

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.)

IMPLEMENTING ASPECTS OF RESOLUTION CONF. 10.10 (REV. COP18)
ON THE CLOSURE OF DOMESTIC IVORY MARKETS

1. This document has been submitted by Benin, Burkina Faso, Equatorial Guinea, Ethiopia, Gabon, Liberia, Niger, Senegal and Togo.¹

Summary

2. This document supports the implementation of Resolution Conf. 10.10 (Rev.CoP18) on closure of domestic ivory markets by evaluating open domestic ivory markets to ensure they are not contributing to poaching or the illegal ivory trade and making recommendations to enhance the effectiveness of the ongoing processes.

Background

3. Elephants across Africa continue to be threatened by the trade in ivory. In 2021 the International Union for Conservation of Nature (IUCN) raised the threat level of the African savannah elephant (*Loxodonta africana*) from Vulnerable to Endangered and listed African forest elephants (*Loxodonta cyclotis*) separately as Critically Endangered² on the Red List of Threatened Species. As reported, forest elephant populations have declined by more than 86% in 31 years and savannah elephant populations have fallen by at least 60% in the last 50 years. Although the continental levels of illegal killing reported by MIKE (Monitoring the Illegal Killing of Elephants) have declined overall since 2011,³ illegal killings remain at unsustainably high levels (the proportion of illegally killed elephants is 0.54 in Africa and 0.35 in Asia). According to ETIS, 2019 registered the third highest level (by weight) of ivory seizures since 1989.⁴ There has been increasing ivory processing in Africa for finished work products destined for Asian markets.⁵ Name seals, chopsticks and other worked products are found in seizures in Zimbabwe.⁶ Clearly, poaching and ivory trade remain a significant threat to populations.
4. Legal domestic ivory markets continue to challenge the protection and conservation of elephants by creating grey markets to launder ivory, complicating monitoring and enforcement, confusing consumers, stimulating demand, and undermining other market closures. The continued existence of legal ivory markets helps to

¹ 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.

² <https://www.iucn.org/news/species/202103/african-elephant-species-now-endangered-and-critically-endangered-iucn-red-list>

³ <https://cites.org/sites/default/files/eng/com/sc/74/E-SC74-68.pdf> (English)

⁴ <https://cites.org/eng/prog/etis>

⁵ <https://cites.org/sites/default/files/eng/com/sc/70/E-SC70-49-01x-A1.pdf>

⁶ CoP18 Doc.69.3

maintain the status of ivory as a highly prestigious and desired commodity, perpetuating the market demand which fuels threat to elephant populations.

5. Within CITES, there is precedent for urging the closure of domestic markets to protect species from trade. In an information document presented by Liberia and Senegal to the 74th meeting of the Standing Committee (SC74 Inf. 18) it is noted that:

“CITES Parties have adopted several recommendations on domestic trade in resolutions and decisions adopted by the Conference of the Parties and recommendations of the Standing Committee. These resolutions, decisions, and recommendations demonstrate that CITES Parties have agreed that addressing domestic trade issues falls within the scope of the Convention in certain circumstances. The Conference of the Parties has called upon CITES Parties to close markets in several instances including within: Resolution Conf. 6.10, *Trade in rhinoceros’ products*; Resolution Conf. 11.8 (Rev. CoP17), *Conservation of and control of trade in the Tibetan antelope*; and Resolution Conf. 12.5 (Rev. CoP18), *Conservation of and trade in tigers and other Asian big cat species*.”⁷

6. At the 17th meeting of the Conference of the Parties (CoP17, Johannesburg 2016), the Parties agreed by consensus to revise Resolution Conf. 10.10, *Trade in Elephant specimens*, to address the closure of domestic ivory markets and included the following key provisions:⁸

[...]

Paragraph 3: “*RECOMMENDS that all Parties and non-Parties in whose jurisdiction there is a legal domestic market for ivory that is contributing to poaching or illegal trade, take all necessary legislative, regulatory and enforcement measures to close their domestic markets for commercial trade in raw and worked ivory as a matter of urgency,*”

Paragraph 4: “*RECOGNIZES that narrow exemptions to this closure for some items may be warranted; any exemptions should not contribute to poaching or illegal trade,*”

Paragraph 5: “*URGES that all Parties and non-Parties in whose jurisdiction there is a legal domestic market for ivory that is contributing to poaching or illegal trade, and that have not closed their domestic ivory markets for commercial trade in ivory to implement the above recommendation as a matter of urgency.*”

[...]

Paragraph 8 [now Paragraph 9]: “*REQUESTS Parties to inform the Secretariat of the status of the legality of their domestic ivory markets and efforts to implement the provisions of this Resolution, including efforts to close those markets that contribute to poaching or illegal trade.*”

[...]

7. Since the adoption of the recommendations in Resolution Conf. 10.10 (Rev. CoP18) for closure of domestic ivory markets “contributing to poaching or illegal trade”, many ivory consuming nations have taken steps to close their markets, but some ivory markets remain open, necessitating further attention to ensure unified implementation of the recommendation.

Measures on Domestic Ivory Markets agreed under CITES at CoP18

8. At its 18th meeting (CoP18, Geneva 2019), the Conference of Parties adopted Decisions 18.117 to 18.119 on the *Closure of Domestic Ivory Markets*, as follows:

Directed to Parties

18.117 *Parties that have not closed their domestic markets for commercial trade in raw and worked ivory are requested to report to the Secretariat for consideration by the Standing Committee at its 73rd*

7 SC74 Inf. 18, para 3, <https://cites.org/sites/default/files/eng/com/sc/74/Inf/E-SC74-Inf-18.pdf> (English)

<https://cites.org/sites/default/files/eng/com/sc/74/Inf/F-SC74-Inf-18.pdf> (French)

8 <https://cites.org/sites/default/files/document/E-Res-10-10-R18.pdf>

and 74th meetings on what measures they are taking to ensure that their domestic ivory markets are not contributing to poaching or illegal trade.

Directed to the Secretariat

18.118 The Secretariat shall compile the reports and make them available to Parties in advance of the Standing Committee meetings.

Directed to the Standing Committee

18.119 The Standing Committee shall:

- a) consider the reports under Decision 18.118; and
- b) report on this matter and make recommendations, as appropriate and consistent with the scope and mandate of the Convention, to the 19th meeting of Conference of the Parties.

Developments since CoP18

9. In response to Decision 18.117, 10 Parties and regions including Australia, the European Union, Hong Kong Special Administrative Region of China, Israel, Japan, New Zealand, South Africa, Thailand, the United Kingdom of Great Britain and Northern Ireland, and Zimbabwe submitted reports in advance of the 74th meeting of the Standing Committee (SC74, Lyon March 2022), which are contained in Annexes 1-10 of SC74 Doc. 39, *Closure of Domestic Ivory Markets: Report of the Secretariat*.⁹
10. Liberia and Senegal submitted SC74 Inf.18¹⁰ in relation to agenda item 39, “Closure of domestic ivory markets: Report of the Secretariat”. In Inf. 18, the last paragraph suggests that an analysis of seizures related to Parties with open markets, specifically Japan, might support decision-making at CoP19:

“27. As the seizures recorded by ETIS of ivory illegally exported from Japan between 2011 and 2016 (referred to in paragraphs 12 and 13) indicate, the trend and characteristics of individual seizure cases related to a specific country, which are reported to ETIS, can assist the Standing Committee with examining more closely whether a Party is taking effective measures to ensure that their domestic ivory market is not contributing to poaching or illegal trade. The Standing Committee may therefore wish to consider consulting with the MIKE and ETIS Technical Advisory Group (TAG) and ask it to provide an analysis and interpretation of the detailed data on seizure cases related to Japan to support the Standing Committee’s report and recommendations to CoP19.”
11. The Standing Committee noted the reports submitted by the 10 Parties and regions in accordance with Decision 18.117 and “invited the Conference of the Parties to agree that Decisions 18.117 to 18.119 can be renewed”.¹¹
12. The Standing Committee further noted “the suggestion by the European Union to invite the Secretariat and TRAFFIC to engage the MIKE ETIS Technical Advisory Group in preparing the ETIS report to CoP19 to advise whether an analysis of ivory seizures connected to Parties with legal domestic markets for commercial trade in ivory could be undertaken and to include such an analysis in the report, if feasible”.¹²
13. This analysis noted by the Standing Committee is particularly important to the recommendation for closure of domestic markets in Resolution Conf. 10.10 (Rev.CoP18). The trends and characteristics of individual seizure cases related to specific countries, which are reported to ETIS, can assist the Conference of the Parties and the Standing Committee with examining more closely whether a domestic ivory market of a specific Party is contributing to poaching or illegal trade. A simple analysis of ETIS seizures connected to

9 <https://cites.org/sites/default/files/eng/com/sc/74/E-SC74-39.pdf>

10 <https://cites.org/sites/default/files/eng/com/sc/74/Inf/E-SC74-Inf-18.pdf> (English); <https://cites.org/sites/default/files/eng/com/sc/74/Inf/F-SC74-Inf-18.pdf> (French)

11 Paragraph e) : <https://cites.org/sites/default/files/eng/com/sc/74/exsum/E-SC74-Sum-08-R1.pdf> (English); <https://cites.org/sites/default/files/fra/com/sc/74/exsum/F-SC74-Sum-08-R1.pdf> (French)

12 Paragraph f) : <https://cites.org/sites/default/files/eng/com/sc/74/exsum/E-SC74-Sum-08-R1.pdf> (English); <https://cites.org/sites/default/files/fra/com/sc/74/exsum/F-SC74-Sum-08-R1.pdf> (French)

each targeted Party, focusing on basic transaction details such as the number of seizures and weight of the seized ivory, will inform the Parties in decision-making concerning the closure of domestic ivory markets.

Open Domestic Ivory Markets

14. In SC74 Inf.18, Liberia and Senegal commented on the reports submitted by Parties under Decision 18.117. Those comments are summarized in the following paragraphs.
15. Of the 10 Parties that reported under Decision 18.117, the ones which maintain legal domestic ivory markets include three non-range states, Australia, Japan, New Zealand, and three range states, South Africa, Thailand, and Zimbabwe.
16. All three elephant range states permit the sale of ivory sourced within their boundaries. Thailand (Annex 8 of SC74 Doc.39), an Asian elephant range state, still allows legal sales of various ivory items; however, the source of ivory is limited to captive Asian elephants in its jurisdiction. South Africa (Annex 7 of SC74 Doc.39) and Zimbabwe (Annex 10 of SC74 Doc.39) also permit ivory sales.
17. Non-range states Australia and New Zealand have taken steps towards market closure. As reported in SC74 Inf.18, Australia (Annex 1 of SC74 Doc.39) announced its intention to implement a domestic ban on ivory trade, with an independent Federal government review recommending the States and Territories to establish such prohibition.¹³ New Zealand (Annex 6 of SC74 Doc.39) reported that it is in the review process for taking significant steps towards closing its domestic market.¹⁴
18. In contrast to the other Parties with open markets, the case of Japan is unique since it is a non-range state with a significant active legal domestic market. The figures concerning its stockpile, reported in SC74 Inf.18, are summarized as follows:
 - Japan's stockpile contains at least 244 tonnes of ivory, including 178 tonnes of registered whole tusks and 66 tonnes of cut pieces reported by the registered dealers.¹⁵
 - In addition to the stocks of raw whole tusks and cut pieces, there are huge stockpiles of worked ivory including nearly 968,000 pieces of *hanko* (name seals), and 3.48 million "accessories" and "parts of accessories",¹⁶ among other worked items.
 - Japan's stockpile accounts for 89% of ivory stockpiles in Asia (275.3 tonnes¹⁷) and 31% of the world's stockpiles (796 tonnes¹⁸) declared by Parties as of 28 February 2021 in response to the annual Notification issued by the Secretariat.
19. Reports of illegal exports originating from Japan's legal market give cause for concern. These are outlined in detail in SC74 Inf.18 and summarized here as follows:
 - The Elephant Trade Information System (ETIS) report recorded 148 seizures of ivory illegally exported from Japan between 2011 and 2016, including 113 seizures of approximately 2.3 tonnes of ivory destined for China.¹⁹
 - Of the 113 seizures of illegally exported ivory, 106 (94%) were made by law enforcement authorities in China while only 7 seizures (6%) were made by Japan.²⁰

13 See the *Final Report of the Independent Review of the Environment Protection and Biodiversity Conservation Act 1999. Final report | Independent review of the EPBC Act (environment.gov.au)*

14 <https://www.doc.govt.nz/globalassets/documents/getting-involved/consultations/2019/ties-act-consultation/ties-act-consultation-discussion-document.pdf>

15 2021 report included in Annex 5 of SC74 Doc.39

16 2021 report included in Annex 5 of SC74 Doc.39

17 CITES website https://cites.org/eng/prog/terrestrial_fauna/elephants (English); https://cites.org/fra/prog/terrestrial_fauna/elephants (French)

18 *Ibid.*

19 Kitade, T. and Nishino, R., 2017, *Ivory Towers: An assessment of Japan's ivory trade and domestic market*. TRAFFIC. Tokyo, JAPAN

20 *Ibid.*

- An analysis by ETIS presented at CoP18 grouped countries with similar trade characteristics²¹ and found that Japan’s law enforcement efforts at the border “individually exhibit poor performance well below the group’s average”.
 - Between 2018-2020, following the implementation of China’s market closure, the Environmental Investigation Agency documented 76 seizures of ivory (that had been legally purchased in Japan) based on news reports; 72 of these seizures were made in China, two in Vietnam, one in Taiwan and only one in Japan.²²
 - Japan’s legal market is also appealing to international travellers seeking to visit Japan to purchase ivory (the details are given in SC74 Inf.18 paragraph 14).
 - In particular, there has been a steady flow of ivory sourced legally in Japan’s open market and then illegally exported, mainly to China, which undermines China’s domestic ivory ban and enforcement efforts.
20. As reviewed in SC74 Inf.18, the effectiveness of the measures taken to ensure that Japan’s domestic ivory market is not contributing to poaching or illegal trade is questionable. For example:
- A recent study suggests that the ivory businesses are being registered through a token examination that lacks scrutiny by the competent authorities, while the 100%-registration-mandate for whole tusks imposed on the registered dealers was successfully evaded by cutting tusks into pieces and then processing them into *hanko*.²³
 - The study further found that the mandate for keeping inventory data for cut pieces is unlikely to have a meaningful impact on securing traceability since there is no verification of the legality of the source and acquisition at the point of production.²⁴
 - Moreover, the new mandate on submission of a carbon-dating result was not applied to the huge amount of stockpiled ivory already registered with “third-party affidavits”,²⁵ but is only applied to new applications for whole tusk registration.²⁶
 - Another study concluded that despite the tightened statutory penalties, the actual penalties imposed on offenders were quite low, and that there is persistent avoidance of strict punishment and prosecution of wildlife crime cases.²⁷
 - The measures highlighted by the Japanese government mainly focus on preventing smuggled ivory from entering the market; but they do not prevent the illegal export of ivory.²⁸
21. Many appeals have been made to Japan to close its market, including by the African Elephant Coalition.²⁹ TRAFFIC has also called on Japan to “develop an action plan that will decisively close its ivory markets (with narrow exemptions)”,³⁰ among other recommendations.

21 CoP18 Doc. 69.3 (Rev. 1) Annex 1

22 Environmental Investigation Agency. (December 2020) *Japan’s Illegal Ivory Exports*. <https://eia-global.org/japansillegalivoryexports>

23 Sakamoto. M. 2022. *Japan’s Tireless Ivory Market: A Trader’s Haven Free of Strict Controls*. Japan Tiger and Elephant Fund <https://www.jtef.jp/en/>

24 *Ibid.*

25 Section 1 (2) of 2021 report included in Annex 5 of SC74 Doc.39

26 Sakamoto. M. 2022

27 Sakamoto. M. 2019. *Compelled to Close: Top 5 Reasons for Closing Japan’s Domestic Ivory Market*. Japan Tiger and Elephant Fund https://www.jtef.jp/en/wp-content/uploads/2019/06/IvoryReport2019_en.pdf

28 https://www.jtef.jp/en/wp-content/uploads/2021/03/WildAid_EN_0330a.pdf

29 <https://africanelephantjournal.com/council-of-elders-of-the-32-member-african-elephant-coalition-aec-calls-on-japan-to-close-its-ivory-market-and-support-elephant-protection/>

30 TRAFFIC Japan. (December 2020) *Teetering on the Brink*. Available at: https://www.traffic.org/site/assets/files/13414/teetering-on-the-brink_en.pdf

22. On 29 March 2022, an Advisory Council on Regulation of Ivory Trade, designated by the Tokyo Metropolitan Government (TMG), issued its final recommendations³¹ to the TMG. They include a recommendation to consider a legal ban of domestic ivory trade with narrow exemptions in the jurisdiction of Tokyo: “[...] Ivory trade is regulated by legal frameworks in major countries around the world as well, and it is permitted with the limited exception of art and such items. The Tokyo Metropolitan Government should consider legal or other effective means to ensure that the ivory trade does not contribute to elephant poaching and illegal trade, while appreciating the cultural and artistic aspects of Japanese ivory products.”

Observations and Conclusions

23. Resolution Conf.10.10 (Rev.CoP18) recommends that all Parties and non-Parties should close domestic ivory markets that are contributing to poaching or illegal trade. With many CITES Parties having adopted the recommendation and taken steps to close their markets, prioritizing the closure of the remaining significant markets is key to the effective and uniform implementation of this resolution. Remaining open ivory markets pose real risks to perpetuate transnational wildlife crime because they can continue to incentivize illegal imports and exports. To determine the most significant domestic ivory markets, it is necessary to take into account not only the current sources of ivory that supply that market, but also potential future sources of ivory. Thus, non-range states with open domestic markets that must source their ivory from countries with elephant populations, necessitating the import of ivory to maintain the market, should be prioritized for closure. In such cases, on-going involvement in illegal international ivory trade cannot be ruled out.
24. Parties with legal domestic markets for commercial trade in ivory, especially those that are not elephant range states, need to be evaluated regularly to determine whether their domestic ivory markets are contributing to poaching or illegal international trade in ivory in accordance with Resolution Conf.10.10 (Rev.CoP18). This assessment should consider all relevant information available (including information in this document) and an analysis of ivory seizures connected to Parties with legal domestic ivory markets to be included regularly in ETIS reports. The Conference of the Parties should recommend that Parties identified through this process as having markets demonstrably connected with illegal international trade in ivory should comply with Resolution Conf.10.10 (Rev.CoP18) and take steps towards market closure.
25. For elephant range state Parties with open ivory markets, the magnitude of the markets’ contribution to poaching or illegal trade needs to be closely monitored by the Conference of the Parties.

Recommendations

26. We recommend that the Conference of the Parties adopt the draft Decisions included in the Annex to this document.

COMMENTS OF THE SECRETARIAT

- A. The Secretariat recommends that the Conference of the Parties do not adopt the amendments to draft decisions 19.BB and 19.CC as suggested by the proponents. The Secretariat is concerned about the inclusion of ‘any other relevant information available’ in the draft decisions. It is not clear what the Secretariat should consider to be ‘relevant’ information; what the process will be to obtain other relevant information; or to verify this information. The Secretariat therefore recommends that the draft decisions as contained in Annex 1 to document [CoP19 Doc. 66.1](#) be adopted.
- B. The Secretariat recommends the adoption of draft decision 19.DD with amendments to align with the SC74 report (SC74 SR) as well as amendments to the proposed timeline to report to the Standing Committee, and additional text relating to funding. It will not be feasible to include the proposed analysis in the report to the 77th meeting of the Standing Committee because several recommendations relating to the ETIS programme must first be implemented in consultation with the MIKE and ETIS Technical Advisory Group as indicated in document CoP19 Doc. 21 on the *Review of the ETIS programme*.

Proposed new text is underlined, proposed deletions are indicated in ~~strikethrough~~.

³¹ WildAid, and Japan Tiger and Elephant Fund. 2021. TOKYO IVORY CATERING TO INTERNATIONAL ORDERS https://www.jtef.jp/en/wp-content/uploads/2021/03/WildAid_EN_0330a.pdf

Directed to the Secretariat

- 19.DD Subject to external funding, the Secretariat shall engage the MIKE and ETIS Technical Advisory Group and TRAFFIC to advise whether an analysis of ivory seizures connected to each Party with a legal domestic market for commercial trade in ivory could be undertaken and, if feasible, carry out the analysis and include the results analysis in the ETIS report to the Standing Committee at its 77th and 78th meetings, and to the 20th meeting of the Conference of the Parties.

DRAFT DECISIONS

Urge Parties that still have open, legal domestic markets, especially in ivory destination countries, for commercial trade in ivory that are demonstrably connected to illegal international trade in ivory to implement closure of their markets in accordance with Resolution Conf. 10.10 (Rev. CoP18) paragraph 3.

Adopt the following draft decisions to replace Decisions 18.117 to 18.119

Directed to Parties:

19.AA Parties that have not closed their domestic markets for commercial trade in raw and worked ivory are requested to report to the Secretariat for consideration by the Standing Committee at its 77th and 78th meetings on what measures they are taking to ensure that their domestic ivory markets are not contributing to poaching or illegal trade.

Directed to the Secretariat:

19.BB The Secretariat shall compile the reports together with any other available information relevant to them and make them available to Parties in advance of the Standing Committee meetings.

Directed to the Standing Committee:

19.CC The Standing Committee shall:

- a) consider the reports and any information provided by the Secretariat under Decision 19.XXX, and any other relevant information available; and
- b) report on this matter and make recommendations, as appropriate and consistent with the scope and mandate of the Convention, to the 20th meeting of Conference of the Parties.

Adopt the following draft decision to assist the Parties and the Standing Committee in their consideration of the progress made by Parties who submitted reports in accordance with Decision 19.XXX

Directed to the Secretariat:

19.DD The Secretariat shall engage the MIKE and ETIS Technical Advisory Group and TRAFFIC in an analysis of ivory seizures connected to each Party with a legal domestic market for commercial trade in ivory and include the analysis in the ETIS report to the Standing Committee at its 77th and 78th meetings, and to the 20th meeting of the Conference of the Parties.

**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.

Decision	Activity	Indicative costs (USD) (excludes Programme Support Costs)	Source of funding
19.DD	Engagements with the MIKE and ETIS Technical Advisory Group and TRAFFIC to advise whether an analysis of ivory seizures connected to each Party with a legal domestic market for commercial trade in ivory could be undertaken and, if feasible, carry out the analysis and include the results in the ETIS report	12,500	Extrabudgetary funds