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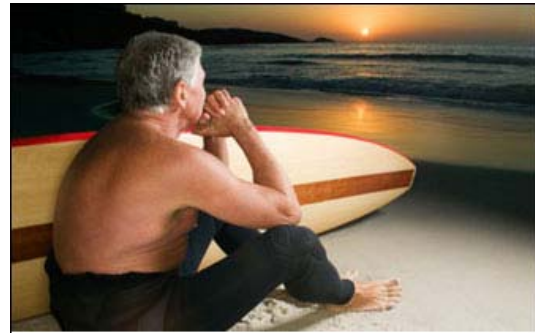
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It's All About Saving The Elephants

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FISHER INVESTMENTS*

GUEST POST WRITTEN BY

Judith McHale and David J. Hayes

Ms. McHale is Chair, and Mr. Hayes is Vice-Chair, of the Wildlife Trafficking Advisory Council.

Doug Bandow recently published an opinion piece in *Forbes* (<http://www.forbes.com/sites/dougbandow/2014/06/09/punishing-ivory-owners-rather-than-saving-elephants-when-ideologues-take-over-the-regulatory-state/>) in which he argues that the President is fighting the

elephant poaching crisis by targeting U.S. citizens who own ivory. He asserts that the Administration's policy is all about ideological politics, rather than actually "*fight[ing] poaching*." (Italics in original.) He could not be more wrong.

Contrary to Mr. Bandow's inference, the Administration's anti-poaching strategy is not proceeding on the backs of U.S. citizens and it is all about, in fact, *fighting poaching*. Unmentioned by Mr. Bandow, the President's Executive Order on Combating Wildlife Trafficking, issued last July, and the follow-up National Strategy document issued by his cabinet last February, lays out a comprehensive strategy that takes the fight directly to the poachers and the organized and sophisticated criminal syndicates that are behind them. The threat is an extremely serious one, both because the syndicates are devastating economically and culturally important elephant, rhino and other iconic wildlife populations, but also because this lucrative criminal activity is fueling instability and corruption, and strengthening armed militias and terrorist groups.

Picking on one aspect of a multi-dimensional, comprehensive strategy, Mr. Bandow argues that the U.S. Fish & Wildlife Service is engaged in a misguided and pointless exercise in restricting domestic commercial trade in ivory. He fails to note, however, that U.S. law already restricts commercial trade in ivory. The current restrictions flow from a 1989 U.S. import ban under the African Elephant Conservation Act, followed by a global ban on commercial import and export of ivory established by the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) in 1990 to protect elephant populations that were under enormous poaching pressure at the time. These actions took hold and worked, shutting down vibrant ivory markets in the U.S. and Europe. Without an easily accessible market, the

massive killings of elephants declined precipitously in the early 1990s.

In the last few years, unfortunately, the ban on commercial trade in ivory has deteriorated under the weight of lax enforcement, misguided “one time” sales of national ivory stocks, and other loopholes. Coincidentally, new markets for ivory in China and Southeast Asia have opened up and the world is now experiencing a dangerous spike in wildlife killings and related organized criminal activity.

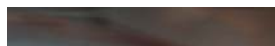
Because the U.S. remains an important market for ivory – albeit not the largest market – it is appropriate for FWS to clarify what type of commercial trade in ivory is legal, and what is not. FWS is taking steps to remind Americans that U.S. law prohibits commercial imports of ivory and trade in ivory or ivory products that entered the United States illegally. The agency also is seeking to clarify what type of evidence must be provided to satisfy the “burden of proof” that U.S. law puts on individuals who are seeking to sell “antique” and pre-ban ivory products.

Ivory owners in the U.S. can continue to own ivory, of course, and trade it if they can make required showings. We agree with Mr. Bandow that in clarifying the proof needed to establish legality under the law, FWS should adopt a common sense approach that offers law-abiding ivory owners reasonable avenues to obtain required certifications. But the showings must be vigorous enough so as to prevent fraudulent claims by agents of the sophisticated traffickers who are making billions from the sale of ivory from freshly-killed elephants.

As a final point, by taking steps to reconfirm and clarify existing restrictions on commercial trade in ivory, the U.S. strengthens its hand in insisting that China and other Asian nations take similar steps and shut down the rampant illegal trading activity that has infected their domestic ivory markets. If they do not, the U.S. can and should demand that offending nations either get in line, or suffer the consequences of trade sanctions imposed under the authority of U.S. law (the Pelly Amendment) or in concert with other nations, under the CITES treaty.

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