

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



Seventeenth meeting of the Conference of the Parties
Johannesburg (South Africa), 24 September – 5 October 2016

Species specific matters

Elephants (Elephantidae spp.)

CLOSURE OF DOMESTIC MARKETS FOR ELEPHANT IVORY

1. This document has been submitted by Angola, Burkina Faso, Central African Republic, Chad, Côte d'Ivoire, Ethiopia, Gabon, Kenya, Niger and Senegal.*
2. The illegal killing of elephants and trade in their ivory is a major problem across much of Africa. It threatens the survival of many populations of both savannah and forest elephants, including those that were previously thought secure, and undermines the ecological integrity of African forest and savannah ecosystems.
3. This illegal killing and illegal trade in elephant ivory harms the sustainable economic development of local communities as well as elephant range States more broadly.
4. The poaching of elephants and trafficking in ivory is facilitated by international criminal networks and syndicates, fuels and is fuelled by corruption, undermines the rule of law and security, and in some cases provides funding to those involved with militia and terrorist activities.
5. The poaching of elephants and trafficking in ivory threatens the security and livelihoods of local communities, particularly remote, vulnerable communities within elephant range in Africa, and in particular is a risk to the lives and families of those charged with the protection of elephants and other wildlife species.
6. Any sales of ivory, including within legal domestic markets, is inherently likely to increase the risk to elephant populations and local communities, since domestic ivory markets, whether in range, transit, or consumer countries, create a significant opportunity for the laundering of illegal ivory under the guise of legality.
7. The African Elephant Action Plan is an agreement between all the African elephant range States, approved by all African Elephant range States at the 15th meeting of the Conference of the Parties (CoP15); it sets out a range of agreed prioritized objectives and actions which, if implemented across the African elephant's range, would go a long way to address the current elephant poaching crisis.
8. The existence and accrual of ivory stockpiles are costly to secure and maintain, divert scarce resources away from front line elephant conservation, protection and wildlife law enforcement, and the ivory may enter the illegal trade chain, drive speculation and stimulate poaching and trafficking.

* *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.*

9. The world view on ivory trade, in range, transit, and consumer countries, has changed dramatically since CoP16, and States and non-state partners are working closely together today to help stop the poaching of elephants and trafficking in their ivory.
10. On 14 February 2014, the Presidents of Botswana, Gabon, Chad and Tanzania and the Ethiopian Minister of Foreign Affairs launched the Elephant Protection Initiative (EPI), a growing African-led initiative with over 10 member countries, which calls for *inter alia* the closure of domestic ivory markets and support for the implementation of the African Elephant Action Plan. The EPI was welcomed in January 2016 by the CITES Standing Committee at its sixty-sixth meeting.
11. On 25 September 2015, President Barack Obama of the United States and President Xi Jinping of the Peoples Republic of China (PRC) issued a statement regarding their joint commitments to combat wildlife trafficking¹, including the commitment of both countries to “enact nearly complete bans on ivory import and export, including significant and timely restrictions on the import of ivory as hunting trophies, and to take significant and timely steps to halt the domestic commercial trade of ivory”.
12. On 30 July 2015, the United Nations General Assembly adopted by consensus its first-ever resolution on wildlife trafficking (UNGA A/69/L.80, “Tackling illicit trafficking in wildlife”)².
13. On 25 September 2015, the UN Sustainable Development Summit for the post-2015 development agenda (convened as a high-level plenary meeting of the UN General Assembly) adopted the new Sustainable Development Goals (SDGs), which represent the agreed commitment of the 193 Member States of the United Nations. Among many vital issues, the SDGs specifically address illegal wildlife trade through target 15.7 of Goal 15³, which states: *Take urgent action to end poaching and trafficking of protected species of flora and fauna and address both demand and supply of illegal wildlife products*. Paragraph 9 of the document includes a Vision of a world “...in which humanity lives in harmony with nature and in which wildlife and other living species are protected.” It is that spirit which underpins this draft resolution.
14. On 13 January 2016, the Chief Executive of Hong Kong SAR announced in his 2016 Policy Address that Hong Kong SAR would take steps “*as soon as possible to ban the import and export of elephant hunting trophies and actively explore other appropriate measures, such as enacting legislation to further ban the import and export of ivory and phase out the local ivory trade.*”⁴
15. On 26 February 2016, the EU adopted an Action Plan against Wildlife Trafficking, which aims, *inter alia*, to largely close the EU domestic market (except for antiques) and prohibit export of raw pre-convention ivory⁵.
16. The CITES Conference of the Parties and the Standing Committee have noted the ongoing acute level of threat facing the African elephant, the fact that population levels in all regions of Africa continue to decline due to illegal killing, and they have taken increasing measures to address the illegal trade, particularly at CoP16 and the 65th and 66th meetings of the Standing Committee. These include Resolutions (Resolution Conf. 10.10 (Rev. CoP16), Resolution Conf. 16.9, and their precursors) and Decisions (Decision 14.78 (Rev. CoP16), Decisions 16.78-16.83, and their precursors); and recommendations by the Standing Committee.
17. Since CoP16, a number of major political events have added further measures to combat trafficking in wildlife, including in elephant ivory; raise the profile of the harm caused by illegal wildlife trade (including ivory); and secure high level political support for combating it. These events and actions include: U.S. President Obama’s Executive Order on Combatting Wildlife Trafficking (and associated Wildlife Trafficking Strategy and Implementation Plan); a high level stakeholder dialogue on the illegal wildlife trade on the occasion of World Wildlife Day (New York, March 2015) and other World Wildlife Day events; the African Elephant Summits (Botswana December 2013 and March 2015), which also agreed on a set of urgent measures; the London Conference on Illegal Wildlife Trade (2014); and the Kasane Conference on Illegal Wildlife Trade (March 2015). All of these events and actions are critical, but their commitments and

¹ <https://www.whitehouse.gov/the-press-office/2015/09/25/fact-sheet-president-xi-jinpings-state-visit-united-states>

² <http://www.un.org/Docs/journal/asp/ws.asp?m=A/69/L.80>. Available in 6 languages

³ http://www.un.org/ga/search/view_doc.asp?symbol=A/69/L.85&Lang=E and <https://sustainabledevelopment.un.org/post2015/summit>

⁴ <http://www.scmp.com/news/hong-kong/law-crime/article/1900623/hong-kong-chief-executive-vows-kick-start-legal-process-ban>

⁵ See Communication on the EU Action Plan against Wildlife Trafficking, adopted on 26 February 2016 and available at: http://ec.europa.eu/environment/cites/trafficking_en.htm

recommendations will not fully address the crisis facing the African elephant as long as domestic legal ivory markets continue, particularly but not exclusively in consumer States.

18. Many elephant range States have called upon transit and consumer States to assist their efforts to protect their elephant populations by closing their legal domestic ivory markets. On 4 November 2015, representatives from 25 African elephant Range States adopted the Cotonou Declaration⁶, which among many issues stated that the African Elephant Action Plan can only be implemented effectively in the absence of trade in ivory; and agreed to “*support all proposals and actions at international and national levels to close domestic ivory markets worldwide*”.
19. A precedent is currently in effect with respect to the Tibetan antelope. In Resolution Conf. 11.8 (Rev. CoP 13), the Conference of the Parties “*RECOMMENDS that: a) all Parties and non Parties, especially consumer and range States, adopt comprehensive legislation and enforcement controls as a matter of urgency, with the aim of eliminating commercial trade in Tibetan antelope parts and derivatives, especially shahtoosh, in order to reduce demonstrably the illegal trade in Tibetan antelope products*”.
20. Many range and consumer States have already announced that they have taken, are taking, or intend to take legislative and regulatory steps to close their legal domestic ivory markets.

Recommendation

21. The draft Resolution in the Annex is proposed for adoption by the Conference of the Parties.

COMMENTS FROM THE SECRETARIAT

- A. The Secretariat notes that the issues raised in document CoP17 Doc. 57.2 duplicate those addressed in **document CoP17 Doc. 27 under the section “Domestic ivory markets”**. **The draft resolution in the Annex** to the present document also overlaps considerably with the revisions to Resolution Conf. 10.10 (Rev. CoP16) proposed in document CoP17 Doc. 27. The Secretariat is of the opinion that it would be best if these issues were discussed together at the present meeting.
- B. The Secretariat considers that all existing or new provisions concerning domestic markets for elephant ivory are best consolidated in Resolution Conf. 10.10 (Rev. CoP16), which is entirely dedicated to trade in elephant specimens. It therefore recommends exploring the possibility to amend Resolution Conf. 10.10 (Rev. CoP16) instead of trying to develop a separate resolution on closure of domestic markets for elephant ivory. This approach seems more coherent and practical, and is also taken in document CoP17 Doc. 27.
- C. Several sections of the preamble in the draft resolution are identical or nearly identical to text proposed in Annex 1 of document CoP17 Doc. 27, and could be consolidated if maintained. The Secretariat further notes that the first RECALLING in the proposed preamble refers to decisions which the Standing Committee proposes to delete at the present meeting (see document CoP17 Doc. 57.1).
- D. Should the operational part of the draft resolution be integrated in Resolution Conf. 10.10 (Rev. CoP16), it appears that the second, third and fourth paragraph would become largely redundant. This is because Resolution Conf. 10.10 (Rev. CoP16) already contains provisions concerning: urgent support for the African Elephant Action Plan; reporting to the Standing Committee and the Conference of the Parties (through the Secretariat rather than directed to Parties); and appeals for funding to implement the recommendations in the resolution.
- E. The Secretariat notes that recommending the closure of legal domestic markets for, and national trade in legal specimens of CITES-listed species, is a complex and sensitive issue, given that Article I of the Convention defines “Trade” to mean export, re-export, import and introduction from the sea.

⁶ http://www.stopivory.org/wp-content/uploads/20151105_African-Elephant-Coalition-Cotonou-Declaration.pdf

- F. Parties may wish to refer to Article 3 of the Convention on Biological Diversity and Principle 2 of the Rio Declaration on Environment and Development, according to which “States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction.”
- G. The Secretariat notes that Parties have on rare occasions addressed domestic markets in instances when there was a sufficiently clear nexus between domestic and international illegal trade, undermining compliance with the Convention. In such cases, the Parties have agreed to more effectively regulate and control domestic markets, rather than to recommend their complete closure. Concerning trade in elephant ivory this approach is reflected in Resolution Conf. 10.10 (Rev. CoP16), urging “those Parties in whose jurisdiction there is an ivory carving industry, a legal domestic trade in ivory, an unregulated market for or illegal trade in ivory, or where ivory stockpiles exist, and Parties that may be designated as ivory importing countries” [...] to “regulate the domestic trade in raw and worked ivory”, and take a series of additional regulatory measures.
- H. The Secretariat also draws Parties’ attention to document CoP17 Doc. 24 on National ivory action plans process, which is being used to strengthen domestic measures to combat illegal trade in elephant ivory, including in relation to domestic ivory markets.
- I. The Secretariat would further wish to note that Parties should ensure that possession of illegally traded specimens is penalised under national legislation in accordance with Article VIII of the Convention and that national legislation addresses such issues as domestic possession of illegally obtained specimens.
- J. Based on these considerations, the Secretariat is of the opinion that recommending Parties to close their domestic markets for commercial trade in raw or worked ivory may go beyond the scope of the Convention. As an alternative, Parties could be invited to consider closing domestic markets. In this context, the Secretariat also reminds Parties that they have the right to take stricter domestic measures under Article XIV of the Convention and the Conference of the Parties may also wish to note that Parties could take such measures.
- K. If Parties wish to regulate legal domestic markets for CITES-listed species in this manner, they may need to consider changing the text of the Convention and in particular the definition of trade.

DRAFT RESOLUTION:
CLOSURE OF DOMESTIC MARKETS FOR ELEPHANT IVORY

RECOGNIZING that the illegal killing of elephants and trade in their ivory is a major problem across much of Africa, threatens the survival of many populations of both savannah and forest elephants, including those which have previously been thought secure, and undermines the ecological integrity of African forest and savannah ecosystems;

ALSO RECOGNIZING that the illegal killing of elephants and illegal trade in elephant ivory: harms the sustainable economic development of local communities as well as elephant range States more broadly; undermines the security of remote, vulnerable communities within elephant range in Africa; and is a serious risk to the lives and families of those charged with the protection of elephants and other wildlife species;

CONCERNED that the epidemic of poaching of elephants in the majority of African elephant range States and trafficking in ivory is facilitated by international criminal networks and syndicates, fuels and is fuelled by corruption, undermines the rule of law and security, and in some cases provides funding to those involved with illegal militia and terrorist activities;

CONSIDERING that any supply of ivory, including that within otherwise legal domestic markets, inherently increases the risk to elephant populations and local communities, due to the opportunity it creates for the laundering of illegal ivory under the guise of legality;

WELCOMING the joint commitments announced in September 2015 of President Barack Obama of the United States and President Xi Jinping of China to combat wildlife trafficking, including the commitment of both countries to “enact nearly complete bans on ivory import and export, including significant and timely restrictions on the import of ivory as hunting trophies, and to take significant and timely steps to halt the domestic commercial trade of ivory”, as well as the announcement in January 2016 by the Chief Executive of Hong Kong SAR to “actively explore... appropriate measures, such as enacting legislation to further ban the import and export of ivory and phase out the local ivory trade.”;

FURTHER WELCOMING the adoption by the European Union on 26 February 2016 of the EU Action Plan against Wildlife Trafficking, which aims, *inter alia*, to limit trade in ivory in the EU to “only legal ancient ivory items” and “suspend the export of raw pre-Convention ivory”;

FURTHER WELCOMING the adoption by the United Nations General Assembly on 30 July 2015, by consensus, of its first-ever resolution on wildlife trafficking (UNGA A/69/L.80, “Tackling illicit trafficking in wildlife”);

FURTHER WELCOMING the adoption of the new Sustainable Development Goals (SDGs) on 25 September 2015 by the UN Sustainable Development Summit for the post-2015 development agenda (convened as a high-level plenary meeting of the UN General Assembly), which specifically address illegal wildlife trade through target 15.7 of Goal 15, which states: *Take urgent action to end poaching and trafficking of protected species of flora and fauna and address both demand and supply of illegal wildlife products*;

RECALLING Resolutions (Resolution Conf. 10.10 (Rev. CoP16), Resolution Conf. 16.9, and their precursors) and Decisions (Decision 14.78 (Rev. CoP16), Decisions 16.78-16.83, and their precursors) of the Conference of the Parties, which addressed the poaching of elephants and the trafficking in their ivory;

RECALLING that Resolution Conf. 10.10 (Rev. CoP16) requires the Parties to take a series of measures to regulate their domestic ivory markets, but RECOGNIZING however that the measures in Resolution Conf. 10.10 (Rev. CoP16) that relate to the regulation of domestic ivory markets are insufficient in light of the current level of poaching, trafficking, and involvement of transnational organized crime in ivory trafficking;

WELCOMING the Elephant Protection Initiative launched on 14 February 2014 by the Presidents of Botswana, Gabon, Chad and Tanzania and the Ethiopian Minister of Foreign Affairs, as a growing African-led initiative (with over 10 member countries) which calls for *inter alia* the closure of domestic ivory markets and support for the implementation of the African Elephant Action Plan.

WELCOMING the Cotonou Declaration of the African Elephant Coalition in which representatives of 25 African elephant range States agreed, *inter alia*, to “support all proposals and actions at international and national levels to close domestic ivory markets worldwide”;

ACKNOWLEDGING that many elephant range States have called upon transit and consumer States to assist their efforts to protect their elephant populations by closing their legal domestic ivory markets; and

FURTHER ACKNOWLEDGING that many range and consumer States have already announced that they have taken, are taking, or intend to take legislative and regulatory steps to close their legal domestic ivory markets.

THE CONFERENCE OF THE PARTIES TO THE CONVENTION

RECOMMENDS that all Parties and non-Parties, particularly those in whose jurisdiction there is a legal domestic market for ivory, or any domestic commerce in ivory, adopt all necessary legislative, regulatory and enforcement measures as a matter of urgency to close their domestic markets for commercial trade in raw or worked ivory;

URGES all Parties, non-Parties, NGOs, IGOs, private citizens and the private sector to provide both immediate and longer-term funding to address the elephant crisis through full and timely implementation of the African Elephant Action Plan;

DIRECTS Parties to inform it of the status of the legality of their domestic ivory market and efforts to implement this Resolution, and to report progress to future meetings of the Standing Committee and Conference of the Parties; and

APPEALS to all governments, donor agencies, intergovernmental organizations, and non-governmental organizations to provide technical expertise and funding to Parties requiring assistance to implement this Resolution.

Note: the applicable sections of Resolution Conf. 10.10 (Rev. CoP16), under “Regarding trade in elephant specimens”, should be amended accordingly.