

African Elephants and the 14th meeting of the Conference of the Parties to CITES, the Hague, Netherlands, 03–15 June 2007

A TRAFFIC briefing document
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There are three proposals to amend the Appendices and one agenda document to change a CITES Resolution relating to African Elephant *Loxodonta africana* at CoP14.

As before, there will be updates from the two monitoring systems for elephants under CITES—the Elephant Trade Information System (ETIS) and Monitoring the Illegal Killing of Elephants (MIKE)—and further consideration of the CITES action plan to address illegal trade in ivory, particularly how it relates to unregulated domestic ivory markets in Africa and Asia.



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1. What happened at CoP13?

South Africa's proposal to allow "trade in hide and leather goods" without restriction for "non-commercial purposes" was readily accepted. It is generally recognized that such trade does not produce negative conservation impacts on elephants. Namibia's amendment proposal met with partial success. It failed to gain approval for the establishment of conditional annual quotas for trade in raw ivory, but were successful in their bid to trade elephant leather and hair products for commercial purposes and also received permission to trade in a specific traditional, indigenous worked ivory product—known as *ekipas*—for non-commercial purposes. Finally, Kenya failed to gain support for amending *Resolution Conf. 10.10 (Rev. CoP12)* to impose a period of no commercial trade in raw or worked ivory under the Convention.

Also at CoP13, the Parties approved *Decision 13.26*, which established an "action plan for the control of trade in African elephant ivory" by requiring all African Elephant range States "to prohibit unregulated domestic sale of ivory, whether raw, semi-worked, or worked; to instruct all law enforcement and border control agencies to enforce such laws; and to engage in public awareness campaigns to publicise these prohibitions". The action plan targets countries with unregulated domestic ivory markets by obliging compliance with CITES requirements for internal trade in ivory as outlined in *Resolution Conf. 10.10 (Rev. CoP12)* or face the imposition of punitive sanctions, including the possible suspension of all international trade in CITES-listed species.

2. What are the CoP14 proposals to amend the CITES Appendices relating to African Elephants?

(CoP14 Prop. 4) Botswana and Namibia propose replacing the current annotation governing trade for the four African Elephant populations currently included in Appendix II (i.e. Botswana, Namibia, South Africa and Zimbabwe). The new text would establish annual commercial trade quotas for raw ivory in compliance with the procedures outlined in *Resolution Conf. 10.10 (Rev. CoP12)*, subject to certain other conditions. Aside from raw ivory, trade in other elephant products is not specifically mentioned in the proposed annotation, whereas the current version does include trade options for other elephant products. Consequently, the intention of the proposal remains confused and fails to address the guidelines in *Resolution Conf. 11.21 (Rev. CoP13)* which state: "for species transferred from Appendix I to II subject to an annotation that specifies the types of specimen included in the Appendix, specimens that are not specifically included in the annotation shall be deemed to be specimens of species included in Appendix I and the trade in them shall be regulated accordingly". It needs to be resolved whether other elephant specimens—including those currently eligible for trade—are deemed specimens of species included in Appendix I. If not, it appears the proponents would be expanding the scope of their tabled proposal if they move to include provision for trade in other elephant products. Consequently, this proposal is likely to become engulfed in a procedural debate.

(CoP14 Prop. 5) Botswana proposes changing the annotation governing the inclusion of its elephant population in Appendix II by expanding the scope of trade in leather goods and live animals to allow transactions for commercial purposes; introducing annual quotas for raw ivory pursuant to the requirements of *Resolution Conf. 10.10 (Rev. CoP12)* and certain other conditions; and providing for another one-off conditional sale of not more than 40 t of raw ivory. This last-mentioned would be from government-owned stocks and only exported to CITES Secretariat-certified trading partners whose national legislation would preclude exportation of the ivory, and whose domestic trade controls



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A proposal by Botswana seeks approval for a one-off conditional sale of up to 40 tonnes of raw ivory to help meet the costs of elephant conservation, although the one-off sale of raw ivory approved for Botswana, Namibia and South Africa at CoP12 in 2002 has still not occurred.

demonstrate compliance with the requirements of *Resolution Conf. 10.10 (Rev. CoP12)*. The conditional one-off sale of raw ivory approved for Botswana, Namibia and South Africa at CoP12 in 2002 has not yet occurred (see section 9). Botswana has Africa's largest elephant population, up to 175 000 animals, and since 2002 a considerable volume of ivory has accumulated from natural and management-related mortalities. Botswana aims to sell this ivory to help meet the costs of elephant conservation, including support to rural communities affected by living close to large elephant populations.

(CoP14 Prop. 6) Kenya and Mali propose amending the annotations of all elephant populations in Appendix II to impose a 20-year moratorium on trade in ivory, with two exceptions: the one-off sale of registered stocks approved at CoP12 (see section 9), and Botswana, Namibia and South Africa—but not Zimbabwe—would be allowed to export raw ivory “*as hunting trophies for non-commercial purposes*” (see CoP14 Prop. 4). This proposal is similar to one submitted by Kenya at CoP13.

(CoP14 Prop. 7) Tanzania proposed transferring its elephant population from Appendix I to Appendix II, but has subsequently withdrawn the proposal.

3. What are the other CoP14 documents that propose to amend CITES Resolutions relating to African Elephants?

(CoP14 Doc. 53.4) Kenya and Mali have tabled a document on illegal ivory trade and control of internal markets, which advocates a series of amendments to *Resolution Conf 10.10 (Rev. CoP12)*. The most far-reaching of these would be the imposition of a 20-year moratorium on trade in ivory, with differing conditions for specific countries. For range States with elephant populations in Appendix I, proposals to transfer their populations to Appendix II would be prohibited during the 20-year period. For the four countries with elephant populations currently in Appendix II, trade in raw and worked ivory would be prohibited for 20 years, with the possible exceptions of the one-off sale of raw ivory agreed at CoP12 for the three designated countries (see section 9) and hunting trophies for non-commercial purposes. However, these proposed changes conflict with Article XV of the Convention which allows “*any Party*” to propose an amendment to Appendix I or II for consideration at, or between, meetings of the Conference of the Parties. The CITES community itself has no history of using such moratoriums as a feature in its deliberations, nor does the treaty contain such provisions.

Kenya and Mali also propose amending parts of *Resolution Conf 10.10 (Rev. CoP12)*, which would alter the current basis for assessing “*control of internal trade in ivory*”. Currently, all countries which allow domestic trade in ivory are required to register all importers, manufacturers, wholesalers and retailers dealing in raw, semi-worked or worked ivory products. They are also required to introduce “*recording and inspection procedures to enable the CITES Management Authority and other appropriate government agencies to monitor the flow of ivory within the State*”; to instigate “*compulsory trade controls over raw ivory*” and “*comprehensive and demonstrably effective reporting and enforcement system for worked ivory*”; and to disseminate public awareness materials, “*particularly in retail outlets, informing tourists and other non-nationals that they should not purchase ivory in cases where it is illegal for them to import it into their own home countries*”. These are the criteria the world's domestic ivory markets are currently measured against to judge whether they comply with CITES requirements. If adopted, the Kenya/Mali amendments would effectively restrict these requirements only “*to those Parties designated as ivory importing countries*”. Thus Kenya and Mali would effectively direct “*all Parties not designated as ivory importing countries*” to enact legislation prohibiting domestic sales of ivory and ivory products “*where necessary*” unless they were legally acquired. Finally, “*Parties whose elephant populations are listed in Appendix II*” would be required to establish computerized ivory stock management systems, but this requirement would not be an obligation for other elephant range States. Overall, this suggested revision appears to impose very specific and strict conditions on Parties that are designated ivory importing countries or whose elephant populations are in Appendix II, whilst all other Parties would be held to a different—and much lower—standard for domestic management and sales of “*legally acquired*” ivory. At CoP11 and CoP12, Kenya, together with India, unsuccessfully submitted amendment proposals to transfer all African Elephant populations back to Appendix I. At CoP13, Kenya also failed to secure a two-thirds majority vote in favour of a 20-year moratorium on ivory trade. This document will undoubtedly spark some heated debate.

4. How will proposals be dealt with at CoP14?

All elephant proposals are first considered in Committee I, then all decisions are finalized in a subsequent Plenary session. The three proposals to amend the Appendices concern African Elephant populations currently included in Appendix II; these (and all proposals) require a two-thirds majority vote for acceptance. Proposals to amend Appendices can be withdrawn or made more restrictive, but their scope can not be broadened. Requests to amend or adopt CITES Resolutions and Decisions also require a two-

thirds majority vote for adoption. Additional amendments to draft resolutions or decisions can be offered from the floor during formal discussion; in many cases, a working group is established at the CoP to try and reach consensus, particularly for complex resolutions and decisions.

5. Other agenda items concerning elephants at CoP14

Four other agenda items to be discussed relate directly to elephant conservation under the Convention. **(CoP14 Doc. 53.1) The CITES Secretariat** will provide an update on the implementation of *Decision 13.26* since its adoption at CoP13 to establish an “*action plan for the control of trade in African elephant ivory*” (see section 7). There will be reports on the two monitoring systems for elephants under CITES. **(CoP14 Doc. 53.2) TRAFFIC** will present its comprehensive analysis of the Elephant Trade Information System (ETIS) data, and **(CoP14 Doc. 53.3) the CITES Secretariat** will present an update on Monitoring the Illegal Killing of Elephants (MIKE). Finally, **(CoP14 Doc. 19.2) the CITES Secretariat** will present the communiqué of the seventh meeting of the African Elephant Range State Dialogue. This meeting takes place in the Hague, immediately prior to CoP14.

6. What are we learning from ETIS and MIKE and how do they work?

ETIS uses elephant product seizure records as a means to track current trends and assess underlying trade dynamics for illicit trade in ivory. Through *Resolution Conf. 10.10 (Rev. CoP12)*, all Parties are obliged to report such seizures to the CITES Secretariat within 90 days of their occurrence. Although this is not always the case, more countries are providing this information than ever before. ETIS presently comprises 12 378 ivory seizure records—the world’s largest collection of such data—spanning 1989–2006. Along with data on seizures, information is also gathered to track law enforcement effort and efficiency, rates of reporting, background economic variables, and the scale and degree of regulation in domestic ivory markets around the world. Managed by TRAFFIC, the ETIS database has been fully operational since CoP12 in 2002. Each Party is periodically provided with an ETIS Country Report, comprising summarized tables of all the data relating to the country in question.

At CoP14, the third major analysis of the ETIS data will be presented. This report will demonstrate that the trend in illicit trade in ivory is again increasing and that this trade continues to be statistically correlated with the presence of large, inadequately regulated domestic ivory markets. The study also shows that large-scale ivory seizures (of one tonne or more) are now occurring with greater frequency. This worrying development is attributed to the increasing involvement of Asian crime syndicates in the illicit trade in Africa. Cameroon, Democratic Republic of the Congo and Nigeria in Africa, and China and Thailand in Asia, continue to be the five countries most heavily implicated in the illegal trade.

MIKE tracks the illegal killing of elephants through a site-based monitoring programme in some 70 locations in 29 African Elephant and 12 Asian Elephant *Elephas maximus* range States. At each site, data on elephant numbers, illegal killings and other deaths, law enforcement effort and other factors are collected in a standardized way. The 55th meeting of the CITES Standing Committee (held just prior to CoP 14) will decide whether the information presented in SC55 Doc. 10.2 is sufficient to confirm the establishment of the baseline for MIKE data, against which subsequent assessments of patterns and trends of illegal killing can be made and presented at future CITES meetings. The CITES Secretariat recommends the Standing Committee accept the MIKE data as meeting the requirements of *Decision 12.33*. Prior to the development of MIKE, there was no centralized way to track elephant mortalities and feed this information into the CITES process. At the local level, MIKE has been a catalyst for capacity-building and national elephant conservation efforts. As MIKE develops, it should greatly improve our understanding of the status of elephants throughout their range, especially the degree to which they are being killed for the illicit trade in ivory.

MIKE and ETIS are invaluable assets for the CITES Parties in making the best decisions possible to support elephant conservation.

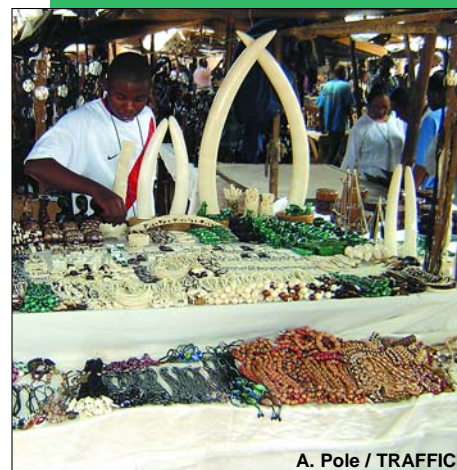
7. What is *Decision 13.26* and the CITES action plan for the control of illegal trade in African Elephant ivory?

The action plan pursuant to *Decision 13.26* is the key initiative under CITES to eradicate illicit trade in ivory within Africa and other markets around the world.

Under *Decision 13.26*, African Elephant range States are charged with demonstrating compliance with the requirements of *Resolution Conf. 10.10 (Rev. CoP14)* for internal trade in ivory. Legislation and law enforcement action to enforce such legislation is assessed. Countries which allow ivory markets to remain poorly regulated can be penalized with punitive sanctions under the Convention, including the suspension of all trade in CITES-listed specimens. Seventeen of the 37 African Elephant range States (Benin, Burkina Faso, Central African Republic, Chad, Congo, Equatorial Guinea, Eritrea,



Part of an illegal consignment of 2.5 tonnes of ivory seized by Taiwanese authorities in July 2006 at Kaohsiung harbour. The ivory was en route from Tanzania to the Philippines. Two days later, a further 3 tonnes were seized at the same port.



A. Pole / TRAFFIC

Unworked African Elephant tusks and ivory ornaments on sale at the Mercado do Artesanato, Benfica, Angola, in 2005.

Ghana, Guinea, Guinea-Bissau, Liberia, Mali, Niger, Nigeria, Somalia, Swaziland and Uganda) have still not submitted reports (initially due 31 March 2005) to the CITES Secretariat, and measuring progress in countries which have tabled reports is often difficult as their content remains unclear in terms of the state of compliance with requirements of *Resolution Conf. 10.10 (Rev. CoP14)* for internal trade in ivory.

Implementation of *Decision 13.26* has clearly been mixed. On the positive side, Ethiopia—identified in the ETIS analysis to CoP13 as one of the six countries most heavily implicated in illicit ivory trade—has dramatically cracked down on the trade. With assistance from TRAFFIC, WWF and the CITES Secretariat, the Ethiopian authorities convened a workshop to assess the problem, strengthened policies on ivory stock management and submitted a backlog of seizure data to ETIS. The most remarkable action, however, was an unprecedented raid on the domestic ivory market in Addis Ababa. In January 2005, 66 retail outlets selling ivory were simultaneously searched in an operation involving 262 law enforcement officers. Three months later, a comprehensive market survey found the number of ivory products for sale had dropped by 98%. Ethiopia is the best example of how a country can act decisively to implement *Decision 13.26*.

Conversely, in the ETIS report to CoP14, Cameroon, Democratic Republic of the Congo, Nigeria and Thailand are again identified as amongst the most problematic countries. Many other countries around the world continue to have unregulated domestic ivory markets. Further, the trend in illicit trade in ivory has been increasing since 2004, during the period when the CITES action plan was supposed to be implemented.

Clearly, the CITES action plan is having at best limited impact on the overall global trend in illegal ivory trade, and there is a need for more time, resources, and a workplan outlining the tasks required for its effective implementation. There also needs to be more collaboration between governments and the NGO community. Assessment of a country's compliance with specific provisions of *Resolution Conf. 10.10 (Rev. CoP12)* should become a feature of the action plan so there is a transparent and accountable process in place. Finally, there needs to be a process defining when it is appropriate to apply punitive sanctions. The type of scheme used to implement the CITES National Legislation Project should be explored.

8. Are other measures or initiatives needed to curtail the illegal trade in ivory?

The ETIS analysis to CoP14 demonstrates there is growing evidence of Asian-run ivory procurement, processing and shipping operations in Africa and that organized crime groups are increasingly playing a role in the illicit trade in ivory. This aspect of the illicit trade needs to be addressed through appropriate law enforcement actions and intelligence-led strategies. China, which is heavily implicated in the trade, has demonstrated considerable progress in addressing illegal ivory trade problems on the Chinese mainland. China's efforts now need to expand into a public awareness outreach programme directed at Chinese communities in Africa. China can also play an important role instigating collaborative law enforcement efforts with African and Asian law enforcement agencies.

9. What is the status of the one-off sale of raw ivory approved at CoP12 in 2002?

At CoP12, Botswana, Namibia and South Africa—but not Zimbabwe—were given approval for a conditional one-off sale of 60 tonnes of raw ivory. The agreed conditions restrict the origin, size and volume of the ivory, the acceptability of potential trading partners, the timing of the sale, and other aspects. The conditions also prescribe how the ivory can be dispatched, how income from the sale is distributed, and what the precise roles of the CITES Secretariat and Standing Committee are in the verification and approval processes.

Four-and-a-half years since the CITES Parties made this decision, the sale has still not taken place, because two of the external conditions have yet to be confirmed by the Standing Committee as satisfied. Firstly, the process to designate an ivory trading partner with sufficient national legislation and domestic trade controls to prevent re-exportation and to ensure compliance with the requirements for internal trade in ivory specified in *Resolution Conf. 10.10 (Rev. CoP12)* has taken considerable time. Both China and Japan asked to be assessed for this purpose by a CITES mission in March 2005, and Japan was given tentative approval at the 54th meeting of the Standing Committee in October 2006. Secondly, the Standing Committee has not confirmed whether the MIKE programme now has sufficient information to define its baseline data, another condition for the sale. The 49th meeting of the Standing Committee adopted *Decision 12.33* concerning a definition of this baseline. It specifies the baseline has to cover at least 45 sites in Africa and 18 in Asia, should include at least one population survey prior to 2000, needs at least 12 months' data from Africa and 6 months data' from Asia on law enforcement, monitoring and carcass data, and a description of influencing patterns and factors. Also needed are an assessment of the effort made in providing the illegal killing information and a preliminary analysis. If the MIKE baseline is confirmed by the forthcoming 55th meeting of the Standing Committee, the one-off sale is likely to be given the go ahead to take place.

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