

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



Fourteenth meeting of the Conference of the Parties
The Hague (Netherlands), 3-15 June 2007

CONSIDERATION OF PROPOSALS FOR AMENDMENT OF APPENDICES I AND II

A. Proposal

To maintain the populations of *Loxodonta africana* (African elephant) of Botswana, Namibia, South Africa and Zimbabwe in Appendix II in terms of Article II, paragraph 2. b), with the replacement of all existing annotations with the following annotation:

- 1) The establishment of annual export quotas for trade in raw ivory is determined in accordance with Resolution Conf. 10.10 (Rev. CoP12);
- 2) Trade in raw ivory is restricted to trading partners that have been certified by the Secretariat, in consultation with the Standing Committee, to have sufficient national legislation and domestic trade controls to ensure that the imported ivory will not be re-exported and will be managed in accordance with the requirements of Resolution Conf. 10.10 (Rev. CoP12) concerning manufacturing and trade; and
- 3) The proceeds of the trade in raw ivory are to be used exclusively for elephant conservation and community development programmes.

B. Proponent

Botswana and Namibia

C. Supporting statement

This proposal is confined to the geographically separate populations of the African elephant of Botswana, Namibia, South Africa and Zimbabwe. These four elephant populations are currently included in Appendix II, for the exclusive purpose of allowing trade in:

- hunting trophies for non-commercial purposes (subject to an annual export quota established by the individual Parties pursuant to Resolution Conf. 10.10 (Rev.);
- live animals for *in situ* conservation purposes (Botswana, Namibia, South Africa) or appropriate and acceptable destinations (Zimbabwe);
- hides;
- leather goods for non-commercial purposes (Botswana, Zimbabwe) and non-commercial or commercial purposes (Namibia, South Africa);
- hair for non-commercial or commercial purposes (Namibia);
- ekipa ivory carvings incorporated in finished jewellery (Namibia), and ivory carvings (Zimbabwe) for non-commercial purposes;
- one-off trade in registered raw ivory (Botswana 20,000 kg, Namibia 10,000 kg, South Africa 30,000 kg) from government stocks (South Africa – from Kruger National Park only) for conservation purposes, subject to various other conditions established at CoP12 concerning importing countries and the status of the MIKE programme and requiring actions and decisions by the Secretariat and the Standing Committee (see annotation to the listings of these

populations in Appendix II). *This trade has not yet been authorized by the Standing Committee, who had decided to only consider this matter again one day before the start of CoP14).*

The listing of the four elephant populations in Appendix II specifies that all other specimens shall be deemed to be specimens of species included in Appendix I and the trade in them shall be regulated accordingly.

The implication of the current listing of the four elephant populations is that for all other specimens no commercial trade is possible unless specific approval is granted by a two-thirds majority of the Parties to CITES. This would require that each country repeatedly would have to seek such approval, which can also be interpreted as approvals for the transfer of additional specimens to Appendix II, before any commercial trade in their products and commodities is possible. The *effective* listing of the four national populations, and specimens/derivatives/stocks that would in future accrue from these populations is thus in Appendix I, with some types of specimens granted conditional Appendix-II status. The trade in the latter specimens remains subject to a highly restrictive set of requirements and unprecedented subsidiary approval procedures by other CITES organs such as the Standing Committee.

Of great concern is the increasing complexity and unpredictability of requirements and decision-making within CITES that are applied to trade in legitimately and sustainably produced derivatives of the four elephant populations in question, without necessarily ensuring that such complexity *adds* to, rather than *detracts* from, the conservation of these populations. It has to be questioned whether such procedures and requirements are even necessary within the context of the conservation status of these populations, and the demonstrated national management capacities of the four countries concerning conservation and the regulation of trade.

It is important to recall that:

- 1) the transfer of these four elephant populations to Appendix I in 1989 occurred against the objection of these countries, and that it was acknowledged at the time that these elephant populations did not warrant inclusion in Appendix I;
- 2) all four populations became subject to reservations in terms of Article XXIII at the time of transfer to Appendix I (or when Namibia subsequently acceded to CITES), which remained in effect until the four populations were individually re-transferred to Appendix II;
- 3) the four elephant populations are currently approximately two to three times larger than they were at the time of their transfer to Appendix I;
- 4) previous one-off trade in ivory as well as trade in other products have not been demonstrated to result in any negative effects on illegal trade or illegal hunting or the conservation of other populations;
- 5) previous attempts by the four countries to regularize trade within the context of the Convention for populations listed in Appendix II, including the establishment of annual export quotas for raw ivory, have been repeatedly refused at previous CoPs, despite the existence of comprehensive provisions in Resolution Conf. 10.10 (Rev.) concerning annual ivory export quotas;
- 6) notwithstanding the establishment of highly restrictive requirements for one-off exports of raw ivory, such trade has been characterized by major time delays, the best example of which is the export quotas approved at CoP12 which have still not been authorized by the Standing Committee more than four years later;
- 7) without due regard to the conservation status of the four populations, the objectives and provisions of the Convention, the rights of sovereign States and the effective conservation and trade management that they have demonstrated, the four countries have had to face several attempts from other Parties to impose long-term moratoria on further trade or the re-transfer of their elephant populations to Appendix I, or what appears to be a continuous shift in goal posts by the addition of an increasing number of requirements and standards to be met by both exporting, importing and all range States of not only the African elephant but also the Asian elephant;
- 8) the four countries have active and internationally acclaimed protected area management and conservation programmes that involve rural communities based on the principle that long-term co-existence with elephants as well as the maintenance of habitat for elephant and other

- wildlife species can only be maintained in areas of mixed and competitive forms of land use if significant economic benefits can be derived from wildlife;
- 9) these conservation efforts have resulted in major increases in wildlife numbers, especially elephants; and
 - 10) despite the fact that these achievements have not been disputed by the majority of Parties, the processes within the Convention have not actively supported the progression of these achievements and their sustainability within the countries concerned.

This proposal intends to re-examine the appropriateness of the current status of these elephant populations in terms of 1) the criteria established by CITES, 2) the objectives of the Convention and 3) the value that CITES can add to national conservation programmes¹.

1. Criteria established by CITES

1.1 It is not explicitly stated in the Appendices under which criteria the four populations are currently included in Appendix II, therefore both scenarios provided for in Article II are considered.

1.2 Article II, paragraph 2. a), states that Appendix II shall include "all species which although not necessarily now threatened with extinction may become so unless trade in specimens of such species is subject to strict regulation in order to avoid utilization incompatible with their survival". Resolution Conf. 9.24 concerning this provision states in second RESOLVES c) that species should in this instance be included in Appendix II if they satisfy the criteria listed in Annex 2a of the Resolution.

- The criterion in Annex 2a A that the populations must be included in Appendix II because strict regulation of trade is required or otherwise the populations will qualify for inclusion in Appendix I in the near future, is not relevant in this case due to the large size of the four populations and existing national conservation frameworks in the four countries.
- The criterion in Annex 2a B that the harvesting of specimens from the wild for international trade has or may negatively impact the species if such harvesting is unsustainable or reducing populations to levels where they would be threatened by other influences is not relevant. The four countries are bound by their own national and regional conservation objectives to maintain their elephant populations at sustainable and viable levels.
- It is thus not credible to expect that the four national populations will become threatened with extinction within any reasonable time horizon or under any foreseeable circumstances, nor that utilization incompatible with their survival will occur. The four countries have adequate national measures in place for the protection of elephants and the regulation of trade in their specimens, based on binding national and regional (Southern African Development Community) policy and legal commitments that these countries have concerning the conservation and sustainable utilization of their biodiversity resources.

1.3 Article II, paragraph 2. b), states that Appendix II shall include "other species which must be subject to regulation in order that trade in specimens of certain species referred to in subparagraph (a) of this paragraph may be brought under effective control". Resolution Conf. 9.24 concerning this provision states in second RESOLVES d) that species should in this instance be included in Appendix II if they satisfy the criteria listed in Annex 2b of the Resolution.

¹ *This proposal deviates in some respects from the standard format prescribed for proposals in Resolution Conf. 9.24, Annex 6, but this is justifiable as 1) there is ample information already available to CITES on the conservation of and trade in these populations (see e.g. other proposals submitted by the four countries concerning the same populations or previously at CoP13, CoP12, CoP11, CoP10, CoP8) and 2) that there are aspects of the current proposal that can be more efficiently presented in this format than otherwise.*

- The criterion in Annex 2b A. that populations must be included in Appendix II when specimens derived from them are not able to be identified by a non-expert is not necessarily relevant in this case due to the marking system established in Resolution Conf. 10.10 (Rev.) which the four countries are currently implementing and will maintain, and existing requirements under national legislation (and CITES) that elephant products in trade must be accompanied by appropriate documentation.
 - If exports of raw ivory from the four countries are confined to countries certified by the CITES Secretariat in terms of Resolution Conf. 10.10 (Rev.) regarding compliance with control of internal trade, only properly marked raw ivory from legal sources will be allowed to be imported into consumer countries, and any items subsequently in trade would be from a legal source. A closed trade cycle would therefore exist, only involving legal sources of raw material, approved importing Parties, regulated manufacturing and internal trade and no re-exports allowed. The extent to which it remains warranted to include an elephant population in Appendix II in terms of Article II, paragraph 2. b), under these circumstances is thus not clear.
 - Concerning trade in items carved from ivory that was marked in accordance with Resolution Conf. 10.10 (Rev.), such items exported from Namibia and Zimbabwe (the only two instances where this is currently possible) are already accompanied by documentation that verifies identity and origin. It will be in the interest of all four countries to maintain similar requirements, should they wish to maintain or engage in such trade.
 - The logic of the criterion in Annex 2b B. that some populations must be included in Appendix II to bring trade in other specimens of similar populations in Appendix I or II under effective control is thus not straightforward in the case of the four elephant populations under consideration. The inclusion of these elephant populations in Appendix II have not had any demonstrable bearing on the trade in specimens from other populations, legal or otherwise, commercial or non-commercial, whether effectively under control or not. It is thus arguable whether the regulation of trade in specimens from the four elephant populations under the current listing is indeed essential to ensure that trade in specimens from other populations is brought under effective control, if trade (in raw ivory) is restricted to only those Parties able to comply with requirements established by the Conference to the Parties concerning internal ivory trade [in Resolution Conf. 10.10 (Rev.)] and no re-exports occur.
 - Nonetheless, the inclusion of the four populations in Appendix II in terms of this scenario would in principle not be problematic if trade under Article IV can be normalized through the removal of unnecessary restrictions imposed by current annotations and the conduct of trade within the provisions of Resolution Conf. 10.10 (Rev.).
- 1.4 Resolution Conf. 9.24 in second RESOLVES e) determines that species should only be included in more than one Appendix at the same time if the relevant populations satisfy the criteria of Annex 3 of the Resolution. This aspect of the Resolution does not apply to the current proposal which does not refer to the new listing of populations in the Appendices, and the populations are already split-listed. However, Annex 3, concerning split-listing, specifies that "split-listings that place some populations of a species in the Appendices, and the rest outside the Appendices, should normally not be permitted". While not specifically elaborating on the rationale for this statement, reference is made earlier in Annex 3 to the law enforcement problems that split-listings create.
- If the main concern in the case of the African elephant is law enforcement concerning trade in raw ivory, the continuation of the marking system established in Resolution Conf. 10.10 (Rev.), other provisions concerning the regulation of internal ivory trade will apply. If trade is confined to countries certified to comply with the internal ivory trade controls established by the Conference of the Parties in Resolution Conf. 10.10 (Rev.), and no re-exports are permitted, a closed cycle of trade will occur, which should not create law enforcement problems concerning other specimens.
 - All four countries already have equivalent or stricter national legal requirements for the acquisition and possession of, trade in, and manufacturing of specimens of protected species such as elephants, and ivory in particular, than those required by CITES and those elaborated in Resolution Conf. 10.10 (Rev.). The four countries have amply

demonstrated that they are capable of effective conservation management and law enforcement (evident from the conservation success achieved with their increasing elephant populations and the low incidence of illegal killing or trade). These four countries have not relied on CITES to provide any form of control that would otherwise not be achieved through their national legislation.

1.5 Concerning the amendment of the Appendices in general, the precautionary measures listed in Annex 4 of the Resolution have to be considered [although Annex 4 is specifically referenced in the operative part of the Resolution only in the context of transfers from Appendix I to Appendix II [second RESOLVES, paragraph g)] or deletion from Appendix II [second RESOLVES, paragraph h)]. Annex 4 in section A nevertheless directs that "when considering proposals to amend the Appendices, the Parties shall, in the case of uncertainty, either as regards the status of the species or as regards the impact of trade on the conservation of a species, act in the best interest of the conservation of the species".

- It is not specified what constitutes uncertainty. If the existing national conservation frameworks and achievements concerning these populations are taken as reference, it is questionable that there would be "uncertainty" regarding the future of these populations. Neither is it specified in Annex 4 how the best interests of the conservation of the species have to be determined. The same Convention nevertheless also in its preamble states that "peoples and States are and should be the best protectors of their own wild fauna and flora", and in this instance, it is appropriate to consider that the four Parties are the best placed and the most qualified and have the most at stake to determine what is the best interest of the conservation of their national elephant populations.
- There is no reason to believe that the proposed amendment concerning these four elephant populations will result in their decline in conservation status, in view of the comprehensive national and regional elephant protection and conservation management policies and strategies that would continue to apply to these populations.
- It is populations in other countries, not in southern Africa, that are the crux of the problem. The uncertainty in that case is the impact on the populations of the other countries. The certainty is that the present course of action is not supporting the conservation of elephants in the four countries versus only speculation about the impact of controlled trade on the populations of other countries.

1.6 Resolution Conf. 9.24 in the fourth RESOLVES states that "entire geographically separate populations should not be included in the Appendices without prior consideration of negative consequences to conservation and management programmes for national populations or to sustainable development programmes involving such populations".

- If this provision had been applicable and duly applied at the time when the transfer of the entire population of the African elephant to Appendix I had been proposed, it is arguable whether the populations of the four countries concerned would have been transferred to Appendix I in 1989, or would subsequently have become subject to the current restricted trade regime in Appendix II. Importantly, with this provision the Conference of the Parties has recognized that negative consequences to conservation and management programmes for national populations or to sustainable development programmes involving such populations must be considered when determining their status in CITES.

1.7 The assessment of the criteria for listing a population in terms of Resolution Conf. 9.24 (Rev.) also has to be done in terms of Annex 5 of the Resolution. In fact, this Annex has little direct relevance to the criteria for including a species in Appendix II and the interpretation of Annex 2a (or Annex 2b) of the Resolution, as this Annex mostly describes issues applicable to the criteria for Appendix I in Annex 1 of the Resolution. Nonetheless, the four populations:

- do not have restricted distributions, but the opposite, with a combined distribution of almost 400,000 km² [Botswana: 99,099 km², Namibia: 147,349 km², South Africa: 29,356 km², Zimbabwe: 113,602 km²];

- are not in decline, all four populations are two to three times larger currently than when they were transferred to Appendix II, and are continuing to increase;
- have not experienced, over an extended period, a detrimental impact from harvesting, as evidenced from the continued population increases since comprehensive large scale population monitoring began in the 1970s, and with population levels that are considered as historical highs in all four countries, at least over the past century;
- are not fragmented to any degree that would imply that small sub-populations would become extinct or can not be re-established without the relevant management authority being able to intervene appropriately;
- do not undergo large fluctuations (or else recorded consistent population increases would not have occurred);
- are not small, with current estimates indicating a combined population of at least 284,000 (Botswana 160,000, Namibia 16,000, South Africa 18,000, Zimbabwe 90,000), or about 40 % of the global population; and
- are not threatened with extinction, or threatened by other influences due to limited populations.

1.8 These four Southern African elephant populations do not even meet the biological criteria for inclusion in Appendix II, and only a limited case can be made for their inclusion in terms of the 'look-alike' provision (see points 1.1 to 1.7 above). These populations are secure and increasing, are managed within effective national conservation policy and legal frameworks, and do not require any additional international measures to ensure their protection.

1.9 With the existence of ample additional measures within the Convention concerning the registration and marking of stocks, annual quota setting, certification of compliance with internal trade controls, approval of trading partners by the Secretariat, and the prohibition on re-exports, there is no reason to maintain the current restrictive trade regime concerning these populations. To this can be added the various trade and related monitoring systems in place (annual reporting, MIKE, ETIS) and corrective measures that can be made to apply (e.g. the review of significant trade).

1.10 If these populations have to be included in the Appendices of CITES at all, Appendix II would be the most appropriate, with the understanding that such inclusion is in terms of Article II 2(b).

1.11 Some may nevertheless argue that certain specimens of the four populations have Appendix-I status and therefore still have to be 'down-listed', despite the fact that these four populations are already included in Appendix II. If this view prevails, Resolution Conf. 9.24 Annex 4 B. 2. would potentially apply (but it should be noted that this Annex of the Resolution applies to 'species' and not 'specimens'), referring to the approval of export quotas by the Conference of the Parties. Although annual export quotas for raw ivory (the only type of specimen thus far considered by the Conference of the Parties in the context of requiring annual quotas) can be specified for the four countries, it is preferable to apply the existing provisions of Resolution Conf. 10.10 (Rev.) concerning the establishment of annual export quotas for trade in raw ivory.

2. The objectives of the Convention

2.1 With reference to the preamble of the Convention, which sets out the conservation framework for CITES, the question is whether such conservation is hindered or helped by the current status of these elephants in CITES.

2.2 The essence of the problem that the four countries are facing is that their national elephant conservation programmes and the successes that they have achieved are not fully recognized in CITES, and that the current overly restrictive trade regime applicable to their national elephant populations do not "recognize that [these] peoples and States are and should be the best protectors of their own wild fauna and flora" as stated in the preamble of the Convention. Neither are these States granted the "international cooperation [that] is essential for the protection of their own wild fauna and flora" also stated in the preamble of the Convention, when the Parties to CITES are unwilling to support these countries to sustain and expand their successful conservation programmes in the form that these countries have demonstrated.

- 2.3 Recent trends in CITES decision-making processes give no cause for confidence that future decisions on one-off ivory exports, or the establishment of annual quotas that are entirely biologically sustainable and for which international trade can be effectively regulated (as demonstrated by previous exports from Botswana, Namibia and Zimbabwe), will be made on objective scientific grounds or will have predictable outcomes that support elephant conservation.
- 2.4 The fundamental rights of the four countries within CITES and the role of the Conference of the Parties have to be considered. These rights include trade in their elephant populations, which clearly do not benefit from the current restricted listings in Appendix II. In disregard of the remedial mechanisms within CITES concerning cases of unsustainable trade in Appendix-II listed species, such as the review of significant trade or the transfer of a population to Appendix I, the Conference of the Parties has on previous occasions established increasingly complex requirements for trade in elephant specimens that have all but ensured that such trade does not take place. The great majority of CITES Parties are also Parties to the Convention and Biological Diversity (CBD). This means that under international law they also have agreed to the basic premises of CBD, namely that biodiversity in all of its aspects should be maintained, that the use of wildlife resources is legitimate provided that it is sustainable, and that the benefits of such use should be equitably distributed. These are also fundamental rights of the four countries, as agreed to by virtually all of the other Parties to CITES.
- 2.5 The proponents believe that the current situation highlights the contradictions between the implementation of CITES and what is provided for in both CITES and the CBD, and that the current situation in CITES concerning the four elephant populations infringes the rights of the four States under the CBD, notwithstanding Article XIV, paragraph 2), of CITES which states that "the provisions of the present Convention shall in no way affect the ... obligations of Parties deriving from any treaty, convention or international agreement relating to other aspects of trade ... which is in force or subsequently may enter into force ...". This issue is not further explored in this proposal in detail, but it remains open to interpretation that CITES should not act as a barrier against any State meeting its obligations under the CBD concerning the conservation and use of biodiversity, equitable distribution of benefits from such use and sustainable development in general, especially when such obligations can be implemented without violating anything in the CITES Convention, and in accordance with provisions and mechanisms already created in CITES for national wildlife populations of the type, size and conservation status of the four elephant populations in question.
- 2.6 Some of the key existing provisions and mechanisms in CITES that should be made fully applicable to the four elephant populations, as appropriate, are:
- Recognition that peoples and States are and should be the best protectors of their own wild fauna and flora (preamble to Convention);
 - Recognition that the term 'species' in the Convention can include geographically separate populations, and accordingly that the regulation of trade can be conducted on the basis of geographically separate populations (Article I);
 - Recognition of the benefits of trade to conservation and development if conducted at sustainable levels (Resolution Conf. 8.3);
 - Consideration of the negative consequences to conservation and management programmes for national populations or to sustainable development programmes involving such populations through specific listings (Resolution Conf. 9.24);
 - Application of the specified criteria for the inclusion of populations in Appendix II (Resolution Conf. 9.24);
 - Regulation of trade in Appendix II specimens, including the assessment of legal origin, making non-detriment findings, and the issuance of documentation that must accompany items in trade (Article IV);
 - Detailed and comprehensive supplementary provisions concerning trade in elephant specimens, including marking systems, quota setting, internal trade controls and compliance verification thereof [Resolution Conf. 10.10 (Rev.)];
 - Corrective measures if so required for trade in Appendix-II listed species that is not in compliance with Article IV [i.e. the review of significant trade through Resolution

Conf. 12.8; the use of stricter domestic measures (Resolution Conf. 11.18); the review of trade by the Secretariat in any species listed in the Appendices subject to an annotation, reporting to the Standing Committee and a proposal by the Depositary Government to re-transfer to Appendix I as a last resort, as provided for in Resolution Conf. 11.21];

- Existing monitoring mechanisms [annual reporting required in Article VIII and Resolution Conf. 11.17 (Rev.), the MIKE and ETIS systems established through Resolution Conf. 10.10 (Rev.)];

rather than the additional set of restrictions specified in the current annotations and treating certain specimens as if they are not included in Appendix II at all, which collectively amount to an obstruction of trade in legitimately and sustainably produced biodiversity commodities and the conservation programmes of the States accountable for the protection of the source populations.

- 2.7 It seems to have been a matter of choice or circumstance thus far that these extensive provisions and mechanisms applicable to trade in elephant specimens have not been used in the way that they were intended, rather than anything inherently impossible in any proposal currently or previously submitted concerning trade in these populations. The Conference of the Parties is accordingly requested to consider this proposal in recognition that trade is an integral part of the elephant conservation and management systems of these four countries, and that this proposal is an opportunity to align the status in CITES of the four Appendix-II listed populations of the African elephant with their conservation status, the conservation management objectives of the four range States, and the application of the Convention to Appendix-II species in general.

3. Value that CITES can add to national conservation programmes

- 3.1 The four elephant populations are strictly managed to ensure their protection. They are secure and viable, and the only proximate threat is the need to expand range in the light of continuing population increases. Because of the negative impact of elephants on rural people, it is difficult to expand elephant range outside protected areas, unless elephants can be incorporated into local economies. This is only possible in general when the costs of co-existing with elephants are exceeded by the economic benefits that can be derived from such elephants. The greatest economic benefits from an elephant population accrue from a complementary range of use options that include tourism, hunting, and international trade in as many derivatives as possible. An Appendix-II listing that precludes trade in the most valuable derivatives from the populations listed, does not add value to the conservation of such populations.
- 3.2 Elephant have the potential to generate more revenue through diversified utilization, and such revenues are reinvested into conservation in the four countries to strengthen elephant management programmes and assist with reducing the conflicts between humans and elephants. The funding of elephant conservation from regulated trade in elephant products is potentially added value from CITES, if such trade were allowed to occur, regularly and predictably versus the current system of sporadic and unpredictable one off trade events, which also disrupt markets and reduce the economic value of the products in trade. Trade in elephant products with the revenue being ploughed back into elephant conservation is an example of sustainable use that benefits conservation. All four countries have established effective institutional and legal mechanisms to achieve this.
- 3.3 It is therefore not readily evident what value CITES can add to the elephant conservation programmes of the four countries if the current listing of the four elephant populations is maintained. It seems that CITES, with its need to consider dramatically different scenarios concerning populations of the same species and contrasting opinions on the appropriate measures within CITES concerning trade in specimens from populations in such different situations, can not readily accommodate or adapt to the needs from elephant range States where elephants are abundant and trade is effectively regulated. It may therefore be more appropriate if these populations are not made subject to CITES at all, alternatively, that the currently overly-restrictive trade conditions are removed.

- 3.4 Elephant conservation in the four countries are examples of success, yet the CITES regime concerning these populations has tended to place greater weight on worst-case scenarios concerning some other national populations of the same species or even national populations of a different species, the Asian elephant. This inability to sufficiently recognize conservation successes concerning elephants, has passed costs on to the four range States referred to in this proposal, which as developing countries are not able to make use of a valuable renewable natural resource that they can produce at a competitive advantage in support of their biodiversity conservation programmes, sustainable land management and economic development.
- 3.5 In conclusion, the four southern African elephant populations do not fit well into CITES, in the sense that the current trade regime is not justifiable in terms of the conservation status of these populations or makes full use of the range of other measures created by the Conference of the Parties to regulate trade in elephant products and differentiate between different forms of trade. The proposed amendment would not compromise the ability or obligations of the four countries to protect elephants, as they, in addition to their own national biodiversity and conservation legislation, remain subject to the SADC Protocol on Wildlife, and subscribe to the regional elephant conservation strategy developed under this Protocol.
- 3.6 The re-definition of the listing status in Appendix II of these elephant populations would not compromise the regional conservation of this species elsewhere in SADC. Four SADC populations are currently included in Appendix II and the remainder in Appendix I, with the addition of Angola which is a non-Party. Thus there is already a complex "split-listing" situation. Yet, the total SADC elephant population is increasing and accounts for between a third and one half of all remaining elephants in Africa. In general, there is no demonstrable correlation between CITES listing status, trade events and illegal hunting, and conservation success seems to be determined by the availability of resources and the political commitment rather than any extraneous factor, including CITES.
- 3.7 The adoption of the proposal would enable the four countries to achieve their objectives as the ordinary requirements for trade in Appendix II populations in terms of Article IV and the specific Resolution for trade in elephant specimens [Resolution Conf. 10.10. (Rev.)] can be readily achieved, and are already supported within the legal and policy frameworks for conservation and trade in the four countries. In addition, trade under such conditions would benefit from the added provisions in CITES concerning the approval of importing countries and the certification of compliance with internal trade controls.

1. Taxonomy

- 1.1 Class: Mammalia
- 1.2 Order: Proboscidea
- 1.3 Family: Elephantidae
- 1.4 Genus, species or subspecies, including author and year: *Loxodonta africana* (Blumenbach, 1797)
- 1.5 Scientific synonyms: none
- 1.6 Common names: English: African elephant
French: éléphant d'Afrique
Spanish: elefante africano
- 1.7 Code numbers: CITES A-115.001.002.001 (1984(1))
ISIS 5301415001002001001

2. Biological parameters

2.1 Distribution

Elephants occur in nearly 400,000 km² of the four countries [Botswana: 99,099 km², Namibia: 147, 349 km², South Africa: 29,356 km², Zimbabwe: 113,602 km² (Blanc *et al.* 2003)], in various degrees of densities and as permanent versus seasonal occurrences. The distribution of elephants is characterized by the occurrence of several large contiguous populations as well as numerous smaller populations in individual protected areas and other localities. Elephants (except in the case of effectively fenced conservation areas or private nature reserves) occur in and outside protected areas, and in several instances are characterized by seasonal movements that extend between various land management units, including protected areas and farming areas. This area of distribution includes several distinct land tenure categories, namely State-protected areas, communally-farmed State land, community-based natural resource management areas (conservancies, community forests), tourism and hunting concession areas, and freehold land (private nature reserves, game farms, conservancies and commercial ranches). In some areas, elephants have expanded their distribution in recent years (e.g. the north-western and north-eastern parts of Namibia).

2.2 Habitat availability

The availability of habitat should be self-evident from the extent of the area of distribution, the size of the combined populations of the four countries, and continuing increases in elephant numbers. Elephants occur across a wide range of habitats, from the extreme northern Namib desert of Namibia, the mopane-miombo woodlands of the central part of the southern African sub-continent and the Kalahari bioclimatic region to the sub-tropical lowveld and floodplains towards the eastern escarpment of the sub-continent. Relict populations occur in the afro-montane forests of South Africa and eastern Zimbabwe, and several populations have been reintroduced on private nature reserves and game farms.

Importantly, elephants are found in all the large savannah protected areas of the four countries, including four national parks in the 20,000 km² range (Chobe NP, Etosha NP, Hwange NP, Kruger NP)², as well as numerous other protected areas, community based natural resource management areas (conservancies), tourism or hunting concession areas, private nature reserves, game farms etc. Elephants are furthermore important components of several transfrontier parks and conservation areas that the four countries are part of, with very significant populations in the ca. 278,000 km² Kavango-Zambezi Transfrontier Conservation Area (Botswana, Namibia, Zimbabwe, with Angola and Zambia), and the almost 100,000 km² Greater Limpopo Transfrontier Park (South Africa and Zimbabwe with Mozambique).

Of the ca. 400,000 km² elephant range in the four countries, more than half of the area is included in State protected areas and/or other land use categories (e.g. conservancies, concession areas, private nature reserves) where the conservation and management of elephants are part of the management objectives of such land units. In general, the availability of habitat for elephants in the four countries has thus far not been a limiting factor largely because elephants have simply encroached areas of farmland with resident people paying the price. Some individual protected areas are however characterized to variable degrees by the impacts of over-abundant elephant populations.

The four countries have taken new measures to reduce such local over-population, principally through the development of large contiguous transfrontier conservation areas, in collaboration with other neighbouring countries. In many instances, land used by rural people for subsistence farming provide the connections between protected areas, thus situations exist where elephants are part of a rural farming landscape.

² *The four national parks together are about the size of the Netherlands, or twice the size of Switzerland or four times the size of Israel.*

2.3 Population status

The IUCN/African Elephant Specialist Group (Le Blanc *et al.* 2003), based on its criteria on data reliability, have concluded already for 2002 that for the four countries, the total elephant numbers in the 'definite' category were 204,024, and for all categories up to 265,509 elephants (thus 40 % of the global population). Current estimates indicate a combined population of at least 284,000 (Botswana 160,000, Namibia 16,000, South Africa 18,000, and Zimbabwe 90,000). Updates in estimates will be provided as and when they become available in the course of 2007.

2.4 Population trends

The four national populations have shown a continued increase over at least the past quarter century, although it is only more recently that comprehensive national level population monitoring data have been available, and more data are available for specific parts of the national populations than others. No major sub-population has shown any declining trends for the past decades. The current estimates indicate that the elephant populations of Botswana, Namibia, South Africa and Zimbabwe are at historically high levels.

2.5 Geographic trends

Changes in geographic range for elephants in the four countries have not been accurately measured, given the large scale of the elephant range, known temporal changes as the result of climatic fluctuations, and the size of the overall population. However, there is no reason to believe that there is any negative change in geographic trend overall. More detailed information is available for some individual populations, also through satellite tracking research. Although research on elephant movements continues, no massive shifts (seasonal or otherwise) have yet been recorded across international boundaries, although individual marked herds or males have been recorded to move across boundaries in a few places. It is indeed hoped that the development of transfrontier parks and transfrontier conservation areas which provide secure habitat over large areas would encourage a more even distribution of elephants.

2.6 Role of the species in its ecosystem

Elephants indisputably have a significant impact on their habitats wherever they occur in significant densities. Elephant populations are capable of rapid growth, in the order of 7 % per year, and tend to become locally overabundant in protected areas or other areas where conditions are favourable (abundant water, low incidence of disease, low incidence of illegal hunting). In such instances, elephants often are not efficient in dispersing to other areas of lower density, for reasons that may vary from locality to locality, but in general are poorly understood. In other instances, locally overabundant populations may simply not disperse because of fencing or factors such as landscape features, other infrastructure, or because of high human densities. In areas of local overabundance, elephants tend to alter the structure and diversity of their habitat, and such changes may negatively affect other species of conservation concern, especially the selective feeders or species associated with dense woodlands. In arid systems, elephants dominate water supplies and can displace other water-dependent species.

Elephants also heavily impact subsistence farming activities and community life, which is of greater importance at present than their broader ecological role in those ecosystems. Conflicts between people and elephants over water and crop damage have severely increased in the past decade, and will become the most serious area of conflict in future. This situation can be counteracted if elephants are perceived to have value to the people living with them. It is alarming that elephants are increasingly occupying and impacting commercial farming areas, where they are completely incompatible with irrigation farming or intensive livestock production due to the damage that they cause to water and fence installations as well as crops.

2.7 Threats

The elephant populations of the four countries are secure and viable in all respects, as evident from population increases, the extent of available range, and especially the combined population

size, their representation in major protected areas, and the community-based natural resource management policies followed.

In southern Africa in general, and the four countries in particular, the greatest future conservation challenge is the increasing scale of elephant-human conflicts caused by increasing elephant and human populations and their interactions outside protected areas or increasing movements of elephants in and out of protected areas. Rural people do not tolerate the presence of elephants unless the costs of living with elephants can be offset from economic benefits derived from elephants. It is therefore essential that the four countries pursue elephant conservation strategies that create incentives and mechanisms for co-existence between people and elephants, especially outside protected areas. It is a fallacy that ecotourism alone can bring these benefits, as tourism is generally not viable in the areas where conflicts are most severe, because those areas are also the most heavily farmed and settled.

This is a very demanding challenge, as the livelihoods and perceptions of hundreds of thousands of rural people are at stake, and there is a limit to the economic benefits that can be generated through current trade options and tourism. Current trade options are highly restrictive, unpredictable, costly, dependent on technical skills in short supply, and are in general not conducive to the development of an effective incentive-based mixed land use system. Therefore, until the four countries are able to apply the widest range of management, use and trade options concerning elephant populations according to the needs that each situation warrants, the current trade restrictions and the unpredictable way that decisions are made concerning trade and, therefore, the current status of these populations in CITES, have to be seen as the most important proximal threat. Incentive-based conservation strategies are compromised by external factors which interrupt the flow of economic benefits and the mechanics of positive-feedbacks in maintaining community and Government support for a conservation-based land use system.

A further threat is foreseen if these populations continue to increase, as there is not much additional scope for range increases, except across international borders.

3. Utilization and trade

3.1 National utilization

All four countries manage their elephant populations according to their national policies with the predominant focus on the protection and conservation of both elephants and their habitat. Trophy hunting, the recovery of ivory from natural mortalities, the destruction of limited numbers of problem-causing elephants, and where possible and necessary the periodic reduction of parts of their national populations through management intervention, are integral parts of such management. Elephant products are recovered from these activities in so far as possible, with ivory being the most important. These are stockpiled in all of the countries, which impose additional costs to conservation authorities, while such stocks could be better used to finance conservation programmes should those countries be able to conduct trade.

3.2 Legal international trade

South Africa has not been able to export ivory for commercial purposes since 1989, when its population was transferred to Appendix I. Botswana, Namibia and Zimbabwe have not been able to export ivory for commercial purposes since 1999. All four countries conduct minor volumes of trade in sport hunting trophies for non-commercial purposes, and relatively minor volumes of trade in other specimens within the confines of the current listing.

3.3 Illegal trade

The incidence of illegal killing of elephants, or illegal trade in elephant derivatives in all four countries is very low. All four countries participate in the MIKE and ETIS systems and will continue to do so.

3.4 Actual or potential trade impacts

The four countries do not manage their elephant populations for trade as such. Trade is nevertheless seen as an opportunity to derive economic value from elephants as part of national management programmes, and in support of protected area management or community-based natural resource management programmes. These southern African countries see the absence of trade as a threat to elephant populations in the region, stemming from the fact that elephants have in the past had no or very little direct value to rural communities, where so many elephants use land that people also depend on for farming. However, with an increase in human population the competition for land has increased, and with the implementation of rural development programmes in all four countries, the possible contribution of wildlife to the rural economies have become more important and consequently wildlife, including elephants, receive a higher degree of protection from rural communities. Elephants will nevertheless only survive in the long term outside protected areas if they are more valuable to people than their damage to alternative forms of land use, i.e. subsistence farming. A regular but controlled ivory trade will directly benefit the survival of the species as all revenues will be reinvested in elephant conservation, including rural community conservation programmes.

The proponents do not accept the assertion made previously that international trade from the four populations will stimulate trade in other populations. If this were to be the case, serious questions have to be asked about the appropriateness of CITES and the effectiveness of its provisions, the value of documentation accompanying shipments, export and import control procedures, as well as the internal trade controls established in Resolution Conf. 10.10 (Rev.). At the last meeting of the Conference of the Parties (CoP13), strong arguments by e.g. TRAFFIC that most illegal killing and illegal trade stem from situations where domestic trade is not regulated were supported and led to the adoption of new measures pursuant to Resolution Conf. 10.10 (Rev.) concerning an action plan for the control of trade in African elephant ivory aimed at such situations. Unless basic controls are in place in countries vulnerable to illegal killing and trade, it is a red herring to blame trade from other countries for the unfavourable situation in such countries. More effort internationally should be directed at supporting such countries to establish such controls rather than obstructing those who can regulate trade.

It can also be argued that the regular supply of legally and sustainably produced raw ivory may have a positive effect on the conservation of other elephant populations that are currently subject to illegal trade. World market demand for raw ivory may have changed in several ways subsequent to the transfer of elephants to Appendix I where most still are, but the continuing incidence of illegal trade shows the persistence of significant international market demand.

3.5 Captive breeding

Captive breeding plays no role in the conservation of the African elephant.

4. Conservation and management

4.1 Legal status

4.1.1 National

Elephants have been given the highest possible legal protection status in all four countries.

4.1.2 International

The elephant populations of the four countries are subject to the Southern African Development Community (SADC) Protocol on Wildlife, which place significant obligations on Member States concerning the protection and sustainable management of biodiversity resources. In addition, SADC is developing a regional elephant conservation strategy that the four countries are part of. All four countries are Parties to the Convention on Biological Diversity.

4.2 Species management

4.2.1 Population monitoring

All four countries have monitoring programmes for their elephant populations, and the high proportion of elephant population estimates in 'definite' data category of the IUCN from these four countries is testament to the appropriateness of their monitoring systems. Increasingly, standardized methods are used and contiguous elephant range across international borders is surveyed at the same time as far as possible. Monitoring by national conservation agencies are complemented in some instances by local or community-based monitoring programmes at conservancy (or equivalent) level.

4.2.2 Habitat conservation

The greatest part of the elephant range in the countries concerned are included in protected areas managed by the State, or are part of land covered by community-based natural resource management programmes such as conservancies.

4.2.3 Management measures

Protected areas in these countries are managed to ensure minimal disturbance and to ensure the maintenance of biodiversity. Management practices include the supply of water, management of pastures through controlled burning and stocking rates, prevention and control of diseases, research and monitoring of key environmental parameters and the provision of security through anti-poaching work by wildlife protection units. Conservancies on communal lands and equivalent community-based management programmes operate under the guidance of the national conservation authority with the requirement that resources are sustainably used.

4.3 Control measures

4.3.1 International trade

All four countries have national legislation that regulates exports and imports of wildlife specimens, including elephants, through permitting systems.

4.3.2 Domestic measures

All four countries have national legislation that regulates domestic trade in wildlife specimens, including elephants.

5. Information on similar species

Not applicable.

6. Other comments

The CITES Management Authorities of South Africa and Zimbabwe were consulted and contributed to the development of this proposal, and support this proposal.

7. References

Blanc, JJ, Thouless, C.R., Hart, J.A. Dublin, H.T., Douglas-Hamilton, I., Craig, C.G. and Barnes, R.F.W. 2003. African elephant status report: an update from the African elephant database. IUCN/SSC African Elephant Specialist Group. IUCN, Gland, Switzerland and Cambridge, UK.

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