

## Guidance to Parties developing and implementing National Ivory Action Plans (NIAPs)

1. The Standing Committee at its 70th meeting (SC70, Rosa Khutor, Sochi, October 2018), concluded that the actions agreed by participants in the meeting of representatives of Parties concerned with the development and implementation of NIAPs,<sup>1</sup> could provide valuable guidance to Parties included in the NIAP process, in developing and implementing their NIAPs.
2. The Standing Committee encourages Parties included in the NIAP process, to in accordance with the provisions of Recommendation u) on the *National ivory action plans process* agreed at SC70,<sup>2</sup> draw upon the actions on *Legislation and regulations; National level enforcement action and inter-agency collaboration; International and regional enforcement collaboration; Outreach, public awareness and education; and Resource mobilization*, presented under headings 1 through 5 below, when developing and implementing their NIAPs..

### 1. Legislation and regulations

- a) National legislation and regulations should address wildlife crime as a serious crime and make provision for strong deterrent penalties. This is important for all Parties, and in particular relevant for NIAP- Parties.
- b) National legislation and regulations should be reviewed regularly, to ensure that it effectively responds to the nature of the threat posed by wildlife crime.
- c) NIAP Parties should be encouraged to, where not yet done, review and update legislation and regulations in accordance with paragraph 13 e), f) and g) of Resolution Conf. 11.3 (Rev. CoP17) on *Compliance and enforcement*.<sup>3</sup>
- d) It is essential that national legislation enable the use of Mutual Legal Assistance treaties in support of investigations into wildlife crime, including to address ivory trafficking.
- e) Good legislation is essential, but it can only have the desired impact if effectively implemented. It is essential that all national agencies responsible for wildlife law enforcement be familiar with legislative provisions and actively pursue their application.
- f) Legislation should, as far as reasonably possible, be harmonized at regional level, taking into consideration paragraph 13 e), f) and g) and h) of Resolution Conf. 11.3 (Rev. CoP17) on *Compliance and enforcement*.
- g) Sentencing guidelines for wildlife crimes can be a valuable tool in supporting Parties to combat wildlife crime and bringing the criminals involved to justice. Such guidelines must however be developed in a manner that will facilitate easy use by authorities. Sentencing guidelines developed by the United Nations Office on Drugs and Crime (UNODC) for a number of Parties have been successfully launched, and NIAP-Parties should be encouraged to reach out to UNODC for support in developing such guidelines.
- h) To facilitate the effective implementation of legislation and regulations, penalties that could be imposed must be proportionate to the seriousness of the crime. This was exemplified by the experience shared by a NIAP-Party whose legislation included life imprisonment as a penalty for illegal ivory possession or trade in ivory. The courts had great difficulty in applying this legislation in some cases, since some

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<sup>1</sup> <https://cites.org/sites/default/files/eng/com/sc/70/Inf/E-SC70-Inf-20.pdf>

<sup>2</sup> <https://cites.org/sites/default/files/eng/com/sc/70/exsum/E-SC70-Sum-02-R1.pdf>

<sup>3</sup> <https://www.cites.org/sites/default/files/document/E-Res-11-03-R17A.pdf>

offences were one-off offences involving for example a single ivory tusk or only a few pieces of worked ivory. To resolve this matter, that Party made legislative and regulatory amendments to introduce categorization of offences and penalties, thus ensuring that the penalties would be proportionate to the crime committed. Through categorization, penalties could escalate in accordance with the seriousness of the crime.

- i) As recommended in Resolution Conf. 11.3 (Rev. CoP17) on *Compliance and enforcement*, paragraph 13 h), offenders involved in ivory trafficking, in particular those identified as members of organized crime groups, should, whenever possible, be prosecuted under a combination of relevant legislation (anti-money laundering, anti-corruption, etc.) carrying appropriate penalties, and acting as effective deterrents.

## 2. National level enforcement action and inter-agency collaboration

- a) Parties significantly affected by illegal trade in wildlife, including elephant poaching and illegal trade in ivory, should consider establishing specialized wildlife law enforcement units, including dedicated wildlife crime investigators and prosecutors, taking into consideration the *Guidance for specialized wildlife law enforcement units* in Annex 3 to Resolution Conf. 11.3 (Rev. CoP17) on *Compliance and enforcement*.
- b) NIAP-Parties should make every effort to further enhance communication among national agencies responsible for wildlife law enforcement, including by formalizing collaboration between customs, police and CITES Management Authorities, and with a particular focus on the provisions of paragraph 9 b) of Resolution Conf. 11.3 (Rev. CoP17) on *Compliance and enforcement*.
- c) The collection of samples from seizures for forensic analyses should be institutionalized as part of the evidence gathering process towards prosecution and successful conviction, by putting in place a national protocol that will facilitate the collection of samples in accordance with recognized procedures and relevant legislation regulating the exchange of such specimens. This should be done with a particular focus on paragraphs 22 and 24 of Resolution Conf. 10.10 (Rev. CoP17) on *Trade in elephant specimens*<sup>4</sup> and paragraphs 1 f) and 1 g) in Resolution Conf. 9.14 (Rev. CoP17) on *Conservation of and trade in African and Asian rhinoceroses*.<sup>5 6</sup>
- d) The development of an ivory fingerprinting kit<sup>7</sup> presents excellent opportunities to further expand the use of fingerprinting to address illegal trade in ivory. NIAP-Parties are encouraged to use these fingerprinting kits and, where electronic fingerprint databases do not yet exist, pursue the establishment of such databases, which should ideally be compatible with INTERPOL standards<sup>8</sup> to enable efficient information exchange and analysis, at the international level.
- e) Parties should seek to develop Standard Operating Procedures (SOPs) for the management of wildlife crime scenes, including crime scenes involving ivory seizures, in order to facilitate the preservation, collection and best handling of evidence.
- f) Parties affected by ivory trafficking should make every effort to enhance the capacity of agencies responsible for wildlife law enforcement to identify specimens of elephant ivory, including worked ivory, through training and the implementation of paragraph 13 q) of Resolution Conf. 11.3 (Rev. CoP17) on *Compliance and enforcement*.

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<sup>4</sup> <https://cites.org/sites/default/files/document/E-Res-10-10-R17.pdf>

<sup>5</sup> <https://cites.org/sites/default/files/document/E-Res-09-14-R17.pdf>

<sup>6</sup> A reference to the resolution on rhinoceroses is included because two NIAP Parties have been requested to develop and implement a National Ivory and Rhinoceros Action Plan (NIRAP).

<sup>7</sup> <http://news.met.police.uk/news/met-forensics-specialist-awarded-for-ivory-fingerprinting-kit-268299>

<sup>8</sup> <https://www.interpol.int/INTERPOL-expertise/Forensics/Fingerprints>

- g) NIAP-Parties should endeavor to establish and formalize collaboration with private sector partners and civil society organizations, including through the implementation of paragraph 9 a) of Resolution Conf. 11.3 (Rev. CoP17) on *Compliance and enforcement*.
- h) All Parties in whose jurisdiction there is a legal domestic market for ivory that is contributing to poaching or illegal trade, should take urgent measures to fully implement paragraphs 3, 4 and 5 of Resolution Conf. 10.10 (Rev. CoP17) on *Trade in elephant specimens*, and report on this implementation to the Secretariat, pursuant to paragraph 8 of Resolution Conf. 10.10 (Rev. CoP17).
- i) When legal domestic markets for ivory are closed, alternative livelihoods should be considered for those directly affected by the closure of such markets.
- j) The provisions of paragraph 6 of Resolution Conf. 10.10 (Rev. CoP17) on *Trade in elephant specimens* must be strictly implemented by all Parties in whose jurisdiction there is a legal domestic market for ivory.
- k) Theft of ivory from stockpiles continues to be a concern. The establishment of effective stockpile management systems, including electronic systems, to improve stockpile management and capture all data on ivory stockpiles in a secure national database, should be encouraged.
- l) All Parties should strictly implement paragraph 2 of Resolution Conf. 10.10 (Rev. CoP17) on *Trade in elephant specimens*, regarding marking of ivory, and Resolution Conf. 17.8 on *Disposal of illegally traded and confiscated specimens of CITES-listed species*.<sup>9</sup> The marking of ivory in accordance with Resolution Conf. 10.10 (Rev. CoP17) should be complemented by also recording the origin or source of the ivory, and by taking photographs of the ivory.
- m) Costs associated with the inventory and storage of confiscated ivory poses a significant challenge to some Parties, and opportunities to provide support to such Parties should be actively explored.
- n) Agencies responsible for wildlife law enforcement should make every effort to establish the closest working relationship possible with prosecution authorities, including engaging prosecutors in the investigation and case management processes, where appropriate.
- o) Countries have different levels of capacity. To ensure that limited resources are deployed in the best manner possible, a thorough assessment of needs should be conducted before investing in remedial action. The *ICCWC Wildlife and Forest Crime Analytic Toolkit* and the *ICCWC Indicator Framework for Wildlife and Forest Crime* are important tools that could be mobilized in this regard. Parties are encouraged to make use of these tools, as recommended in paragraph 13 i) of Resolution Conf. 11.3 (Rev. CoP17) on *Compliance and enforcement*.
- p) NIAP-Parties are encouraged to engage with universities and academia to conduct analytical research on elephant poaching or illegal trade in ivory, as applicable to the Party, in support of the development of appropriate law enforcement and related responses.
- q) NIAP-Parties are encouraged to, where not yet in place, establish informer networks and implement informer incentive schemes, with a particular focus on addressing elephant poaching and illegal ivory trade, taking into consideration paragraph 13 b) of Resolution Conf. 11.3 (Rev. CoP17) on *Compliance and enforcement*.
- r) NIAP-Parties are encouraged to draw upon the media to showcase results of law enforcement work, including highlighting the conservation status of elephants and the impact of elephant poaching and illegal trade in ivory on the species.

### 3. International and regional enforcement collaboration

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<sup>9</sup> <https://cites.org/sites/default/files/document/E-Res-17-08.pdf>

- a) There is a need to prioritize and increase the use of Mutual Legal Assistance treaties to combat illegal trade in ivory, including by mobilizing the tools available through the United Nations Convention against Corruption (UNCAC), the UN Convention against Transnational Organized Crime (UNTOC), and regional agreements.
- b) Some countries experience a lack of response when sending formal requests for Mutual Legal Assistance to other countries. There is a need to better understand the reasons for this lack of reply in some cases. UNODC is encouraged to examine such cases with the aim of identifying solutions that will facilitate prompt replies and effective use of this tool to address illegal trade in wildlife, including ivory trafficking.
- c) Parties affected by ivory trafficking should make every effort to draw upon existing platforms and organizations to leverage expert support from INTERPOL, the World Customs Organization, and other specialists, including members of civil society organizations and private sector partners. This could for example be done by actively implementing paragraph 9 i) of Resolution Conf. 11.3 (Rev. CoP17) on *Compliance and enforcement*, and by using WCO's ENVIRONET,<sup>10</sup> as well as CENcomm, where closed user groups can be created, and where specialists could be invited to participate in those groups for technical matters.<sup>11</sup>
- d) The sharing of information and intelligence between and among source, transit and destination countries is essential in the fight against ivory trafficking. The full and effective implementation of paragraph 13 j) of Resolution Conf. 11.3 (Rev. CoP17) on *Compliance and enforcement*, and paragraph 23 of Resolution Conf. 10.10 (Rev. CoP17) on *Trade in elephant specimens*, should be actively pursued by all NIAP-Parties, including for the purpose of further strengthening country specific risk profiles and indicators to address ivory trafficking.
- e) Parties affected by ivory trafficking should where appropriate, create partnerships with civil society organizations, transport companies, air and sea carriers, and others such as the signatories to the United For Wildlife Transport Task Force Buckingham Palace Declaration,<sup>12</sup> to support the disruption of illegal trade in wildlife, including transport routes used for ivory trafficking, and to strengthen the implementation of the provisions of paragraph 13.l) in Resolution Conf. 11.3 (Rev. CoP17) on *Compliance and enforcement*.

#### 4. Outreach, public awareness and education

- a) Continuous efforts to raise awareness about the devastating economic, social and environmental impacts of wildlife crime at the highest political levels are needed. Political support is essential in addressing wildlife crime and facilitates the implementation of Resolutions, Decisions and recommendations adopted by CITES governing bodies. The effective overall implementation of these Resolutions, Decisions and recommendations will have a direct impact on successfully tackling wildlife crime, including illegal trade in ivory.
- b) Parties subject to the NIAP process should actively engage in public awareness campaigns, drawing attention to existing or new regulations concerning the sale, purchase and possession of ivory, and implementing Resolution Conf. 17.4 on *Demand reduction strategies to combat illegal trade in CITES-listed species*.<sup>13</sup>
- c) Youth engagement and raising awareness among the youth about the serious nature of wildlife crime, including the poaching of elephants and illegal trade in ivory, is in particular important for NIAP-Parties, including by pursuing the implementation of Resolution Conf. 17.5 on *Youth engagement*.<sup>14</sup>

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<sup>10</sup> <https://www.cites.org/sites/default/files/notif/E-Notif-2015-039.pdf>

<sup>11</sup> See for example the following URL: <https://www.cites.org/sites/default/files/notif/E-Notif-2018-046.pdf>

<sup>12</sup> [https://www.cites.org/eng/news/pr/transport\\_sector\\_steps\\_up\\_to\\_fight\\_illicit\\_wildlife\\_trafficking\\_14032016](https://www.cites.org/eng/news/pr/transport_sector_steps_up_to_fight_illicit_wildlife_trafficking_14032016)

<sup>13</sup> <https://cites.org/sites/default/files/document/E-Res-17-04.pdf>

<sup>14</sup> <https://cites.org/sites/default/files/document/E-Res-17-05.pdf>

## 5. Resource mobilization

- a) NIAP-Parties should make every effort to mainstream NIAP implementation in national budgeting processes.
- b) NIAP-Parties should actively raise awareness among decision and policy makers for budget allocation, to ensure that they are aware of and understand the serious threat posed by elephant poaching and illegal trade in ivory, and the importance of NIAP implementation.
- c) NIAP-Parties should make deliberate efforts to identify priority NIAP actions that could benefit from donor and development community support, and take steps to proactively communicate and present these needs to potential donors and the development community.
- d) Donors and the development community are encouraged to, for Parties subject to the NIAP process, align the mobilization of resources with the priorities identified in NIAPs and Resolution Conf. 10.10 (Rev. CoP17) on *Trade in elephant specimens*.
- e) Donor agencies and the development community should communicate in a timely manner to eligible Parties, information about funding opportunities that may arise, providing detailed information about the amount of funding available, funding priorities and the activities that could be addressed through it, and what is required from any eligible Party to enable it to access the funding.
- f) Where funding or technical support is offered, it often comes from different entities and sources, and donor agencies and development partners are encouraged to engage and collaborate closely with the government of the Party concerned to identify, plan and agree priorities. If not, it often leads to duplication and could place a burden on limited national resources, with different donor agencies and development partners offering the same type of support to the same authorities multiple times and often in different ways. The government of the Party concerned has an important role in coordinating and managing support to avoid duplication.
- g) African elephant range States that are subject to the NIAP process are encouraged to, as much as possible align, their NIAPs to the implementation of the African Elephant Action Plan.<sup>15</sup>

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<sup>15</sup> <https://www.cites.org/sites/default/files/common/cop/15/inf/E15j-68.pdf>