

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



Sixty-ninth meeting of the Standing Committee  
Geneva (Switzerland), 27 November -1 December 2017

Species specific matters

Elephants (Elephantidae spp.)

IMPLEMENTING ASPECTS OF RESOLUTION CONF. 10.10 (REV. COP17)  
ON THE CLOSURE OF DOMESTIC IVORY MARKETS

1. This document has been submitted by Burkina Faso, Congo, Kenya and Niger.\*
2. Summary: This document requests that the Standing Committee facilitate the implementation of recommendations on the urgent closure of domestic ivory markets taken at CoP17 and contained in Resolution Conf. 10.10 (Rev. CoP17). In particular, the paper covers the need for Parties to inform the Secretariat on the status of the legality of their domestic ivory markets and to close those markets that contribute to poaching or illegal trade as a matter of urgency.

Decisions on Domestic Ivory Markets (DIMs) taken at CoP17 (2016)

3. CoP17 acknowledged that in response to requests from elephant range States, some countries were taking steps to close their legal domestic ivory markets. Parties also took account of the motion adopted by the International Union for Conservation of Nature (IUCN) World Conservation Congress on 10 September 2016 calling on governments to close their domestic markets for commercial trade in raw or worked elephant ivory. After considering formal proposals to close Domestic Ivory Markets submitted by the US and 10 African Parties, the CoP agreed by consensus to revisions now found in **CITES Resolution Conf. 10.10 (Rev. CoP17)** recommending the closure of domestic ivory markets as a matter of urgency.
4. The key recommendations on Domestic Ivory Markets in Resolution Conf. 10.10 (Rev. CoP17) are as follows:

*THE CONFERENCE OF THE PARTIES TO THE CONVENTION:*

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; [emphasis added]*
4. *RECOGNIZES that narrow exemptions to this closure for some items may be warranted; any exemptions should not contribute to poaching or illegal trade;*
5. *URGES those 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*

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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.

*commercial trade in ivory to implement the above recommendation as a matter of urgency; [emphasis added]*

8. *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;*
9. *FURTHER DIRECTS the Secretariat, with reference to the findings of ETIS, MIKE and its findings on the status of domestic ivory markets, and within available resources: a) to identify those Parties that have unregulated internal markets for ivory, where ivory is found to be illegally traded, where ivory stockpiles are not well secured, or that have significant levels of illegal trade in ivory; b) to seek from each Party so identified information concerning its implementation of the provisions of this Resolution relating to ivory trade and, where appropriate and in consultation with the Party, undertake in situ verification missions; and c) to report its findings and recommendations to the Standing Committee, which may consider recommendations to support the implementation of the present Resolution, including requests to identified Parties to develop and implement National Ivory Action Plans, and monitor progress in executing these Action Plans, in accordance with the Guidelines contained in Annex 3, as well as other appropriate measures in accordance with Resolution Conf. 14.3 on CITES compliance procedures;*
16. *DIRECTS the Standing Committee to: a) review actions taken by the Parties to implement the provisions of this Resolution, particularly – but not limited to – the provisions concerning trade in elephant specimens; b) make targeted recommendations as appropriate, in accordance with the Guidelines contained in Annex 3, which may include requesting identified Parties to develop and implement National Ivory Action Plans; and c) report the results at each meeting of the Conference of the Parties;*
18. *DIRECTS the Secretariat to report at each regular meeting of the Standing Committee on any apparent problems in the implementation of this Resolution or in the control or traceability of trade in elephant specimens, and to assist the Standing Committee in its reporting to the Conference of the Parties;*

#### Progress since CoP17

5. We would like to emphasise three features of the provisions agreed at CoP17. The first is that Parties should close domestic ivory markets contributing to poaching or illegal trade “as a matter of urgency”. Secondly, information on how much progress is being made on domestic ivory markets, as with other elements of Resolution 10.10 (Rev. CoP17) should be gathered by the Secretariat and reported to the Standing Committee. Thirdly, the Standing Committee has authority to secure implementation of the Resolution, including the new provisions on domestic ivory markets, if necessary through existing mechanisms such as National Ivory Action Plans (NIAPs) and CITES compliance procedures.
6. The starting point for progressing recommendations on Domestic Ivory Markets, which were new and defined by the Parties themselves as urgent, is prompt action and continuous follow-up by the CITES Secretariat. The Secretariat’s own press statement issued at the end of the Conference highlighted the agreement on closure of domestic ivory markets as a “notable” outcome. However, although there have been 69 Notifications to Parties issued by the CITES Secretariat in the eleven months since the Conference, including three related to other provisions of Resolution Conf. 10.10 (Rev. CoP17), none make any reference to the new and urgent provisions on the closure of domestic ivory markets including Notification 2017/38 issued on 15 May entitled “Information to be submitted by Parties for the 69<sup>th</sup> meeting of the Standing Committee”. This is an unfortunate omission and needs to be rectified as soon as possible.
7. Unless the basic information is collected from Parties and other sources, and reviewed systematically by the Secretariat, it will be impossible for the Standing Committee to assess progress, or recommend best practices. The Secretariat may need to amend the scope of ETIS to assist with this function.

#### Brief Overview of Some Key Domestic Markets

8. In the absence of any Notification from the Secretariat we have attempted to give a brief overview of progress in some of the world’s major domestic ivory markets.

9. There has been outstanding progress since CoP17 by China. In March 2017, the CITES authorities in China closed 67 licensed ivory facilities, including 12 ivory carving factories and several dozen ivory retailers. This is the first stage of an agreed programme to close down China's domestic ivory commerce by the end of 2017. An additional 105 licensed facilities will be shut down by the end of the year. The price of ivory has fallen in China, but major challenges remain in tackling transnational criminal networks.
10. Before CoP17, the US issued regulations for the "near-closure" of its Domestic Ivory Markets and has maintained its strict new controls. To complement the federal regulations, seven States have adopted State-level measures to restrict ivory sales in their jurisdictions. Hong Kong SAR is considering a draft law proposed in June 2017<sup>1</sup> to close much of its domestic ivory markets over a 5-year phase-out period, although the extended period has been criticised as much too long. Two hearings were held, in June and September 2017, to receive public input. The European Union (EU) adopted new guidance effective on 1 July 2017 to prohibit the re-export of stockpiled raw ivory. There remains significant concern because of the EU's retention of a major domestic internal market, including trade in ivory antiques where intra-EU commerce does not require any CITES permits or documentation. The EU Commission is however currently gathering data on the extent of legal and illegal ivory trade in, to and from the EU, in order to guide possible future initiatives at the EU level on this issue. On 15 September the European Commission launched a formal public consultation on ivory trade in the EU. The EC paper specifically acknowledges the new provisions on Domestic Markets agreed at CoP17, and sets out a range of options, up to and including a total ban on trade and internal commerce.<sup>2</sup> The consultation will close on 8 December.
11. Japan has a significant ivory market but has argued that its domestic market does not contain illegal ivory and that the recent CITES recommendation on closure of domestic markets does not apply<sup>3</sup>. However, anti-smuggling investigations by the Tokyo Metropolitan Police found illegal activities and brought forward charges against dealers<sup>4</sup>. During the last two couple of years, the Chinese customs arrested suspects smuggling ivory from Japan to China<sup>5</sup>. In May 2017, Japan revised its wildlife trade legislation, the Law for Conservation of Endangered Species (LCES), to tighten the registration of ivory businesses<sup>6</sup>. However in June 2017, following a seizure of ivory tusks TRAFFIC expressed its concern over the laxity of Japan's proof-of-legality requirements under its registration system<sup>7</sup>. TRAFFIC's Regional Director for East Asia concluded that, *"While enforcing the new LCES regulations will be critical to deterring illegal activities, Japan's domestic ivory market is still filled with loopholes that are leaking substantial quantities of ivory to other markets, such as China... Given CITES Parties last year recommended the closure of domestic ivory markets that contribute to poaching and/or illegal trade, an overhaul of Japan's market oversight and regulation is urgently needed to ensure it does not undermine the global fight against illegal ivory trade."*<sup>8</sup>

A recent detailed report by TRAFFIC has raised further concerns over Japan's domestic ivory market. In a 2017 review of online ivory trade in Japan published in August 2017<sup>9</sup>, TRAFFIC concluded that "the lack of regulation for products other than whole tusks was found to present severe challenges in identifying and preventing illegal ivory flows." For example, surveyors found advertisements for ivory jewellery recently brought back from Asia and Africa with explicit statements about their origins, in clear infringements of CITES regulations, yet their domestic sales remain legal under the Law for the Conservation of Endangered Species of wild Fauna and Flora (LCES), which allows them to be traded without any requirement for proof of legality (e.g. CITES import permit or the LCES registration). Additionally, while the LCES regulates the trade of whole ivory tusks, these represent only a tiny proportion of the trade offered on almost all the websites examined by the study meaning that "the large quantities of other products traded by non-business sellers are therefore completely outside of the LCES control."<sup>10</sup> In its final recommendations the detailed TRAFFIC report stresses that *"As a CITES Party, Japan has an obligation to fulfill these requirements [i.e. the new provisions for Domestic Ivory Markets agreed at CoP17 in October 2016] effectively to ensure that domestic trade in ivory*

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<sup>1</sup> The Bills Committee on Protection of Endangered Species of Animals and Plants (Amendment) Bill 2017 met most recently on 7<sup>th</sup> July 2017

<sup>2</sup> [https://ec.europa.eu/info/consultations/public-consultation-ivory-trade-eu\\_en](https://ec.europa.eu/info/consultations/public-consultation-ivory-trade-eu_en)

<sup>3</sup> <http://www.bbc.co.uk/news/science-environment-37535717>

<sup>4</sup> <http://www.sankei.com/affairs/news/161024/afr1610240017-n1.html>

<sup>5</sup> [http://www.chinadaily.com.cn/china/2016-08/16/content\\_26488089.htm](http://www.chinadaily.com.cn/china/2016-08/16/content_26488089.htm)

<sup>6</sup> TRAFFIC (2017) Japan tightens wildlife trade regulations, 9 June

<sup>7</sup> TRAFFIC (2017) Ivory seizure exposes Japan's lax ivory trade controls, 23 June

<sup>8</sup> *Ibid*, quoting Dr. Yannick Kuehi, Regional Director for TRAFFIC East Asia

<sup>9</sup> Kitade. T., (2017) An updated review of online ivory trade in Japan. TRAFFIC Briefing

<sup>10</sup> Kitade. T., (2017) An updated review of online ivory trade in Japan. TRAFFIC Briefing

*does not contribute to poaching or to illegal trade. Internet trading channels are creating new regulatory challenges for Japan and need to be addressed with urgency.”*

12. In light of these on-going concerns about Japan’s domestic market despite amendments to its wildlife trade regulations, the Standing Committee may wish to revisit its recent decision by postal procedure to overrule the case made in the 2016 ETIS report to include Japan within the NIAP process.
13. We believe that there are other large domestic ivory markets in Africa and Asia in particular, that the Standing Committee may wish to address, and that Parties in question may be invited to report on their progress to close their domestic ivory markets.

#### Recommendations

14. The Standing Committee is requested to:

- COMMEND the efforts made, or under way, by some Parties to close their domestic ivory markets in conformity with the provisions in Resolution Conf. 10.10 (Rev. CoP17), as amended at the recent Conference of the Parties, including but not limited to the actions taken by China and the USA;
- RECONSIDER its decision that Japan should not be requested to prepare a National Ivory Action Plan, as previously recommended for consideration by ETIS;
- DIRECT the Secretariat to issue a Notification to all Parties as a matter of urgency, and thereafter at least annually:
  - i) drawing their attention to paragraph 3 of Resolution Conf. 10.10 (Rev. CoP17) recommending *“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”*, and that action taken should be reported to the Secretariat as requested in paragraph 8; and
  - ii) requesting Parties to provide the information specified in paragraph 8 of Resolution Conf. 10.10 (Rev. CoP17) on the status of the legality of their domestic ivory markets and efforts to implement the provisions of the Resolution, including efforts to close domestic markets that contribute to poaching or illegal trade; and
- DIRECT the Secretariat to prepare a full report on progress to close domestic ivory markets based on information provided by Parties under paragraph 8 of Resolution Conf. 10.10 (Rev. CoP17) as well as data from the Elephant Trade Information System (ETIS) to be considered at the 70th meeting of the Standing Committee in 2018, including any recommendations for action under paragraphs 9 and 16 of Resolution Conf. 10.10 (Rev. CoP17).