

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



Seventieth meeting of the Standing Committee
Rosa Khutor, Sochi (Russian Federation), 1-5 October 2018

MIKE and ETIS Subgroup

DATA ACCESS AND NON-DISCLOSURE AGREEMENTS

1. This document has been prepared by the Secretariat.

Background

2. The MIKE and ETIS Subgroup of the Standing Committee discussed a data access and release policy for ETIS in the margins of the 66th meetings of the Standing Committee. In its report to SC66 (SC66 Com. 9), the Subgroup informed the Standing Committee that it considered and adopted a data access and release policy for ETIS and advised that it should be incorporated in Resolution Conf. 10.10 (Rev. CoP16), to which the Committee agreed.
3. At its 17th meeting (CoP17; Johannesburg, October 2016), the Conference of Parties considered document CoP17 Doc. 57.1, in which the Secretariat proposed the integration of the data policy for MIKE and ETIS in Resolution Conf. 10.10 (Rev. CoP16) on *Trade in Elephant Specimens*. Resolution Conf. 10.10 (Rev. CoP16) included the following relating to data access and release in Annex 2 (Monitoring the illegal killing in elephant range States):

4. Data access and release

Summaries and the aggregates of data provided to MIKE, and the analyses of such data, will be considered to be in the public domain once they are published on the CITES website. Detailed data on individual elephant mortalities or law enforcement data submitted to MIKE are owned by the range States that provided them. Such data will be accessible to the TAG and the respective range State for review purposes, but will not be released to any third party without the consent of the range State concerned. Data may be released to contractors (e.g. statisticians) under appropriate non-disclosure agreements.

4. The Conference of Parties adopted amendments to Resolution Conf. 10.10 (Rev. CoP16) on *Trade in Elephant Specimens* at CoP17 (Johannesburg, October 2016) that included the following provisions relating to access to and release of data gathered by Monitoring the Illegal Killing of Elephants (MIKE) and Elephant Trade Information System (ETIS) programmes:

26. g) *summaries and aggregates of data provided to MIKE and ETIS, and the analyses of such data, constitute information that will be considered to be in the public domain once they are published on the CITES website, or otherwise publicly distributed; the detailed data on individual seizure cases, elephant mortalities and law enforcement submitted to MIKE or ETIS are owned by the respective data providers, which in most case are the CITES Parties; any such data relating to a CITES Party will be accessible to that Party for information and review purposes, but will not be released to any third party without the consent of the Party concerned; data may also be released to contractors (e.g. statisticians) or other researchers (e.g. MIKE ETIS Subgroup-approved research collaborations) under appropriate non-disclosure agreements;*

MIKE Programme

5. The CITES Secretariat publishes summaries and aggregates of MIKE data on the CITES website (https://www.cites.org/eng/prog/mike/data_and_reports) and has not received any requests for detailed data. It is anticipated that requests for detailed data may be received in the future and therefore a draft data access and non-disclosure agreement form has been developed for consideration by the MIKE and ETIS Subgroup.
6. In preparing a draft data access and non-disclosure agreement, the CITES Secretariat considered the following:
 - a. All data collated and managed by the MIKE programme are owned by the range States that provided it to the CITES Secretariat through the MIKE site and national focal points.
 - b. Data access and a non-disclosure agreement should ensure that the owners of the data (elephant range States) are consulted and provide written consent for the release of the data.
 - c. There are differences between MIKE data and ETIS data [see the definition of data in ETIS Data Access and Release Policy in paragraph 8 below (SC66 Com. 9)]
 - d. Contractors appointed by the CITES Secretariat are obligated to sign a UN contract that includes general conditions which specifically address the confidential nature of documents and information.
 - e. The MIKE and ETIS Subgroup have not approved specific research collaborations.
 - f. The requirement for a non-disclosure agreement relates only to requests received from researchers and all other requests from third parties will be directed to the relevant range State and not dealt with by the CITES Secretariat.
 - g. Resolution Conf. 10.10 (Rev. CoP17) does not provide further guidance relating to what would constitute an “appropriate non-disclosure agreement”.
7. The proposed draft MIKE data release and non-disclosure agreement is attached as Annex 1 to the present document for consideration by the MIKE and ETIS Subgroup.

ETIS

8. As mentioned above, the Standing Committee at its 66th meeting (SC66, Geneva, January 2016) noted the report by the MIKE and ETIS Subgroup that included the approved ETIS data access and release policy. The ETIS data access and release policy formalised the status quo that has been in effect since the inception of ETIS in 1998. In this regard the following should be noted as captured in document SC66 Com. 9:

ETIS Data Access and Release Policy

Definitions

Information is hereby defined as the outcomes and outputs of ETIS data analysis, including summaries and aggregates in different forms, trends and other analytical presentations, and the relationships and factors which comprise underlying trade dynamics.

Data is hereby defined as the facts gathered through ETIS processes on individual seizures, including that collected using the CITES ‘Ivory and elephant product data collection form’ or other mechanisms used for obtaining elephant product seizure data. It also includes data that is part of the subsidiary databases within ETIS, and any other data that have been primarily collected under ETIS auspices to facilitate ETIS analyses.

Access to ETIS Information and Data

Summaries and the aggregates of data provided by ETIS, and the analyses of such data, constitute information and will be considered to be in the public domain once they are published on the CITES website or otherwise publicly distributed.

The detailed data on individual seizure cases submitted to ETIS are owned by the data providers, which in most case is the CITES Parties. Any data relating to a CITES Party will be accessible to that Party for

information and review purposes, but will not be released to any third party without the consent of the Party concerned. Data may also be released to contractors (e.g. statisticians) or other researchers (e.g. MIKE ETIS Subgroup-approved research collaborations) under appropriate non-disclosure agreements.'

9. Although the definitions noted in paragraph 8 above are also found in paragraph 5 of Annex 1 on *Monitoring illegal trade in ivory and other elephant specimens* of Resolution Conf. 10.10 (Rev. CoP17), the CITES Parties have not specified any kind of data sharing or feedback mechanism for the ETIS data so that they are periodically apprised of the data in ETIS which relates to them. However, since 2000, TRAFFIC has prepared ETIS Country Reports, which are summarised presentations of all of the data that relates to a specific country whether they made the seizure themselves or were implicated in a seizure made by another country. In the future, once the ETIS on-line facility is fully operative, the Parties will be able to access their own data whenever they wish.
10. In preparing a draft data access and non-disclosure agreement, TRAFFIC considered the following:
 - a. Most, but not all¹, of the data in ETIS are owned by the CITES Parties who have provided it to ETIS so that it can be proactively used to assess illegal trade in elephant products pursuant to the mandate given to TRAFFIC in Resolution Conf. 10.10 and its annexes.
 - b. Beyond aggregated summaries as described in paragraph 8 above, TRAFFIC has never provided the ETIS case data to any Third Parties and in twenty-two years of management of the ETIS data has never received a complaint from any CITES Party concerning the improper use of its data.
 - c. Contractors engaged by TRAFFIC to analyse the ETIS data are obligated to sign contracts that include general conditions specifying the confidential nature of the ETIS data and prevent its further use or release once the contract has been fulfilled.
 - d. Unlike the MIKE programme, TRAFFIC does not published summaries and aggregates of the ETIS data on the CITES website, but such summaries and aggregates are periodically presented in ETIS reports. At SC69 TRAFFIC requested the MIKE ETIS Subgroup of the Standing Committee to be allowed to contribute aggregated data on the CITES website in the future. This request was not agreed at SC69 in view of the deliberations that resulted in SC69 Com. 11. TRAFFIC believes that it is important to make summarised information available to the Parties on a regular basis and is asking the MIKE-ETIS Subgroup at SC70 to reconsider this request. If agreed, TRAFFIC would regularly provide the following summarised information concerning the data in ETIS:

Table 1: Number and weight of seizures made by countries by year

Country	Seizure or Weight	2015	2016	2017	2018
Country X	Seizures (no)	12	21	18	14
	Weight (kg)	622.7	439.0	1,238.9	34.5
Country Y	Seizures (no)	-	1	-	2
	Weight (kg)	0	2.0	0	2.2

¹ Other verified seizure cases in ETIS have come from the annual data exchange with the World Customs Organisation, qualified NGOs working in collaboration with government law enforcement authorities, and open-source accounts that have been validated with local sources.

Table 2: Number and weight of seizures by year made elsewhere which implicate the country in the trade chain

Country	Seizure or Weight	2015	2016	2017	2018
Country X	Seizures (no)	11	14	14	10
	Weight (kg)	1,517.5	826.2	2,733.1	837.4
Country Y	Seizures (no)	0	2	1	2
	Weight (kg)	0	6.1	0.8	1.8

- e. Since the data access and release policy was agreed at SC66, the MIKE and ETIS Subgroup has not approved any specific research collaborations.
- f. The requirement for a non-disclosure agreement relates only to requests received from researchers but neither Resolution Conf. 10.10 (Rev. CoP17) nor the MIKE and ETIS Subgroup provide guidance relating to what would constitute an “appropriate non-disclosure agreement”.

- 11. The proposed draft ETIS data release and non-disclosure agreement is attached as Annex 2 to the present document for consideration by the MIKE and ETIS Subgroup

Recommendations

- 12. The MIKE and ETIS Subgroup is invited to:
 - a) consider and approve the MIKE and ETIS data request forms;
 - b) consider TRAFFIC’s request to make aggregated data (see Table 1 and 2 in paragraph 10 d.) available on the CITES website; and
 - c) consider and further define what constitutes an appropriate “non-disclosure agreement”.