

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

Thirteenth meeting of the Conference of the Parties
Bangkok (Thailand), 2-14 October 2004

Interpretation and implementation of the Convention

Species trade and conservation issues

Elephants

CONDITIONS FOR THE EXPORT OF REGISTERED STOCKS OF IVORY
IN THE ANNOTATION TO THE APPENDIX-II LISTING OF POPULATIONS
OF *LOXODONTA AFRICANA* IN BOTSWANA, NAMIBIA AND SOUTH AFRICA

1. This document has been submitted by Kenya.

Regarding baseline information from MIKE

2. At the 12th meeting of the Conference of the Parties (CoP12, Santiago, 2002), following approval of a one-off sale subject to conditions of registered ivory from Botswana, Namibia and South Africa, Decision 12.33 was agreed. It instructed the Standing Committee by its 49th meeting (SC49, Geneva, April 2003) to define, in consultation with the MIKE Central Coordinating Unit and IUCN, "the geographical scope and the nature of the data that constitute the baseline information from MIKE that must be provided before any exports can be approved".
3. At SC49 the Standing Committee decided that the geographical scope should comprise 45 sites in Africa selected under the programme for Monitoring the Illegal Killing of Elephants, MIKE (i.e. 82 per cent of the total 55 African sites), and at least 15 in Asia (i.e. 54 per cent of the total 28 Asian sites). From each site it was decided that the following information would be required [SC49 Doc. 11.2 (Rev. 1)]:
 - a) *at least one population survey;*
 - b) *levels of illegal killing derived from a minimum of 12-months' (Africa) / 6-months' (Asia) data obtained from patrol forms and carcass forms and summarized in monthly reports;*
 - c) *a descriptive report on the patterns of influencing factors;*
 - d) *an assessment of the effort made in providing the illegal killing information; and*
 - e) *a preliminary baseline analysis of paragraphs a) to d) above.*
4. In document SC49 Doc. 11.4 Kenya proposed that the geographical scope should include all MIKE sites in Africa and Asia, and that population trends should be required as well as population estimates. In the course of the Committee's discussion, an observer Party representative expressed concern that six months is not long enough to collect data on illegal killing in Asia owing to seasonal influences. Meanwhile another observer considered a "descriptive report on the patterns of influencing factors" to be vague. In response to the comments, the MIKE Director clarified that they had not been asked for a trend analysis. He agreed that the time-frame for collecting data on illegal killing in Asia might be too short for southern India, though not for other Asian sites. With respect to influencing factors, the IUCN representative noted that the analytical system (GIS spatial analysis) would not be operational for the baseline data.

5. Kenya remains concerned that the scope and nature of the baseline data defined by the Standing Committee are inadequate to provide a full picture of the status of elephant populations and trends in illegal killing, particularly in sites where baseline information did not exist prior to the introduction of the MIKE programme. We therefore propose that the Conference of the Parties re-examine the Standing Committee's definitions and consider the alternative draft decisions attached in the Annex.

Regarding determination of detrimental impacts on other elephant populations

6. Decision 12.34 was also agreed at CoP12. It instructs the Standing Committee to "determine how it would conclude that a detrimental impact on other elephant populations had occurred as a result of approved trade in ivory".
7. The mechanism proposed by the Secretariat at the 50th meeting of the Standing Committee (SC50, Geneva, March 2004) was essentially the same as the one agreed at the 41st meeting to trigger action to stop the one-off sale of ivory agreed at the 10th meeting of the Conference of the Parties [see document Doc. SC.41.6.4 (Rev. 2), Annex]. It relied on reporting from Parties and on the Secretariat to determine if there had been an "important increase" in illegal hunting or illegal trade. Kenya proposed an alternative mechanism for assessing detrimental impacts (see document SC50 Doc. 21.3) and, along with Germany, expressed concerns about the Secretariat's proposal. As a result of amendments proposed by Germany the following mechanism was agreed by the Standing Committee for determination of detrimental impact [SC50 Doc. 21.2 and Sum. 4 (17/03/2004) (Rev. 1)]:
 - a) *The reporting and monitoring procedures already in place in MIKE and ETIS will provide the Secretariat with information on rates and levels of illegal hunting and trade in elephant specimens.*
 - b) *The Secretariat will work with the Parties that report an increase in illegal hunting of elephants or illegal trade in elephant specimens to establish the veracity of such reports and the linkage, if any, to the commercial trade in raw ivory.*
 - c) *The Secretariat will report to the Chairman of the Standing Committee and to the Parties concerned and will formulate recommendations, taking a precautionary approach acting in the best interests of conservation.*
 - d) *If the Standing Committee concludes that there has been an increase in either illegal hunting of elephants or illegal trade in elephant specimens owing to the commercial trade, it will recommend that international trade in all specimens referred to in the annotation in the Appendices regarding the *Loxodonta africana* populations of Botswana, Namibia and South Africa be halted. Furthermore, the Standing Committee will request the Depositary Government to propose, at the following meeting of the Conference of the Parties, that all Appendix-II populations of this species be transferred to Appendix I.*
 - e) *The Secretariat should, to ensure transparency and assist decision-making, make available on its website information relating to paragraph b) above.*
8. While Kenya considers this mechanism an improvement on the initial proposal by the Secretariat, we still have concerns. First, we consider that it would be more appropriate for independent experts to establish the veracity of reports on illegal hunting or illegal trade and to formulate recommendations. This issue is contentious. Independent experts selected by the Standing Committee would ensure neutrality and provide a firmer basis for consensus on the findings. There are precedents for such an approach in the rhinoceros and tiger missions under CITES and in other conventions such as the independent, on-site review of reporting conducted by experts under the UN Framework Convention on Climate Change. Secondly, there is no guidance in the Standing Committee's mechanism on how and when information will be requested from Parties, or on how long they are to be given to respond. Furthermore, recognizing that it is impossible to prove or disprove that trade in ivory has had a detrimental impact on other elephant populations, there is no guidance on how a link between a reported increase and the one-off sale will be established. Taking these concerns into consideration, Kenya therefore proposes that the Conference of the Parties adopt the alternative

mechanism for determination of detrimental impacts on other elephant populations proposed in the second draft decision in the Annex.

COMMENTS FROM THE SECRETARIAT

- A. Conditions for the export of registered stocks of ivory from Botswana, Namibia and South Africa were the subject of considerable discussion at the 50th meeting of the Standing Committee (Geneva, March 2004), when a consensus was reached regarding how the Committee and the Secretariat should continue to address this matter.

- B. The Secretariat believes that the decision-making process regarding trade in ivory from registered stocks has been allocated by the Conference of the Parties to the Standing Committee, that the Committee has made its decisions and that there is no need change the agreed procedures. However, there is an opportunity for the document prepared by Kenya to be discussed at the dialogue meeting of African elephant range States, which will be held prior to the 13th meeting of the Conference of the Parties (CoP13). The Secretariat will recommend at the dialogue meeting that the present document be discussed and will then be in a position to report at CoP13 on the outcome of such discussions. It will also be in a position to formulate its final comments on the document in light of the views expressed by all range States.

DRAFT DECISIONS OF THE CONFERENCE OF THE PARTIES

Directed to the Secretariat

Regarding baseline information from MIKE

- 13.xx a) The geographical scope of the data that constitute the baseline information from MIKE shall include all 55 MIKE sites in Africa and 28 sites in Asia.
- b) Concerning the nature of the baseline data, the following information is required from each site:
- i) at least one population survey not older than three years from sites where reliable population estimates existed before introduction of the MIKE programme and two population surveys from sites where no such data existed;
 - ii) trends in illegal killing derived from a minimum of two-years' data;
 - iii) a statistical analysis of the patterns of influencing factors and their relationship to trends in illegal killing;
 - iv) an assessment of the effort made in providing the illegal killing information; and
 - v) a baseline analysis of the above information.

Directed to the Standing Committee

Regarding detrimental impacts on other elephant populations

- 13.xx To conclude that a detrimental impact on other elephant populations has occurred as a result of decisions to approve trade in ivory, the following procedure shall be followed:
- a) The reporting and monitoring procedures already in place in MIKE and ETIS will provide the Secretariat and the Standing Committee with information on rates and levels of illegal hunting of and trade in elephant specimens.
 - b) As soon as possible after the 13th meeting of the Conference of the Parties, and following the determination by the Standing Committee that the conditions have been met for the trade in registered raw ivory from Botswana, Namibia and South Africa¹, the Secretariat shall issue Notifications to the Parties requesting information on any increase in illegal hunting of elephants or illegal trade in elephant specimens since the 12th Conference of the Parties, and on possible non-compliance with the conditions for the trade in registered raw ivory by the exporting or importing countries. Parties shall be given 60 days to respond.
 - c) The Standing Committee shall appoint independent experts to work with all Parties concerned to establish the veracity of such reports. The independent experts shall consider whether any increase in illegal killing or illegal trade could be correlated with the decisions made by the Conference of the Parties and the Standing Committee to allow commercial trade in raw ivory and formulate recommendations to the Standing Committee, taking a precautionary approach acting in the best interests of conservation.

¹ *The conditions are contained in the annotation to the Appendix-II listing of the populations of *Loxodonta africana* from Botswana, Namibia and South Africa.*

- d) If the Standing Committee concludes that there has been an increase in either illegal hunting of elephants or illegal trade in elephant specimens which may be correlated with the commercial trade, or non-compliance by an importing or exporting country with any of the conditions for trade, it shall recommend that international trade in all specimens referred to in the annotation in the Appendices regarding the *Loxodonta africana* populations of Botswana, Namibia and South Africa be halted. Furthermore, the Standing Committee shall request the Depositary Government to propose, at the following meeting of the Conference of the Parties, that all Appendix-II populations of this species be transferred to Appendix I.
- e) The Secretariat should, to ensure transparency and assist decision-making, make available on its website information relating to paragraph c) above.