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Dear Co-Chairs Senator Kennedy and Representative Albis, and esteemed members of the Joint Committee on the Environment,

I would like to voice my strong opposition to H.B. No. 5578, "An Act Prohibiting the Trade and Sale of Elephant Ivory and Rhinoceros Horn." I urge you to reject this proposed Bill as harmful to both the endangered species in Africa and the trade in antiques and legal ivory in Connecticut

I refer you once again to the comments made by Dr. Daniel Stiles, the leading scientific researcher in the global ivory market. After years of study his testimony to the United States Fish and Wildlife Service states plainly that a "prohibitionist approach" is the wrong one and may in fact do more harm than good. According to Dr. Stiles: "I oppose illegal ivory trade in the strongest terms and condemn the elephant poaching that supplies demand in Asia and elsewhere. But my in-depth research and understanding of how and why elephant poaching for ivory is motivated and driven has led me to believe that a 'prohibitionist' approach is the wrong one. Banning the trade in a commodity for which consumer and investor demand exists not only is NO solution, it can in fact exacerbate the problem. This has certainly been the case for elephant ivory."

I urge you to read Dr. Stiles' fully documented and important research at:
<http://www.regulations.gov/-!documentDetail;D=FWS-HQ-IA-2013-0091-0415>

In addition to Dr. Stiles' scientifically informed opinion, the Fordham International Law Journal has also released a study addressing the question of an Ivory Ban in Volume 38, Issue 5, Article 6, "The (Inter)national Strategy: An Ivory Ban in the United States and China". The complete study can be found at:

<http://ir.lawnet.fordham.edu/ilj/vol38/iss5/6/>

The authors clearly state in the Abstract that an Ivory Ban in the United States will do little to stop elephant poaching and likely includes significant legal issues: "This Note argues that a near-complete ban in ivory trade not only raises difficult domestic legal issues, but also does little to stop elephant poaching in Africa. Further, enacting a similar ban in China is not only unrealistic, but also would increase the illegal trade and, therefore, the slaughter of elephants in Africa." The "difficult domestic legal issues" include the possibility action as an Ivory Ban may violate the Fifth Amendment of the U.S. Constitution, the Taking Clause. According to the authors from Fordham; "While the government may enact regulations that restrict the use of property, 'if [a] regulation goes too far it will be recognized as a taking.'" The authors continued to note: "The (Supreme) Court found that if a business owner's patronage is lost or appropriated as a direct result of the

regulation, the economic impact prong favors the owner. Based on this theory, antique ivory dealers could have a cognizable claim based on the loss of patronage, earning power, and reputation.”

While this effect on American citizens is relevant, the Fordham authors relate important information on the Chinese market: ““China's current demand for ivory is likely the primary catalyst in the world for the illegal ivory trade. Scholars and conservationists have traced direct routes between Africa and China, as well as routes in which countries like Malaysia act as transit countries between the two continents. As a result, the increase in Chinese demand for ivory and growth of the illegal ivory trade is directly correlated to the increase in elephant poaching... Some scholars estimate that up to ninety percent of ivory in China is illegal... Overall, however, the Chinese laws and regulations regarding the ivory trade are complex, but poorly enforced. While China has taken other symbolic actions, the Chinese government has not pursued legislative or regulatory remedies to rectify the current regulatory gaps in the Chinese system.”

In addition to these important conclusions that question whether US, and therefore Connecticut, law can effectively influence the plight of endangered species in Africa, the proposed H.B. No. 5578 is arbitrary and includes a harsh hearing process for those accused of a violation. The inclusion of a 20% or less ivory content requirement in a genuine antique piece containing ivory is arbitrary and counterintuitive. If an item is a genuine antique why should further qualification be necessary? The hearing process for those accused of a violation includes an extensive, and likely expensive, administrative appeal process, which “need not be conducted in accordance with the rules of evidence”. This raises strong concerns on the ability of the accused to defend themselves and would result in an attitude of “guilty until proven innocent.”

The requirements set forth by the United States Fish and Wildlife Service and the Endangered Species Act already include strict documentation and severe penalties for violations. As concluded by the Fordham International Law Journal, the US Federal Law is stringent and effectively enforced. Further State law will not benefit the endangered species of Africa and may indeed open Connecticut to extensive administration costs and perhaps legal action.

I urge the Environment Committee to reject H.B. No.5578 and lead the way in defending both the endangered species in Africa and the legal trade in genuine antiques.

Sincerely,

Kevin J. Tulimieri
Amston, CT