

New ivory trade regulation
Comments on the definition of pre-1975 musical instruments and other matters
for the attention of the Commission and the Member States

February 03, 2022

I. A principle of interpretation for the definition of pre-1975 instruments

The signatory organisations wish to express their concern that the definition of pre-1975 musical instruments as currently contained in the Commission's revised guidance document is both imprecise and particularly restrictive¹.

As it stands, the criterion according to which an instrument « *must be or have been recently used by a performer* » is incompatible with the reality of our sector and creates legal uncertainty. Indeed, the lifespan of a musical instrument exceeds that of the musician, it is common that an instrument whose vocation is to be played is not played for a given period (repair, forgetfulness, put aside...), without its destination or its nature being affected. **It is therefore essential that instruments that are temporarily unused**, regardless of the length of time they are « unused », not be excluded from the above definition.

Since the objective of the formulation adopted by the Commission is only to exclude instruments with a purely decorative purpose, we propose that it clarifies this point further by providing **a principle of interpretation**. For example, the fact that the instrument is **playable** (or « can be played »), whether by a professional or amateur performer, should be deemed to satisfy the *recent use* criterion.

II. Other issues and comments

In addition, we would like to submit the following proposals:

- To avoid any ambiguity, confirm in the guidance document that the concept of *performer* must be understood in the sense retained by the Community acquis with regard to related rights.
- Specify whether for a repair/restoration, the permit must be requested by the professional who takes the raw ivory from his stock or by the one who undertakes the repair.
- Specify whether an instrument maker is allowed to transfer his stock to a colleague (in case of cessation of activity, for example).
- Clarify whether stocks of ivory already declared in a Member State under a pre-existing regulation need to be declared again under the new EU regulation, and whether these previously declared stocks are considered legal after the entry into force of the EU regulation, as well as bows manufactured or repaired from these stocks.
- Specify if a pre-1975 instrument requires a certificate simply because it is in a luthier's inventory or if the certificate is only required at the time of sale.
- Specify which professionals are authorized to certify the date of incorporation of the ivory contained in an instrument or a bow with no apparent date or mark, the required skills being particularly demanding.
- The very many keyboard instruments made until the 1990s with ivory keys have CITES certificates. However, the date of extraction of the ivory used is generally not mentioned. Only the fact that the ivory is pre-Convention and the date of manufacture of the instrument are specified. Is such traceability sufficient?

The signatory organisations (see following pages) are at the Commission's disposal for any request for clarification of the above.

¹ Definition of the pre-1975 musical instrument in the new European regulation: « *pre-1975 musical instrument: a musical instrument containing legally acquired pre-1975 ivory which is, or has been until recently, used by a performing artist and is thus not merely a decorative object.* »



Asociace výrobců hudebních nástrojů ČR (AVHN). The Association of Musical Instruments Makers of the Czech Republic connects juristic and physical persons – producers of musical instruments, their parts and accessory. The purpose of this association is to protect, support and to realize the common interests of its members from the standpoint of the economic enterprise intentions including technical and professional goals.

The Association takes care of creating the mutual solidarity and importance of awareness of the mission in the cultural area. The Association represents and defends the common interests of its members towards the state offices and authorities, towards foreign formations and organizations. As a CAFIM members – "Confederation of the European Music Industries" the Association supports the international cooperation within the framework of the European Union.

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Bundesverband der deutschen Musikinstrumentenhersteller e.V. The National Association of German Musical Instruments Manufacturers is the official body representing the German Music Industry. Its principal objectives are to promote members' common interests through advice and support in commercial, technical and all other relevant issues; to cultivate exchange of experience between members and other associations in the realms of music worldwide; to represent the interests of German manufacturers of musical instruments and accessories vis-à-vis German and other European as well as supranational and overseas public authorities, associations and other institutions; and to draft expert opinions and furnish of information to public authorities in the sectors of musical instrument manufacture and the appurtenant field of accessories.

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La Chambre Syndicale de la Facture Instrumentale (CSFI) - French Musical Instrument Organisation 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. www.csfi-musique.fr

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Confederation of European Music Industries (CAFIM). The Confederation of European Music Industries (CAFIM) used to gather European musical instrument manufacturers only. On May 5, 1977, as unification within Europe gradually progressed, the confederation came to cover the entire branch. Today CAFIM represents the music trade in the whole of Europe including wholesalers, retailers and importers. Its general objectives are to promote and safeguard the interests of the European musical instrument industry as well as those of practicing musicians in every conceivable way.

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International Association of Violin and Bow Makers. (EILA: Entente Internationale des Luthiers et Archetiers). Founded in 1950 in Europe, the Entente Internationale is an association of violin and bow makers from around the world. The Entente was established with the aim of bringing together master craftsmen on the basis of friendship and exchange and for taking any steps deemed pertinent to defending their working conditions, developing understanding of their art, perfecting teaching methods for their students and combining the strengths and talents of each member in order to promote a revival in the art of violin and bow making. www.eila.org

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International Federation of Musicians. 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. www.fim-musicians.org

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National Association of Music Merchants. (NAMM). The National Association of Music Merchants (NAMM), established in 1901, is the not-for-profit association that strengthens the \$17 billion global music, sound and event technology products industry. The association's global trade shows serve as the crossroads for professionals seeking the newest innovations in music, recording technology, sound, stage and lighting products. NAMM member programs and services promote music making for people of all ages and to create a more musical world. NAMM has supported the development of a global music coalition advocating for sustainable use of world's natural resources alongside reliable regulations that support fair trade and has funded advocacy events and participation in CITES events..

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PEARLE* Live Performance Europe, is the 'Performing Arts Employers Associations League Europe'. Pearle* represents through its member associations the interests of more than 10000 organisations in the music, performing arts and live entertainment sector. This includes profit as well as non-profit organisations, ranging from micro-enterprises to organisations with 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.. www.pearle.eu

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