

CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES  
OF WILD FAUNA AND FLORA



Nineteenth meeting of the Conference of the Parties  
Panama City (Panama), 14 – 25 November 2022

Species specific matters

Elephants (Elephantidae spp.)

Ivory stockpiles

ESTABLISHING A FUND ACCESSIBLE TO RANGE STATES  
UPON NON-COMMERCIAL DISPOSAL OF IVORY STOCKPILES

1. This document has been submitted by Kenya.\*

Summary

2. The present document proposes to establish an intersessional working group to explore the idea of establishing a fund that elephant range States can access upon the non-commercial disposal of ivory stockpiles as a way of avoiding the resumption of any commercial ivory sales or buyouts while also providing much needed funding for elephant range States to support conservation initiatives and support human elephant coexistence. Decision text is provided to establish an intersessional Working Group to consider this alternative along with the terms and criteria presented, and to create a Working Document for the next Conference of the Parties. The Mandate for the Working Group is included in Annex 1.

Introduction

3. The Covid-19 pandemic has taken a heavy toll on public budgets with negative consequences for environmental and conservation funding including for elephants. The worst recession in 50 years left many African economies on the brink of debt default while the continent in general faces a future of increasing economic hardship, escalating risks of food insecurity, and macroeconomic instability. Many countries in Asia, including those that provide habitat for Asian elephants, face similar situations. At the same time, there is a growing recognition and pressing need for ramped up funding from developed countries to help developing countries and marginalized communities mitigate biodiversity loss.
4. Existing economic circumstances have prompted recent calls for ivory sales or buyouts and this document offers an alternative.
5. In 1989, the legal commercial ivory trade was halted as a result of a proposal adopted at the seventh meeting of the CITES Conference of the Parties (CoP7). The adoption of that proposal had the effect of greatly reducing elephant poaching for ivory.<sup>1</sup> That effect was short lived, however, as CITES Parties authorized the

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\* The geographical designations employed in this document do not imply the expression of any opinion whatsoever on the part of the CITES Secretariat (or the United Nations Environment Programme) concerning the legal status of any country, territory, or area, or concerning the delimitation of its frontiers or boundaries. The responsibility for the contents of the document rests exclusively with its author.

<sup>1</sup> ASSESSMENT, A.R.R., ELEPHANTS IN THE DUST.  
<http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.662.8355&rep=rep1&type=pdf>

one-off sales of elephant ivory, which took place in 1999 and 2008.<sup>2</sup> These sales did not displace the illegal supply, but on the contrary resulted in a significant increase in elephant poaching, most dramatically after the 2008 sale which triggered an escalation of poaching and illegal trade in ivory, the impacts of which are still being experienced today.<sup>3</sup>

6. Due in part to continued demand for ivory, elephants are threatened with extinction. Savannah elephants (*Loxodonta africana*) were recently recognized as Endangered by the African Elephant Specialist Group (AfESG) and listed as such on IUCN's Red List.<sup>4</sup> Forest elephants (*Loxodonta cyclotis*) are considered to be Critically Endangered by the African Elephant Specialist Group (AfESG) and listed as such on IUCN's Red List.<sup>5</sup> Asian elephants (*Elephas maximus*) are considered to be Endangered by the Asian Elephant Specialist Group (AsESG) and listed as such on IUCN's Red List.<sup>6</sup>
7. The existence of ivory stockpiles provides poachers, traders, speculators, and consumers with a reason to believe that global ivory trade may be restored.<sup>7</sup> This, in turn, maintains or expands commercial demand for ivory products, increasing the pressure on elephant populations. The calls in 2022 for ivory sales or buyouts coupled with the holding of ivory stockpiles has consequences for elephants. It signals that ivory has potential future value and that ivory trade could be legalized, stimulating the acquisition of ivory through poaching and leaks of stocks. Given current economic circumstances such signals are particularly worrying for elephants.
8. At the same time, ivory prices are reportedly low, below even 2010 levels according to UNODC.<sup>8</sup> This brings down the value of ivory stockpiles at a time when some countries are looking to their stocks to generate much needed funds. While there are many theories for current ivory prices, the closure of many domestic ivory markets globally is a likely contributing factor that may signal the value of ivory stockpiles may not rebound. Nevertheless, maintaining ivory stockpiles is expensive and risks ivory leaking onto the black market.<sup>9</sup> The continued maintenance of these stocks can divert resources from elephant conservation and enforcement work including anti-poaching efforts.
9. This document proposes an alternative to sales or buyouts that commercialize ivory. It presents an alternative that delinks ivory from funding so there is no one-to-one tie between the amount of ivory destroyed and the funds received. Rather the funds would be accessed upon the complete destruction of government controlled ivory stocks based upon criteria related to elephant conservation and needs to address human-elephant conflict and promote co-existence.

#### The Case for Using Non-Commercial Disposal of Ivory Stockpiles as a Means to Access Funding

10. Disposing of ivory stocks through non-commercial means has taken place in many Asian and African elephant range States as well as in transit and consumer countries.<sup>10</sup> Such disposal is typically tied to public education events.
11. Non-commercial disposal means ensuring that ivory is put beyond commercial use. Non-commercial disposal encompasses both the destruction of ivory as well as the assurance that any remaining residue, powder, or other ivory specimens are not used commercially.

<sup>2</sup> Hsiang, S. and Sekar, N., 2016. Does legalization reduce black market activity? Evidence from a global ivory experiment and elephant poaching data (No. w22314). National Bureau of Economic Research; CITES CoP17 Inf. Doc 96 Evidence Should be Used in Global Management of Endangered Species: A Reply to the CITES Technical Advisory Group.

<sup>3</sup> <https://www.science.org/content/article/poaching-drives-overall-elephant-decline-africa>; Hsiang, S. & Sekar, N. (2016) Does Legalization Reduce Black Market Activity? Evidence from a Global Ivory Experiment and Elephant Poaching Data. NBER Working Paper Working Paper 22314, National Bureau of Economic Research, Cambridge, MA. <http://www.nber.org/papers/w22314>; CoP17 Inf. 96. Evidence should be used in global management of endangered species: A reply to the CITES Technical Advisory Group. Document submitted by Kenya on behalf of the African Elephant Coalition to the Seventeenth meeting of the Conference of the Parties Johannesburg (South Africa), 24 September – 5 October 2016.

<sup>4</sup> <https://www.iucnredlist.org/species/181008073/204401095>.

<sup>5</sup> <https://www.iucnredlist.org/species/181007989/204404464>.

<sup>6</sup> <https://www.iucnredlist.org/species/7140/45818198>.

<sup>7</sup> Nadal, A., & Aguayo, F. (2016). Use or destruction: on the economics of ivory stockpiles. *Pachyderm*, 57, 57-67. Available at: <https://pachydermjournal.org/index.php/pachyderm/article/download/391/394>.

<sup>8</sup> UNODC, 2016. World wildlife crime report: Trafficking in protected species.

<sup>9</sup> Milliken & Compton, 2021. Ensuring Effective Stockpile Management: A Guidance Document.

<sup>10</sup> CoP18 Doc. 69.4 ivory stockpiles: Implementation of Resolution Conf. 10.10 (Rev. CoP17) on Trade in Elephant Specimens, Table 1.

12. Commercial use of stockpiles is particularly an issue with regard to confiscated and seized items. In Resolution Conf. 17.8 on *Disposal of illegally traded and confiscated specimens of CITES-listed species* it is recommended that Parties dispose of Appendix I specimens only “for *bona fide* scientific, educational, enforcement or identification purposes, and save in storage or destroy specimens whose disposal for these purposes is not practicable.” For Appendix II specimens, it is recommended that they be disposed of “in the best manner possible to achieve the purposes of the Convention” ensuring the offender does not gain financially and the “disposal does not stimulate further illegal trade.” Thus, the concept of putting seized or confiscated ivory beyond commercial use has been recommended for both Appendix I and Appendix II specimens. This policy also reflects the practice of many CITES Parties of not supporting or permitting the sale of any seized or confiscated CITES specimens.
13. The proposal set out in this Working Document of requiring non-commercial disposal of ivory stocks in exchange for access to funding is a different mechanism from those previously considered by the CITES Parties. The idea is to delink the access to funding from stockpile quantities. This will disincentivize the commercial acquisition of ivory and reduce its monetary value, while enabling elephant range States to reduce the disadvantage of foregone income (i.e., the “lost opportunity” of selling the stocks) by accessing the fund. Setting up a program to allocate critical resources to range States subject to binding terms that are, ensure that neither existing low ivory prices nor previous destruction events penalize elephant range States wishing to access the fund.
14. The advantages of this alternative are many. Non-commercial disposal is compatible with the current CITES regulatory framework and does not require a proposal for a sale or buyout to be approved by CITES Parties. Given the lack of support for such proposals at the previous two Conferences of the Parties, this alternative offers a means for range States to benefit from their ivory stocks, but only upon their destruction. In light of global closures of domestic ivory markets,<sup>11</sup> the idea of a fund also means there is no need to find a buyer among the few remaining legal domestic ivory markets. Finally, a fund with periodic capital replenishments can offer resources on a more predictable and permanent basis.
15. Stockpile disposal eliminates the costs and security risks that are associated with stockpile inventory and management. Theft of ivory from stockpiles is an on-going problem with one third of known stockpiles having decreased due to illegal leakage.<sup>12</sup> Non-commercial disposal prevents ivory from entering commercial trade and stimulating illegal trade while reinforcing integral conservation policy and the current institutional framework to de-commodify ivory.
16. Such an alternative could offer longer-term and more substantial financial support to range States depending upon interest in the fund and how the program is established.

#### Fund Terms

17. In order to access the fund proposed, a set of terms would need to be agreed to by range States and overseen by a Steering Committee or other governing body of the fund. These terms would include:
  - a) Disposal must prevent any form of commercialization and include the destruction of all government-controlled ivory stocks and assurance that ivory dust, pieces, or other specimens will not be used commercially.<sup>13</sup>
  - b) Disposal can only take place after completion of a stockpile inventory, a declaration of the inventory is provided to the CITES Secretariat, and an assurance that the ivory is no longer needed for law enforcement purposes.<sup>14</sup>

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<sup>11</sup> CoP18 Doc. 69.5 on *Implementing Aspects of Resolution Conf. 10.10 (Rev. CoP17) on the Closure of Domestic Ivory Markets at paragraphs 16-27*; SC74 Inf. 18 *Supplemental information on the closure of domestic ivory markets at paragraph 7*

<sup>12</sup> <https://globalinitiative.net/wp-content/uploads/2021/08/Illegal-Wildlife-Trade-Elephant-Ivory.v4-web.pdf>; Milliken. 2010. “Report on the results of the Elephant and Ivory Trade Questionnaire pursuant to Decision 13.26 (Rev. CoP14) on the Action plan for the control of trade in elephant ivory”; UNODC, 2016. *World wildlife crime report: Trafficking in protected species*.

<sup>13</sup> *Range States seeking to access the fund should be encouraged to take into account Practical guidance for the management of ivory stockpiles, including their disposal developed under the Standing Committee and agreed at CoP19, SC74 Doc. 61.1 Annexes 1 and 2.*

<sup>14</sup> *Ibid.*

- c) Testing of ivory stock in line with CITES' recommendations regarding the traceability of elephant specimens in trade, including those in paragraphs 22 to 26 of Resolution Conf. 10.10 (Rev. CoP18), is needed before ivory disposal can occur.
  - d) A declaration of disposal that is independently verified will be required to access the fund and must be provided to the Steering Committee or other governing body established for the fund as well as the CITES Secretariat.
  - e) Agreement that newly obtained ivory (e.g., from natural mortalities, human-wildlife conflict, and/or seizures or confiscations) is not introduced into commercial markets in the future but is destroyed once it has served as evidence, been tested, or is otherwise no longer needed for law enforcement purposes.
  - f) Written assurances about the uses for the funds must be provided to a Steering Committee or other governing body established for the fund. The funding would require range States to specify how the proceeds would benefit elephant conservation in their country and Indigenous Peoples and Local Communities living with elephants. To ensure accountability and transparency and the direction of funds to elephant conservation and communities living with elephants, funding should be broken down into several payments and disbursement, reporting and verification of their use overseen by the Steering Committee or other governing body.
  - g) Agreement to prohibit the international commercial trade in elephant ivory through, sending a definitive global message that devalues ivory for human uses.
18. These terms are consistent with CITES' current policy framework on international ivory trade and are consistent with a precautionary approach to elephant conservation.

#### Fund Establishment and Dispersal

19. The funding mechanism could be based upon the concept of the African Elephant Fund set up to implement the African Elephant Action Plan but on a much larger scale and accessible to all elephant range States, not just those in Africa. The African Elephant Fund uses a point-based system to prioritize how funds are allocated and a similar concept could be utilized here.
20. To generate funds, resources could be sought from the Global Environment Facility (GEF). GEF funds have provided important funding for conservation of threatened species. Between 2014 and 2018, the sixth replenishment of the Fund (GEF-6) channeled approximately USD 80 million to its Program 3: Preventing the Extinction of Known Threatened Species, attracting another USD 300 million in co-financing.<sup>15</sup> GEF funding has been to date, however, insufficient in meeting elephant and other biodiversity conservation efforts. To become a serious option, GEF funds would need to be scaled-up considerably. Other multilateral funding mechanisms can be explored as an alternative to or to complement the GEF. These mechanisms could include Debt-for-Nature Swaps, which are designed to financially relieve low-income, indebted countries through either the forgiveness of debt, or refinancing at a discount, in exchange for committing resources to agreed environmental conservation efforts. The allocation of Special Drawing Rights by the International Monetary Fund could provide financial liquidity to enable ivory stockpile destruction and elephant conservation, in a similar fashion as it did to relieve countries from the COVID-19 crisis. Additionally, many countries globally have funding mechanisms to address species-specific conservation needs, combat wildlife trafficking, and facilitate biodiversity protection. These funding mechanisms could be explored to determine if they could be potential funding sources for this initiative, along with private donors and other non-governmental sources. CITES Parties have previously supported such funds as well,<sup>16</sup> although the scale of resources needed may require a combination of funding streams.
21. Criteria for dispersing funding would be based upon the need for funding for:
- a) Habitat assessments and elephant population surveying and monitoring work or support for such efforts.

<sup>15</sup> The program was focused on a set of African Sub-Saharan and Asian countries and was aimed at: a) strengthening national legislation, institutions, and law enforcement to reduce poaching; (b) strengthening science-based wildlife monitoring, education and awareness; and (c) reducing demand for illegal wildlife products.

<sup>16</sup> For example, the EU provided funding to aid in implementation of the shark and ray CITES listings. <https://cites.org/eng/prog/shark/projects.php>, and several CITES Parties support the ICCWC Strategic Programme. <https://cites.org/eng/prog/iccwc/donors.php>

- b) Elephant management planning.
  - c) Anti-poaching and enforcement work.<sup>17</sup>
  - d) Creation or expansion of protected areas that benefit elephants.
  - e) Transboundary conservation and collaboration.
  - f) Human-elephant conflict resolution and promotion of co-existence.
  - g) Alternative livelihoods efforts.
  - h) Training and capacity-building.
22. The current system of stockpiling ivory and periodically calling for sales or buyouts should change. We hope the alternative outlined in this document will present another way forward.

#### Recommendations

23. In order to consider an alternative to stockpiling ivory and contemplating sales or buyouts, the Conference of the Parties agrees to establish a working group at the 76th meeting of the Standing Committee (SC76) to further develop the terms and conditions for establishing a fund for elephant range States to access upon the non-commercial disposal of their ivory stockpiles and to support conservation efforts.
24. The Conference of the Parties is further requested to adopt the following draft Decisions to establish this intersessional work:

#### ***Directed to Parties***

- 19.AA** Parties are urged to join the intersessional Working Group and share ideas for alternative funding mechanisms whereby funds can be accessed on agreement to terms including non-commercial disposal of ivory and dispersed on the basis of criteria unrelated to ivory volumes.

#### ***Directed to the Secretariat***

- 19.BB** The Secretariat shall support the intersessional Working Group as requested.

#### ***Directed to the Standing Committee***

- 19.CC**
- a) At its 76th meeting (SC76), the Standing Committee shall establish an intersessional Working Group to consider the funding mechanisms, criteria, and terms presented in document CoP19 Doc. 66.2.2. The Working Group shall operate under the mandate provided in Annex 1 and the Working Group Chair shall be identified by the Committee during SC76.
  - b) The Chair of the Working Group shall convene the initial meeting of its members as soon as practicable after SC76 with the intent of submitting a report to the 77th meeting of the Standing Committee (SC77) on the discussions in the working group regarding the: terms for the fund, the funding mechanisms, criteria for dispersing funds, and the level of interest in contributing to the fund. The Chair should highlight whether any input is needed from the Standing Committee.
  - c) The Standing Committee at its 77th meeting shall consider the report of the intersessional Working Group on non-commercial disposal of ivory stocks and provide any required input.
  - d) Following SC77, the Chair with assistance from the Working Group shall draft a working document for consideration by the 20th meeting of the Conference of the Parties (CoP20), which would establish a fund for elephant range States to access upon non-commercial disposal of their ivory stocks based on the terms and criteria presented in document CoP19 Doc. 66.2.2, paragraphs 17

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<sup>17</sup> These terms could use the NIAP guidance as a basis: [https://cites.org/sites/default/files/common/prog/niaps/E-Maputo\\_recommended\\_actions\\_2020.pdf](https://cites.org/sites/default/files/common/prog/niaps/E-Maputo_recommended_actions_2020.pdf)

and 21, and elaborated upon in the Working Group. The draft working document shall be submitted to the 78th meeting of the Standing Committee (SC78).

- e) The Standing Committee at its 78th meeting shall review the draft working document and approve final text for submission to CoP20.

***Directed to Parties, intergovernmental and non-governmental organizations***

- 19.DD** Parties, intergovernmental and non-governmental organizations are encouraged to support the fund established.

## WORKING GROUP MANDATE

- a) Consider the proposal discussed in document CoP19 Doc. 66.2.2 to establish a fund for elephant range States to access only upon the non-commercial disposal of all of their government-controlled ivory stockpiles.
- b) Examine the terms for the fund discussed in paragraph 17 of document CoP19 Doc. 66.2.2, consider whether any additional terms are needed, and present a set of terms to SC77.
- c) Consider the funding mechanism and options for generating funds discussed in document CoP19 Doc. 66.2.2, discuss any further funding options that delink ivory quantities from funds received, and present the options to SC77.
- d) Reflect on the criteria discussed in paragraph 21 of CoP19 Doc. 66.2.2 for dispersing funds, as well as any additional criteria, and present a set of criteria to SC77.
- e) Following the discussion at SC77, draft a working document for approval at SC78 for submission to CoP20 to establish the fund.

TENTATIVE BUDGET AND SOURCE OF FUNDING  
FOR THE IMPLEMENTATION OF DRAFT RESOLUTIONS OR DECISIONS

According to Resolution Conf. 4.6 (Rev. CoP18) on *Submission of draft resolutions, draft decisions and other documents for meetings of the Conference of the Parties*, the Conference of the Parties decided that any draft resolutions or decisions submitted for consideration at a meeting of the Conference of the Parties that have budgetary and workload implications for the Secretariat or permanent committees must contain or be accompanied by a budget for the work involved and an indication of the source of funding. The Secretariat proposes the following tentative budget and source of funding.