

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6. Are the government’s proposals satisfactory (continued)?

(c) Proposed exemptions: As mentioned DEFRA’s policy statement mentions exclusions to the prohibition for various trophies. Some of these exemptions may have rational justification if UK Border Force construes them narrowly (e.g. trophies imported for educational or scientific purposes) however other proposed exemptions have less objective justification. These include “antique” hunting trophies and trophies which are hunted before the ban comes into effect. It is unclear why trophies considered to be antiques or taken before the ban comes into force should receive any preferential treatment and therefore why the exemption is needed. Including these exemptions where unnecessary creates undue risk of loophole exploitation by those involved in trophy hunting. It also goes against public sentiment as 83% of respondents to the consultation thought there should be no exemptions.



If the antique exemption is for some reason strictly required, then DEFRA should follow the precedent set out by sections 2,6 and 7 of the Ivory Act by limiting this to antiques pre-1916¹⁸.

(d) Domestic commercial activities: The proposed ban is limited in scope to the import of hunting trophies into the UK and does not directly address domestic (intra-UK) commercial sales or private ownership. Whilst both these points may be indirectly influenced by the fact that people would no longer be able to import hunting trophies, there are several issues caused by only addressing external trade.

The first is that the prohibition may result in the bizarre case that, once a trophy has made its way into the UK (legally or not) these can be bought and sold without restriction. This allows the trade to continue domestically and defeats the aim of the ban. Whilst the prohibition could include a registration system for legal trophies or require certificates of legitimacy for sale and purchase, enforcement of this when the market for hunting trophies is increasingly online with more propensity for forgery creates difficulties and a blanket prohibition would be clearer and easier to enforce.

Secondly the ban allows the trophy hunting as a blood sport to continue domestically and for the trade of trophies from this to continue unhindered. This could lead to the absurd position in the UK that it is harder to trade trophies of endangered international species than wildlife native to the UK.

18. or pre 1947 if part of something else which has “low content” from animals.

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7. Conclusion

1.

The UK's current trophy hunting regime is outdated, difficult to enforce and underpinned by overreliance on conservation status.

2.

The government's intention to address the issue of trophy hunting should be applauded as this forms a key part of wildlife protection.

3.

The proposals need to be more ambitious and also prohibit trade of hunting trophies domestically and from all wildlife, not only threatened species internationally.

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