

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



Sixteenth meeting of the Conference of the Parties
Bangkok (Thailand), 3-14 March 2013

Interpretation and implementation of the Convention

Trade control and marking

DECISION-MAKING MECHANISM FOR A PROCESS OF TRADE IN IVORY

1. This document has been submitted by the Chair of the Standing Committee, but has not been endorsed by the full Standing Committee. It was prepared by the Secretariat at the request of the Standing Committee.

Background

2. At its 14th meeting (CoP14, The Hague, 2007), the Conference of the Parties adopted Decision 14.77 on a decision-making mechanism for authorizing ivory trade, as follows:

Directed to the Standing Committee

The Standing Committee, assisted by the Secretariat, shall propose for approval at the latest at the 16th meeting of the Conference of the Parties a decision-making mechanism for a process of trade in ivory under the auspices of the Conference of the Parties.

3. At its 57th meeting (SC57, Geneva, July 2008), the Standing Committee discussed the best approach to implement Decision 14.77, and agreed to the following:

In order to initiate the implementation of this Decision, the Secretariat proposes that an independent study be undertaken on the development of a decision-making mechanism and process for future trade in elephant ivory for review by the Standing Committee. This study, which could be coordinated by the Secretariat in consultation with stakeholders including African and Asian elephant range States and which would be subject to the availability of external funding, is proposed to cover the following issues:

- a) *examination of the various processes and decision-making mechanisms related to ivory trade that are or have been operating under the provisions of the Convention, including compliance and enforcement provisions;*
- b) *evaluation of the strengths and weaknesses of international trade regimes and associated controls, safeguards and monitoring methods for other high-value commodities in the context of future trade in ivory;*
- c) *basic principles and factors that could guide future trade in ivory, and proposals on how an effective, objective and independent decision-making mechanism could operate, taking into account the provisions of the African elephant action plan and experiences from Asia, and*
- d) *exploration of the conditions under which international trade in elephant ivory could take place, taking into account: ecological and economic sustainability of ivory trade; the impact of trade on the illegal killing of elephants; the initial impact of the one-off sale of ivory that was agreed at CoP14; levels of illegal trade; enforcement challenges and capacities; information on linkages*

between legal and illegal trade, and methods to elucidate these linkages; methods to track the chain of custody; etc.

Implementation of Decision 14.77 since the 15th meeting of the Conference of the Parties (CoP15, Doha, 2010)

4. At its 61st meeting (SC61, Geneva, August 2011), the Standing Committee agreed to the proposal for work towards the implementation of Decision 14.77 outlined in document SC61 Doc. 44.4. This required the Secretariat to contract by October 2011, and in accordance with UN rules, a professional, independent, technical consulting firm or expert(s) to prepare the study, in line with the terms of reference agreed at SC57. It was clarified that the purpose of the consultancy was not to determine whether there should or should not be international trade in ivory, but to provide a technically-focused study on a “decision-making mechanism for a process of trade in ivory under the auspices of the Conference of the Parties” that could be used by the Parties, should they decide in the future to authorize commercial international trade in ivory under the Convention.
5. The Committee also agreed that the following stakeholders should be consulted in the conduct of the study: China and Japan, as trading partners; African and Asian elephant range States; the United Kingdom of Great Britain and Northern Ireland and the United States of America, as donors; and the MIKE-ETIS TAG, the IUCN/SSC African and Asian Elephant Specialist Groups and TRAFFIC, as technical experts.
6. The consultancy was initiated in December 2011 and a draft report was produced in March 2012. The Secretariat sought comments on the draft from the specified stakeholders and formulated its own comments. The Secretariat also shared the draft report with the members of the Standing Committee. By mid-May 2012, comments had been received from Botswana, China, India, Japan, Kenya, South Africa, the United Kingdom, the United States and IUCN. These were provided to the consultants to be taken into account, as appropriate, in finalizing their study.
7. The study, entitled *Decision-making mechanisms and necessary conditions for a future trade in African elephant ivory*, was made possible thanks to the generous support of Botswana and the European Commission. It was presented at the 62nd meeting of the Standing Committee (SC62, Geneva, July 2012) in the three working languages of the Convention (see the Annex to document SC62 Doc. 46.4).
8. At SC62, the Standing Committee endorsed the following steps in the development of an ivory trade decision-making mechanism:
 - a) *In order to assist the Standing Committee with its implementation of Decision 14.77, the Secretariat should invite further comments from the stakeholders identified at its 61st meeting on the study contained in the Annex to document SC62 Doc. 46.4. Replies should be submitted by 31 August 2012;*
 - b) *On the basis of the study and the responses received, the Secretariat should review the information and prepare a document for review by the same stakeholders and the Chair of the Standing Committee. Comments should be submitted well in time for the Secretariat to prepare a document for submission at CoP16;*
 - c) *The Secretariat should take all contributions into account and prepare a document on behalf of the Standing Committee for consideration at CoP16. This document should be approved by the Chair of the Standing Committee prior to its submission, and state that it has not been endorsed by the full Standing Committee;*
 - d) *The report should include, in an annex, details of the responses which it seeks to address and from which it is derived, where the respondents have given their approval for these to be presented in this way; and*
 - e) *The Secretariat should inform the Standing Committee of progress in the conduct of the work by electronic means.*

It was stressed that all drafts and documents that were to be circulated before the present meeting needed to be made available in English and French, and the Secretary-General called for external funding to make that possible.

9. In compliance with the procedures agreed to by the Standing Committee, the Secretariat invited comments from specified stakeholders, produced a draft document which was circulated for further comments to these stakeholders and the Chair of the Standing Committee, and prepared the present document for consideration at CoP16.

Comments from stakeholders

10. Within the agreed deadlines, the following specified stakeholders provided comments and inputs:
- a) Botswana, the Central African Republic, China, Côte d'Ivoire, Japan, Kenya, Liberia, Mali, Namibia, Nigeria, Sierra Leone, South Africa, the United Kingdom, the United Republic of Tanzania, the United States and Zimbabwe;
 - b) IUCN (IUCN/SSC African Elephant Specialist Group); and
 - c) MIKE-ETIS TAG members (Mr Hedges and Mr Jachmann).

Their contributions, in English and French only, are presented in information document CoP16 Inf. 5.

11. The study to help guide the Standing Committee in its implementation of Decision 14.77 was noted by the Committee at SC62 and used as a basis for further consultations amongst stakeholders. Questions from stakeholders as to whether the study met the Standing Committee's original Terms of Reference are not discussed in the present document.
12. The comments that the stakeholders provided covered a wide range of opinions and raised a large number of issues, as was already the case when stakeholders commented on a draft version of the study (see paragraph 6 above). There seems broad agreement that the implementation of Decision 14.77 should ultimately contribute to, or be beneficial for, the conservation of elephants, but many issues remain unresolved and require further consideration. Many stakeholders expressed concern about a potential future legal trade in ivory, or criticized the study partially or in its entirety. However, not all offered alternatives or a practical way forward for the implementation of Decision 14.77.

A decision-making mechanism

13. Various views were offered about what the "decision-making mechanism for a process of trade in ivory under the auspices of the Conference of the Parties" actually entailed, indicating that there may not be a common understanding of the nature of the mandate in Decision 14.77. There also seemed to be different expectations amongst the stakeholders about the end product to be adopted by the Conference of the Parties. Some suggested very generic conditions under which ivory trade could occur, while others expected the adoption of more or less detailed criteria, specific provisions for an ivory trade regime or the results of further studies.
14. The Secretariat believes that the principal aim of Decision 14.77 is to establish a basis for agreeing upon how to make the decision, under CITES on whether or not there should be international trade in elephant ivory, under what circumstances such trade could take place, and what would be the related institutional and financial arrangements. In the Secretariat's view, if such decisions were taken by the Conference of the Parties, trade in ivory could take place under the auspices of the Standing Committee in accordance with the criteria and conditions of the agreed trade regime.
15. The outline of the decision-making mechanism proposed by the United Kingdom (see information document CoP16 Inf. 5) seems pragmatic. In line with this approach, the mechanism could:
- a) clarify the basis for the Conference of the Parties to make a decision on whether to authorize commercial international trade in ivory from Appendix-II elephant populations"; and
 - b) specify conditions and criteria that would need to be met for such trade to take place.

Additionally, the mechanism could:

- c) explain in detail the organization and management of any future trade in ivory; and

- d) determine the roles of CITES bodies in monitoring and evaluating compliance with the provisions of the decision-making mechanism, and in supervising, authorizing or suspending such trade.
16. Based on the study in document SC62 Doc. 46.4 and comments from stakeholders, the Secretariat has summarized in the present document the issues that would benefit from further discussion and agreement (see the Annex to the present document). The Secretariat's basic assumptions are that:
- a) Trade in elephant ivory needs to be conducted in full compliance with CITES provisions, mechanisms and decisions. It should not be initiated when that is not the case and should be suspended when provisions are no longer met;
 - b) The creation of additional or new structures or instruments to organize trade in ivory should be minimized, while the role of the existing CITES bodies and processes should be specified or enhanced as necessary; and
 - c) Decision 14.77 needs to be implemented.
17. In the Annex to this document, the Secretariat provides suggestions on:
- a) the outline of a possible decision-making mechanism;
 - b) matters of concern that would need to be considered when developing the decision-making mechanism and the ivory trade processes that may be approved;
 - c) the scope of and criteria for a process for trade in ivory;
 - d) governance issues and the possible roles of the Conference of the Parties, the Standing Committee and the Secretariat; and
 - c) resource requirements to support these roles.

Recommendations

18. The Secretariat agrees with several of the stakeholders that substantial additional discussion is required to come to a conclusion on a decision-making mechanism for future trade in elephant ivory. It seems unlikely that this can be accomplished by or at CoP16, although the Secretariat recognizes that dialogues amongst key stakeholders, particularly the African elephant range States, could take place before or during CoP16 to build agreement towards a way forward.
19. The Secretariat proposes to extend the period of validity of Decision 14.77, directed to the Standing Committee, until the 17th meeting of the Conference of the Parties (CoP17). In order to proceed more promptly, it also proposes that the Standing Committee establish a working group at its 64th meeting, composed of its Chair, a number of identified key Party stakeholders and the Secretariat, to work interessionally to progress the implementation of Decision 14.77. The working group could be tasked with developing a proposal for a decision-making mechanism, taking into consideration information in document SC62 Doc. 46, the comments from the stakeholders and the present document. The working group should provide its findings and recommendations at SC65 in 2014, where the Committee could assess progress and decide on further actions, as required. A final proposal should be agreed at SC66 in 2015, and submitted for adoption at CoP17.
20. Based on the Parties that were previously identified by the Standing Committee as stakeholders, and considering the global aspect of the decision-making mechanism (with emphasis on Africa and Asia), the Secretariat suggests that the composition of the working group proposed in paragraph 19 above be as follows: two Parties from central, eastern, southern and western Africa, respectively (nominated by the Parties in each of these subregions); two Parties from Asia representing the Asian elephant range States (nominated by the Parties that are range States of this species); China, Japan, the United Kingdom and the United States.

21. The Secretariat proposes that the Conference of the Parties adopt the following amendments to Decision 14.77 (deletions are shown in ~~strike-out~~ and new text is underlined):

Directed to the Standing Committee

The Standing Committee shall:

- a) ~~The Standing Committee, With the assistance of~~ by of the Secretariat, shall propose for approval at the latest at the 16th 17th meeting of the Conference of the Parties (CoP17) a decision-making mechanism for authorizing a process of trade in ivory under the auspices of the Conference of the Parties.
- b) At its 64th meeting, establish a working group, composed of the Chair of the Standing Committee, specified key Party stakeholders and the Secretariat, to implement the instruction in paragraph a) of the present Decision. The working group shall work intersessionally and take into consideration relevant documents submitted at previous meetings of the Standing Committee and the findings and comments in document CoP16 Doc. 36, and consult additional experts or stakeholders, if considered necessary. The Standing Committee shall consider the findings and recommendations of the working group at its 65th meeting, decide on further actions as required, and agree on a final proposal at its 66th meeting for submission at CoP17.

COMMENTS FROM THE SECRETARIAT

The Secretariat supports the recommendations of the Chair of the Standing Committee in paragraphs 18 to 21 of this document, including the revision of Decision 14.77 as proposed in paragraph 21.

CONSIDERATIONS REGARDING THE ESTABLISHMENT OF
A DECISION-MAKING MECHANISM FOR A PROCESS OF TRADE IN IVORY
UNDER THE AUSPICES OF THE CONFERENCE OF THE PARTIES

This Annex lists the issues that could be discussed and agreed upon in the context of the implementation of Decision 14.77, based on the study contained in document SC62 Doc. 46.4 and comments from stakeholders.

1. A decision-making mechanism

a. Outline

The following suggestions are extracted from the comments from the stakeholders and, together with information in the study, could be considered in agreeing on the content and outline of the decision-making mechanism.

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|----------------|--|
| Côte d'Ivoire | <i>A transparent decision-making mechanism that gives shared responsibilities to all African elephant range States and that is controlled by the Conference of the Parties.</i> |
| Kenya | <i>The decision-making mechanism process is about conditions under which ivory trade could occur or at least would not threaten elephants.</i> |
| Namibia | <i>The mechanism should have various trade options and not just one. It is our view that the trade mechanism should focus on the prerequisites for a country to qualify to sell ivory without necessarily having to seek permission from the Conference of the Parties. Most, if not all of those prerequisites are contained in the report, such as management plans, viable population, paper trails for all ivory items, to name but a few. However, we would like to see these prerequisites as the core of the trade mechanism. Namibia envisages an ivory trading mechanism which is not cumbersome but efficient and effective in providing quick feedback in support of law enforcement.</i> |
| South Africa | <i>The document presents one option in terms of a trade mechanism (i.e. Central Ivory Selling Organisation), while it was anticipated that the document will propose a mechanism that will facilitate decision-making relating to trade in ivory with a number of option/mechanisms on how trade can be facilitated. The mechanism should not necessarily prescribe how the trade must take place or restrict countries in terms of the actual trade mechanism.</i> |
| United Kingdom | <i>The purpose of the decision-making mechanism should be to establish conditions and criteria which would govern possible future ivory sales in the cases where CITES Parties have decided to include elephant populations in CITES Appendix II. If such a mechanism is put in place, trade in ivory could only proceed under the conditions and according to the criteria set out pursuant to this mechanism. The decision-making mechanism should therefore:</i> <ul style="list-style-type: none"> <i>– lay out those conditions and criteria;</i> <i>– clarify how future possible trade could be organised; and</i> <i>– indicate which CITES bodies, committees and/or mechanisms should be responsible for (i) assessing whether the conditions/criteria are fulfilled for each case or each single transaction, (ii) organising the sales and (iii) ensuring that the provisions on the decision-making mechanism are properly implemented and enforced.</i> |

b. Matters of concern

There is broad agreement that a number of important concerns will need to be considered when developing the decision-making mechanism and designing a process for future trade in elephant ivory. Details can be found in the study and the comments. They include the following (paragraphs in italics are extracts from the available materials and comments that seem pertinent and offer some way forward):

- i) Impact of legal trade in ivory on elephant management, poaching and illegal trade across the entire range of African elephants, and role of the African elephant range States whose elephant populations are in Appendix I or that do not authorize trade in ivory
- *The high levels of elephant poaching and illegal ivory trade make it imperative that comprehensive guarantees are provided of the legality of ivory that would be traded under the decision-making mechanism.*
 - *Even in the case where appropriate control and enforcement measures are in place to ensure that only legal ivory enters international trade, the question of whether legal trade encourages illegal trade might be explored as part of the decision-making mechanism. Such assessment should rely on an objective analysis, such as the one developed under the MIKE programme.*
 - *The African Elephant Action Plan provides an overall framework and this mechanism and eventually resulting ivory trade should contribute to its implementation.*
 - *The continued implementation of MIKE in all African elephant range States as well as the implementation of the African Elephant Action Plan will provide mechanisms to monitor the conservation status of elephant populations. In this regard, the site-level, country-level and global level factors associated with the illegal killing of elephants should also be taken into consideration, because factors other than trade play an important role in terms of illegal killing of elephants.*
 - *Elephant conservation efforts connected with CITES have moved towards consensus, cooperation and mutual respect among the range States. The development of the African Elephant Action Plan is a testament to this approach. Its implementation implies a role for non-trading range States, and respect for the possible impact of trade on elephant populations in non-trading range States.*
 - *The success of CITES implementation lies in cooperation of the member States and no single country can succeed in this endeavour without this cooperation even after committing whatever resources necessary to do so.*
- ii) Sustainable trade in ivory and the conservation of elephants
- *Range States wishing to allow trade in ivory should be able to demonstrate that their populations are growing or stable, and well managed.*
 - *Range States wishing to trade ivory must not authorize the killing of elephants with the specific intention of providing ivory, or actively harvest elephant populations to supply ivory.*
 - *The need to create incentives to landholders to expand the habitat available to the species.*
 - *Guarantees that local stakeholders are involved in decisions concerning trade in ivory; that the benefits from this trade will be directed to elephant conservation and the economic development of local communities.*
 - *Compliance with Resolution Conf. 13.2 (Rev. CoP14) on Sustainable use of biodiversity: Addis Ababa Principles and Guidelines for the management of African elephant populations.*
 - *Consideration of Resolution Conf. 8.3 (Rev. CoP13) on Recognition of the benefits of trade in wildlife concerning trade in elephant specimens from African elephant range States with sound populations and conservation programmes, and the African Elephant Action Plan stating that the conservation of elephants can provide benefits and that these should be available to those living with elephants.*
 - *Making of non-detriment findings in compliance with Article IV. In that respect, the question is whether the decision-making mechanism should include specific requirements (due to the specific features of the species/populations concerned) that the exporting State would need to take into consideration when realizing the NDF. Such requirements could relate for example to the establishment of transnational management plans for shared populations of elephants. The relevance of setting quotas and the levels of such quotas might also need to be considered in this*

context. In this regard, CITES Resolutions Conf. 12.8 (Rev. CoP13) and Conf. 14.7 (Rev. CoP15) provide certain important aspects or elements which should be taken into consideration during the discussion process.

iii) Economic sustainability of the trade in Africa

- *Under that field, the decision-making mechanism might contain conditions relating to the involvement of local communities in decisions leading to ivory trade and guarantees that the benefits from this trade will be directed to elephant conservation and the economic development of local communities.*
- *Assess whether returns are sufficient to offset possible negative impacts of increased poaching in Africa and illegal trade in ivory.*
- *While in some countries, especially in the southern Africa region, private ownership of wildlife is permitted, this is not the case in many other countries. Profits received from the trade go directly to such landholders in order to, in their view, incentivize sustainable management, with none going to range State wildlife or law enforcement authorities for anti-poaching and other activities.*
- *Incorporate provisions for contributing to the African Elephant Fund or otherwise aiding in the successful implementation of the Plan.*
- *Recognize that many of the problems facing African elephants in many parts of their range cannot be dealt with at the level of private landowners and their potential revenues through trade because the scale of poaching operations in these areas and the quantity and sophistication of armaments that poachers have at their disposal would overwhelm any local attempts to keep them in check. Nationally coordinated and resourced operations are required; in many countries the costs involved, including second-order administrative costs, increased Customs surveillance, training, equipment costs, legal costs of prosecutions, etc., may greatly exceed any possible return from a legal trade in ivory.*

iv) National and regional action plans

- *Range States wishing to allow trade in ivory have national elephant management plans that are being implemented. The establishment of transnational management plans for shared populations of elephants needs to be considered.*
- *Adherence to the African Elephant Action Plan.*

v) Economics of the offer of and demand for ivory; market realities and responses; consumption patterns

- *Have a good understanding of ivory stockpiles in Africa and the 'natural', sustainable production levels of ivory.*
- *The current wild population of African elephant could sustain a regular international trade in legally obtained ivory and meet the Asian demand by supplying 200 tons of raw ivory every year.*
- *Determine the nature and size of the demand for ivory in consumer countries, and undertake studies or develop economic models and scenarios as necessary.*
- *Reduce the demand for and availability of ivory in consumer countries as it is likely that legalized trade may enable laundering and thereby in fact enhance illegal ivory trade.*
- *The long-term economic sustainability of the trade can only be determined once trade is taking place. A trade monitoring system should be developed that assesses the market responses, the changes in prices, the changes in demand and supply, etc.*

- vi) Traceability, marking and control systems, and minimizing the leakage of illegal ivory into the legal ivory system
- *Ensure traceability: the ability to distinguish legally-derived ivory from illegally-sourced ivory is required to minimize the leakage of illegal ivory into the production and marketing chain. New technological developments that provide secure markers to raw ivory will need to be explored and implemented. It could build upon the existing provisions on marking in Resolution Conf. 10.10 (Rev. CoP15) and/or incorporate additional requirements (e.g. forensic technologies relying on, inter alia, DNA or isotope identification).*
 - *Coordinated and secure marketing mechanisms that minimize the steps between producers of ivory and those who carve ivory are necessary in order to reduce opportunities for illegal ivory entering the market.*
- vii) Control and enforcement provisions to ensure the legality of ivory along the supply chain
- *Ensure strong domestic legislation and enforcement in supply and consumer States.*
 - *Control and enforcement regimes to ensure the legality of ivory trade along the supply chain: ensure full implementation of Resolution Conf 10.10 (Rev. CoP15) and Decision 13.26 (Rev. CoP15) or their future equivalents in all States along the supply chain.*
 - *For all countries involved in trade in ivory under the decision-making mechanism, the level and efficiency of their control and enforcement regime should also be evaluated in light of their compliance with the relevant CITES Resolutions and Decisions. Parties not included in Category 1 under the CITES national legislation project would not be regarded as meeting this requirement.*
 - *Reinforce enforcement at the demand side of the equation.*
 - *Enhanced anti-poaching efforts and combating illegal ivory trade in all African elephant range States.*
 - *Conditions applying to exporting States: [allowing verification of the legal origin of the ivory; compliance and enforcement regime; level of elephant poaching; level of illegal trade (either as departure or transit point); control of ivory stockpiles held both in government and private hands; robustness of the marking/traceability system...]. An independent assessment of the system in place in the exporting States should be foreseen at regular intervals.*
 - *Conditions regarding control and enforcement regimes in the States of final destination: see below [registration of buyers, carvers and other actors involved in the ivory trade; efficiency of the control of the domestic trade in ivory;...]. An independent assessment of the system in place in the States of final destination should be foreseen at regular intervals.*
 - *Transit States should be subject to specific conditions on control and enforcement.*
- viii) Monitoring impacts of trade in ivory on the status of elephants and (legal and illegal) trade in ivory, development of scenarios and response mechanisms
- *Maintain or enhance/expand MIKE and ETIS or equivalent objective analytical systems to monitor the impact of any approved trade on the status of elephants and the illegal trade in ivory, and assess whether legal trade encourages illegal trade or poaching.*
 - *Develop responsive decision-making in case of non-compliance or when impacts are considered negative.*
 - *Resolution Conf. 12.8 (Rev. CoP13) for ensuring the non-detrimental nature of trade in Appendix-II listed specimens.*
 - *Monitoring and feedback loops. The organizational and institutional (rules of the game) structures established for a trade in ivory will need to operate at appropriate scales and levels to achieve rapid feedback between ongoing monitoring and decision-making.*

2. A process for trade in ivory

a) Scope

Some stakeholders ask that the following be determined:

- Which specimens should be allowed to be traded and from which populations?
- What kind of system for trading ivory should be in place?
- Who should take part in trade and under what conditions?
- How are revenue streams managed and allocations made?
- What is the practical organization of the sales, exports, imports and retail?
- What are the ivory trade restrictions in exporting and importing countries?
- What monitoring, auditing and controls are required?

b) Relevant CITES provisions

In this context, several basic CITES provisions should be considered concerning trade in ivory from Appendix-II populations, including the following:

i) Legality

- Commercial trade in ivory can only take place from *Loxodonta africana* populations that are included in Appendix II. If the listing is the subject of an annotation, this should indicate what trade in ivory (raw, semi-worked or worked) is allowed.
- Compliance with the provisions of Resolution Conf 10.10 (Rev. CoP15) and Decision 13.26 (Rev. CoP15), or their successors, concerning marking, controls of internal ivory trade, MIKE and ETIS, quotas, the Action plan for the control of trade in elephant ivory, etc.

ii) Sustainability

- Compliance with Article IV for trade in specimens of Appendix-II species, including the making of non-detriment findings and legal acquisition findings. Consider relevant guidance provided under CITES, including on the establishment of quotas.
- Resolution Conf. 10.10 (Rev. CoP15) on *Trade in elephant specimens*, or its successor, particularly the provisions concerning ETIS and MIKE
- Resolution Conf. 12.8 (Rev. CoP13) on *Review of Significant Trade in specimens of Appendix-II species* to verify and ensure the non-detrimental nature of the trade
- Resolution Conf. 13.2 (Rev. CoP14) on *Sustainable use of biodiversity: Addis Ababa Principles and Guidelines*
- Resolution Conf. 14.7 (Rev. CoP15) on *Management of nationally established export quotas*

iii) Traceability

- Marking of specimens in trade; identification of ivory; collaboration in forensic profiling [as envisaged in Resolution Conf 10.10 (Rev. CoP15) and Decision 13.26 (Rev. CoP15), or their successors].

iv) Monitoring and reporting

- Monitoring the impact of legal trade on the illegal killing of elephants and the illegal trade in ivory through MIKE and ETIS, as called for in Resolution Conf 10.10 (Rev. CoP15), or its successor.

- Role of the Standing Committee and the Secretariat in reviewing and reporting on actions in ivory-trading States concerning legislation, enforcement measures, reporting and enforcement system for worked ivory; public awareness, and other activities specified in Resolution Conf 10.10 (Rev. CoP15) and Decision 13.26 (Rev. CoP15), or their successors.

c) Further principles

A number of additional principles and provisions have been mentioned by several stakeholders (see also paragraph 1. b) above). They include the following:

- Proceeds of trade should return to stakeholders (i.e. state, private and communal sector landholders) on whose land the elephants occur, so that they can realize their investment in elephants and habitats, and improve their livelihoods. This should provide incentives to conserve and manage elephants sustainably on their land.
- The trade should contribute to the *African Elephant Fund* for the implementation of the *African Elephant Action Plan*.
- Revenues accrued must be used primarily for elephant conservation and management, and community development, especially within the elephant range. Such revenues would need to be managed and a trust fund under the auspices of the government structures of the country concerned remains the best way to monitor the utilization of funds.
- Trade should be self-financing in order to achieve long-term sustainability, i.e. costs of management or controls should not depend on external funding or support.
- Regular production and frequent marketing: one-off and intermittent sales of ivory (or any other commodity) send the wrong signals to the market and to consumers.
- Range States wishing to authorize trade in ivory should not allow the killing of elephants with the specific intention of providing ivory, or actively harvest elephant populations to supply ivory.

d) Criteria

Some stakeholders and the consultants proposed criteria that would need to be met by ivory exporting range States, importing States and, if necessary, States through which ivory transits, before the Conference of the Parties may authorize commercial trade in ivory. A number of quantifiable markers against each of these criteria could be envisaged which might help in determining compliance.

i) Criteria for **African elephant range States** to qualify for trade in ivory

- The *Loxodonta africana* population of the State of export is included in, or qualifies for transfer to, Appendix II. In the latter case, any authorization to allow ivory trade would be dependent on the transfer to Appendix II.
- Establishment of national elephant management plans approved and implemented by the relevant national authorities.
- Regional elephant management plans for shared populations.
- Adherence to the *African Elephant Action Plan* in the range State, and collaboration at the regional and continental levels.
- Agreement that elephants will not be killed with the specific intention of providing ivory, or actively harvested to supply ivory.
- The Party concerned should be placed in Category 1 of the CITES National Legislation Project, and have legislation in place regulating the sale of ivory and providing for the registration of ivory stocks.
- Systems to monitor and track the trade in ivory and ivory stocks making best use of modern forensic technologies.

- Compliance with Resolution Conf. 10.10 (Rev. CoP15) and Decision 13.26 (Rev. CoP15), or their successors.
- Ivory storage policies and secured and well-managed safekeeping facilities.
- Participation in efforts to improve the traceability of raw, semi-worked and worked ivory.
- National strategies to ensure monitoring and enforcement.
- Acceptance of external audits and unannounced inspections.
- Cooperation with importing countries.
- National policies to ensure distribution of revenues, monitor spending and provide reporting.
- Implementation of MIKE in at least one site.
- Participation in the ETIS programme.
- Contribution to research relating to the traceability of ivory.
- Annual quotas of ivory to be submitted to and evaluated by the CITES Secretariat.
- Regular reporting to the Secretariat, including on ivory stocks and trade (ivory sold per annum), and the utilization of revenue.

ii) Criteria for **consumer States** to qualify for trade in ivory

- Compliance with Resolution Conf. 10.10 (Rev. CoP15) and Decision 13.26 (Rev. CoP15), or their successors.
- A detailed understanding and monitoring of the domestic ivory market, including size and nature of the demand for ivory, economic and social parameters, and the adoption of indicators to assess changes and market evolution continuously.
- Ensuring security of raw ivory imported.
- Strict regulation of the sale of raw ivory on their territories.
- Monitoring of the movement of raw ivory on domestic markets making best use of modern forensic technologies.
- Restriction of sales of raw ivory to registered carvers only.
- Strict regulation of the sale of raw ivory on their territories, as well as the processing, carving and retail of ivory.
- Participation in efforts to improve the traceability of raw, semi-worked and worked ivory.
- Regular inspections and systematic monitoring of those involved in the ivory industry.
- The Party concerned should be placed in Category 1 of the CITES National Legislation Programme and have legal provisions and targeted enforcement actions to underpin the above.
- Prosecution of offenders (illegal activities should be specified as offences in terms of legislation) and reporting prosecutions to the Secretariat.
- Compliance and enforcement strategies.
- Acceptance of external audits and unannounced inspections.
- Cooperation with exporting countries (range States).

- Reporting on ivory imported; registered carvers, ivory processed and marketed, etc.
- Participation in the ETIS programme.
- Regular reporting to the Secretariat, including on ivory trade levels and compliance measures.

3. Governance issues

As a matter of principle, best use should be made of existing structures and processes. The creation of new structures or processes should be minimized, while the role of the existing CITES bodies and processes should be specified and enhanced as necessary. The following matters could be agreed upon with regard to the institutional framework of the decision-making mechanism:

- What role should be given to the different CITES structures?
- Who determines whether exporting and importing countries meet the criteria?
- Who organizes and supervises the ivory trade?
- Who ensures monitoring, verification and reporting?
- Who is responsible for initiating or suspending trade, and under which circumstances should these decisions be taken?

Some suggestions relevant to these issues are indicated below.

a) The Conference of the Parties

- Adopts the decision-making mechanism and its principles, processes and institutional framework.
- Adopts criteria that Parties that participate in the trade will need to meet before it agrees to authorize commercial trade in ivory or before such trade is authorized by the Party concerned (subject to verification by the Standing Committee or by the Secretariat).
 - Decides whether trade in elephant ivory from Appendix-II *Loxodonta africana* populations can take place, and adopts relevant amendments to current listings.
 - Receives reports from the Standing Committee and the Secretariat and oversees the implementation of the decision-making mechanism and the criteria, and considers any necessary modifications.

b) The Standing Committee

- Reviews overall compliance with the provisions of CITES, the decision-making mechanism and the process for trade in ivory (this task could be supported by a permanent subgroup of the Standing Committee, for example based on its existing MIKE-ETIS Subgroup), in collaboration with the Secretariat.
- Reviews reports from the Secretariat.
- Assesses the Secretariat's evaluations and makes decisions accordingly (as the only body that can authorize trade).
- Participates in verifications and monitoring activities (this authority could be delegated to certain Parties or institutions).
- Reports to the Conference of the Parties.

c) The Secretariat

- Assesses whether Parties that wish to authorize commercial ivory trade meet the agreed criteria.

- Supervises the legal trade in ivory at the exporting and importing ends.
- Maintains an ivory trade database.
- Organizes and leads relevant monitoring activities and studies.
- Organizes an annual meeting of African elephant range States and trading partners.
- Reports to the Standing Committee and the Conference of the Parties.
- Undertakes regular audits under the supervision of the Standing Committee.

d) The Animals Committee

- Conducts a review of significant trade.

e) African elephant range States and consumer countries

- Review impacts of the trade on African elephant populations across the continent, as well as progress and developments in the context of the implementation of the *African Elephant Action Plan*.
- Formulates advice for the Secretariat and the Standing Committee.

f) Minimum resource requirements for implementing the roles allocated to the bodies mentioned above, to be funded through proceeds from the trade

- An ivory trade monitoring unit in the CITES Secretariat (3-4 posts).
- An operation budget for the Secretariat for travel; experts, independent verifications, monitoring, studies, translation, databases and a dedicated website.
- Annual meetings of African elephant range States and trading partners, to be held in conjunction with regional meetings of MIKE/ETIS, and the African Elephant Fund Steering Committee.
- An annual contribution to the African Elephant Fund to help implement the AEAP in non-trading African elephant range States.