

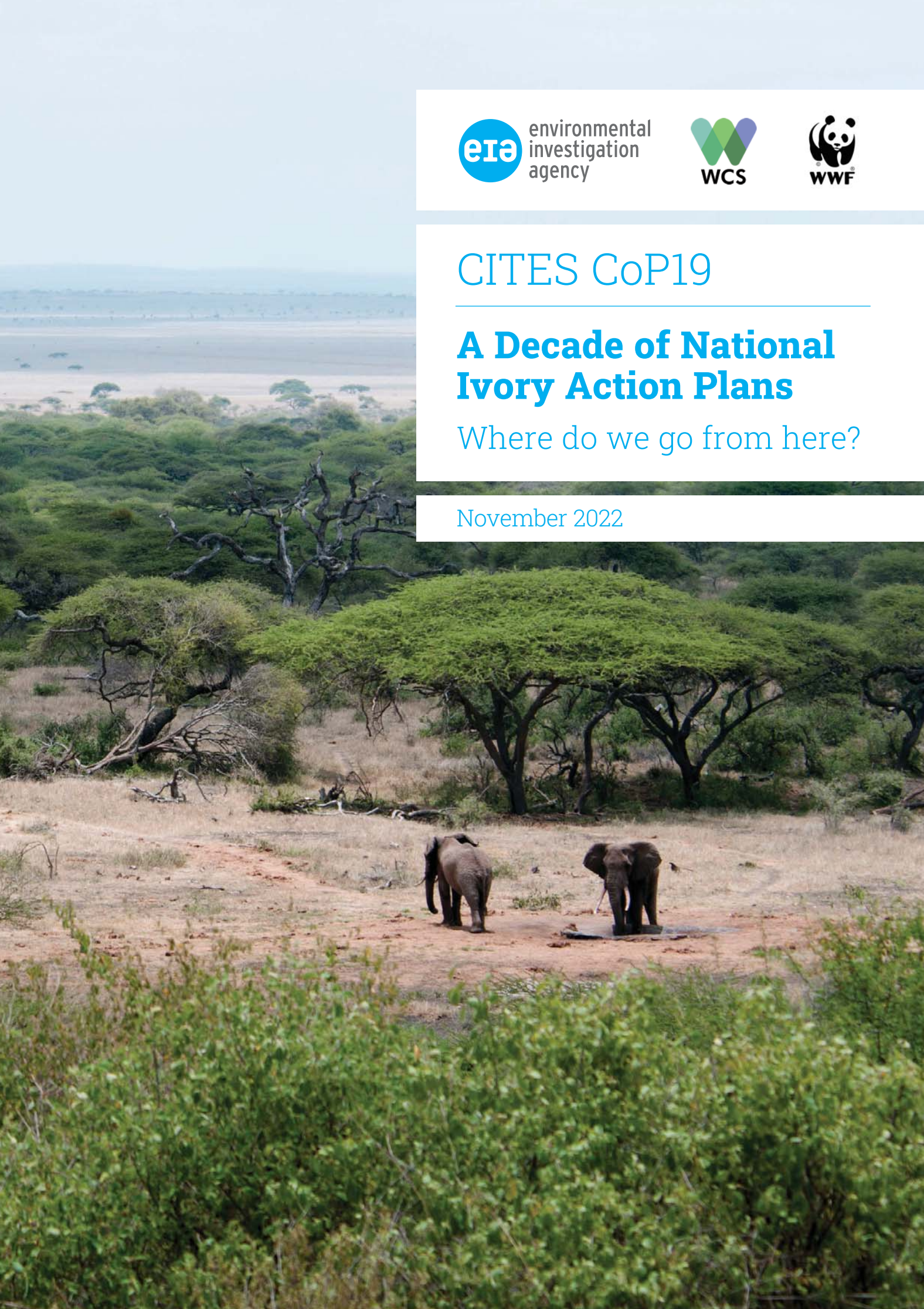


CITES CoP19

A Decade of National Ivory Action Plans

Where do we go from here?

November 2022





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Above:
Elephants in South Luangwa
National Park, Zambia.

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Introduction

What are National Ivory Action Plans?

The National Ivory Action Plan (NIAP) process is an important elephant conservation tool and framework. It was developed under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) in 2013 in response to the continuing elephant poaching crisis in Africa, the worst the continent has experienced since the 1970s and 1980s. If implemented effectively, the NIAP process can contribute significantly to a reduction in elephant poaching and the illegal trade in ivory.

NIAPs were conceived to strengthen the implementation of CITES Resolution Conf. 10.10 on *Trade in elephant specimens*, which called for action to tackle poaching and ivory trafficking to ensure elephants are protected from extinction.

CITES Parties (countries) with high levels of elephant poaching and ivory trafficking are identified for consideration as part of the NIAP process by the Elephant Trade Information System (ETIS). Once their participation has been confirmed by the CITES Standing Committee (SC), these Parties are requested to develop and implement robust time-bound action plans to address their country-specific concerns, with the goal of achieving positive impacts on the ground.

The SC is the ultimate decision-making authority over who participates in, stays in or exits the NIAP process. Since the SC meets every year, this offers an opportunity to track progress, support implementation and secure strong country-specific decisions on a timely basis, rather than waiting for three years to secure action at a CITES Conference of the Parties (CoP) meeting.

The establishment of the NIAP Guidelines at CoP17 (in Annex 3, Res. Conf. 10.10 (Rev. CoP17) recognised the need for performance indicators and targets to demonstrate progress. They include data on elephant poaching levels, number of ivory seizures, successful prosecutions and any relevant indicators from the International Consortium on Combating Wildlife Crime (ICWC).

A decade on: Where do we go from here?

There has been some noted progress and successes by Parties in the NIAP process to reduce poaching and trafficking; for example, in Kenya the process led to a strengthening of national legislation and improved conviction rates and China, a key consumer country, closed its domestic ivory market in 2017.

Despite this, several gaps in policy and practice continue to risk undermining the effectiveness of the NIAP process and, more significantly, risk progress in

protecting elephants in the wild. For example, as Parties in the process are not required to update their NIAPs to reflect poaching and trafficking trends in a defined timeframe, many NIAPs and their associated activities may be out of date and may therefore be ineffective.

Additionally, since the process began, the number of Parties reporting on the progress they have made to address poaching and trafficking in a timely and adequate manner has been decreasing rapidly.

One of the most significant concerns is that Parties are required to self-assess their progress and implementation of NIAP activities, which is an ineffective method to determine progress in an objective manner. The lack of independent review or external oversight of Parties' progress assessments is concerning. Despite the NIAP Guidelines explicitly encouraging assessment of progress by independent experts, the process continues to rely entirely on self-assessment reports submitted by Parties.

There is an urgent need to make the process more transparent, to improve conservation outcomes and also to provide clarity for countries in the process. Ensuring that progress assessments receive independent review or oversight can be of tremendous value in this regard.

The Environmental Investigation Agency (EIA), the Wildlife Conservation Society (WCS) and the World Wide Fund for Nature (WWF) have engaged with the NIAP process since its inception, not only to hold countries accountable in the implementation of their NIAPs but also to suggest improvements to the procedure. This has mainly involved advocating for increased transparency, accountability and efficiency.

Since the NIAP process began nearly a decade ago, and with CoP19 set to meet in Panama in November 2022, the time is now right to take stock of strengths and weaknesses and to suggest enhancements to better align the process with its original purpose.

This briefing document should be considered alongside the Working Document submitted by the US, Malawi and Senegal (CoP19 Doc.66.7), which calls for an external consultant to conduct a review of the NIAP process.

As NGOs with expertise in tackling poaching and trafficking and with a history of engaging with the NIAP process since its inception, we set out below a summary of the problem areas that a review should address.

Above: Ivory burn in Nairobi, Kenya 2016.

History of the NIAP process¹

March-May 2013: after SC63 and SC64, NIAPs are first developed and finalised for eight countries and one territory of “primary concern”: China, Kenya, Malaysia, the Philippines, Thailand, Uganda, Tanzania, Hong Kong SAR and Vietnam

July 2014: at SC65, eight Parties of “secondary concern” (Cameroon, Congo, Democratic Republic of the Congo, Egypt, Ethiopia, Gabon, Mozambique, and Nigeria) and three Parties of “importance to watch” (Angola, Cambodia and Laos) are requested to develop NIAPs

2 January 2015: Secretariat issues reminder to Parties yet to submit a NIAP with the warning that if an adequate NIAP is not received a recommendation to suspend commercial trade in specimens of CITES-listed species will be issued.

12 February 2015: Secretariat issues warning letters on behalf of SC to Congo, DR Congo, Laos and Nigeria for failure to submit a NIAP as requested

6 March 2015: Secretariat issues warning letter on behalf of SC to Angola for failure to submit a NIAP as requested

19 March 2015: Secretariat issues Notification for suspension of commercial trade in CITES-listed specimens with DR Congo, Laos and Nigeria

15 April 2015: Secretariat withdraws recommendation to suspend trade with DR Congo following receipt of an adequate NIAP

15 September 2015: Secretariat withdraws recommendation to suspend trade with Laos following receipt of an adequate NIAP

December 2015: Nigeria submits its NIAP to the Secretariat, although the Secretariat cannot conclude it as “adequate” owing to lack of information

January 2016: At SC66, Secretariat commended China, Hong Kong SAR, Kenya, Philippines, Thailand and Vietnam for substantially achieving their NIAPs. The SC requested Malaysia, Uganda and Tanzania as Parties of “primary concern”, to enhance efforts to progress the implementation of NIAP actions. The Secretariat notes that Angola, Laos and Nigeria failed to submit progress reports and SC recommends suspension of trade with these Parties until progress reports are submitted. SC requests Parties of “secondary concern” and those of “importance to watch” to enhance efforts to progress implementation of NIAPs. The Secretariat develops and distributes NIAP progress reporting template

23 February 2016: By this date, the Secretariat has lifted recommendations to suspend trade with Angola and Laos

September 2016: China, Hong Kong SAR, Philippines, Thailand, Vietnam, Malaysia, Uganda, Tanzania, Angola, Cambodia, Congo, DR Congo, Egypt, Ethiopia, Laos, Mozambique and Nigeria submitted reports for SC67. Cameroon and Gabon submit late progress reports.

September 2016: Five Parties are newly identified by the ETIS report prepared for CoP17. These are Malawi, Singapore and Togo as Parties of “primary concern”, and South Africa and Sri Lanka as Parties of “secondary concern”. This raises the total number of Parties that could participate in the NIAP process from 22 to 27. At CoP17, a new set of guidelines to the NIAP process is adopted. Cambodia moves up from “importance to watch” to “secondary concern”; the Philippines moves down from “primary concern” to “importance to watch”; Thailand moves down from “primary concern” to “secondary concern”; DR Congo, Egypt and Mozambique move down from “secondary concern” to “importance to watch”

3 March 2017: Secretariat initiates postal procedure to consult the Committee on whether newly identified Parties should participate in the NIAP process. Togo and Malawi are subsequently added as Parties of “primary concern”, while Qatar is added as Party of “importance to watch”

December 2017: At SC69, new names for the NIAP categories are endorsed. “Primary concern” becomes “Category A Parties”; “Secondary concern” becomes “Category B Parties” and “Importance to watch” becomes “Category C Parties”

1-4 May 2018: Secretariat convenes meeting of representatives of Parties concerned with the development and implementation of NIAPs in Maputo, Mozambique. The meeting results in a guidance document for countries developing and implementing NIAPs, which the SC encouraged NIAP Parties to draw on²

October 2018: At SC70, the SC agreed that China, Kenya, Philippines, Thailand, Uganda and Tanzania exit the NIAP process. The Committee also agrees to propose to CoP18 to incorporate NIAPs into Resolution Conf. 14.3 on CITES compliance procedures which would provide scope for suspension of trade with NIAP Parties in context of non-compliance. Ethiopia, Israel, Gabon and Niger made strong interventions in support of conducting independent assessments under the NIAP process

August 2019: At SC71, Committee agrees to not include any new Parties in the NIAP process and to let Egypt and Malawi exit. Committee requests Mozambique and Nigeria to revise and update their NIAPs. Mozambique and Nigeria move up from Category C and B respectively to Category A. Cambodia, Cameroon, Congo, Gabon, Ethiopia move down from Category B to Category C.

August 2019: CoP18 agrees to amend the NIAP Guidelines to reflect the new names for the NIAP Party categories, endorsed by SC69; to mandate NIAP countries to meaningfully demonstrate against specific indicators how they are reducing their role in illegal ivory trade (pushed for by EU, Kenya and India); to include compliance proceedings in the NIAP process and to make reference to the Guidance to Parties developing and implementing NIAPs developed by participants in the meeting of representatives of NIAP Parties held in Maputo, Mozambique in 2018. Despite the Secretariat previously commending Vietnam for ‘substantially achieving’ its NIAP at SC66, the ETIS

Report to CoP18 finds Vietnam is now the leading destination for illicit ivory, surpassing China (including Hong Kong SAR).

March 2022: SC74 agreed to not include Turkey, which was identified by the ETIS report prepared for CoP18, in the NIAP process. The Committee also agreed to let Hong Kong SAR, which ‘achieved’ its NIAP, exit the process and agreed to consider Malaysia’s exit from the process at SC77. Category A countries Nigeria, Togo and Mozambique and Category C countries Angola, Cameroon, DR Congo and Ethiopia did not submit reports in time for SC74. The SC requested a suspension of trade be introduced for the non-reporting Parties if they fail to submit the outstanding progress reports after the meeting. Concerns were raised by Parties (EU) that late submissions of progress reports should not be countered by provision of oral updates by NIAP countries at CITES meetings as this does not enable for adequate assessment. Congo expresses concern about recurring issues identified with the NIAP process, in particular calling for further discussion about when compliance measures should be implemented.

July 2022: In its report to CoP19, scheduled for November 2022, ETIS flags South Sudan (non-Party to CITES) as Category C for the first time. The report indicates a worsening situation in DR Congo warrants a move from Category C to Category A, and a move from Category C to Category B for Cambodia and Gabon. Malaysia and Mozambique meanwhile are recommended to move down from Category A to Category B. In November 2022, the Standing Committee will vote on the ETIS’ suggested changes to the categories.



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Area for review: Self-assessments

Since the NIAP process came into being, serious concerns have been raised that the monitoring and evaluation aspect of the process lacks transparency, external oversight and accountability.

Countries undergoing the process are currently required to report on the progress made to tackle poaching and trafficking using *self-assessments*. Although the Secretariat is required to analyse these self-assessments for each SC meeting, they are not explicitly mandated to do so in consultation with independent experts, which means assessments of progress do not systematically consider expert or in-country knowledge.

Since CoP16, the Secretariat is encouraged to consult with such experts *“if needed”*. To date, the Secretariat has not done so and it is far from becoming standard practice.

There is an urgent need to reduce the over-reliance on self-assessments. Opening the progress reporting to independent review can prevent Parties in the NIAP process from downplaying aspects where progress is not being made. Self-assessments make it difficult to hold countries accountable in their fight against poaching and trafficking should the reports they produce not accurately reflect trends and effort on the ground.

As such, self-assessments undermine the efficacy of and run contrary to the purpose of the NIAP process. Making provision for the participation of external and independent experts can aid and support Parties in their reporting and thus improve compliance with and efficiency of the NIAP process.

Above: Elephant carcass, skull and bones, Kenya 1999.

Where do we go from here?

The use of independent experts needs to be mainstreamed into the NIAP process. It is important that the Secretariat consults with external and independent experts throughout the process and, critically, that this consultation be recorded and, where advice is not taken, an explanation should be provided by the Secretariat.

The Guidelines to the Process need to formally mandate the Secretariat to consult with independent experts at key points in the process – from the identification of Parties to enter the process and the development, review and updating of NIAPs to assessing the progress made in implementing the NIAP and in the identification of countries that can exit the process.

A technical advisory group (similar to the Monitoring of Illegal Killing of Elephants Technical Advisory Group) should be established comprising the CITES Secretariat and independent experts with expertise in one or more of the five pillars of the NIAP process (e.g. from ICCWC member organisations, technically qualified non-governmental organisations and other experts). This group would be responsible for assisting the Secretariat at key stages of the NIAP process,

including the identification of Parties to enter the process; the development, review and updating of NIAPs; the assessment of progress made in implementing the NIAP and the identification of countries to exit the process.

Similarly, to assist with more transparent reporting and with the assessment of implementation of NIAP activities, the formulation of NIAPs must be proportionate to a country's capacity and resources to tackle poaching and trafficking. For example, as recommended at a CITES NIAP conference in 2018,³ a needs assessment should be carried out in NIAP countries to first identify gaps in their responses to poaching and trafficking with a view to creating a NIAP that adequately responds to the identified issues in accordance with the available resources.

After countries are identified for inclusion in the process, it is recommended that they undergo an ICCWC assessment which will generate recommendations that can inform the development of that country's NIAP. Experts from a technical advisory group could then analyse progress based on ICCWC indicators (see section *Integration new tools* on page 20, for more information).



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Area for review: NIAPs are outdated

Another recommendation stemming from the CITES NIAP conference in Maputo in 2018 sought clarification for how NIAP countries could revise their NIAPs to incorporate any additional actions necessary to respond to new or emerging poaching or trafficking trends (recommendation 6a).⁴ This recommendation has unfortunately not been followed through. There are no provisions in the NIAP Guidelines for countries to systematically and periodically update and review their NIAPs to ensure activities remain relevant and proportionate to that country's role in poaching and trafficking.

Of the 14 Parties currently included in the NIAP Process at the time of writing (October 2022), five from Category A, B and C (Cambodia, Cameroon, Congo, Ethiopia and Gabon) have not been requested nor required to update their NIAPs since 2013. As a result, several are years out of date and thus may not

accurately reflect current trends in elephant poaching and ivory trafficking.

In comparison, several other Parties have been requested to update their NIAPs on an ad-hoc basis (such as Thailand in 2014 at SC65 and Nigeria and Mozambique in 2019 at SC71), creating disparity across reporting Parties.

To ensure the NIAP process improves national responses to poaching and trafficking, NIAPs need to be regularly updated to remain dynamic in their responses to new and emerging trends. It is also in the interests of all Parties in the NIAP Process for a more transparent and equitable process to be implemented.

Below: The NIAP process contains provisions to assist Parties to tackle illegal ivory trade, including by closing domestic ivory markets. NIAPs need to be regularly updated to remain relevant.



Where do we go from here?

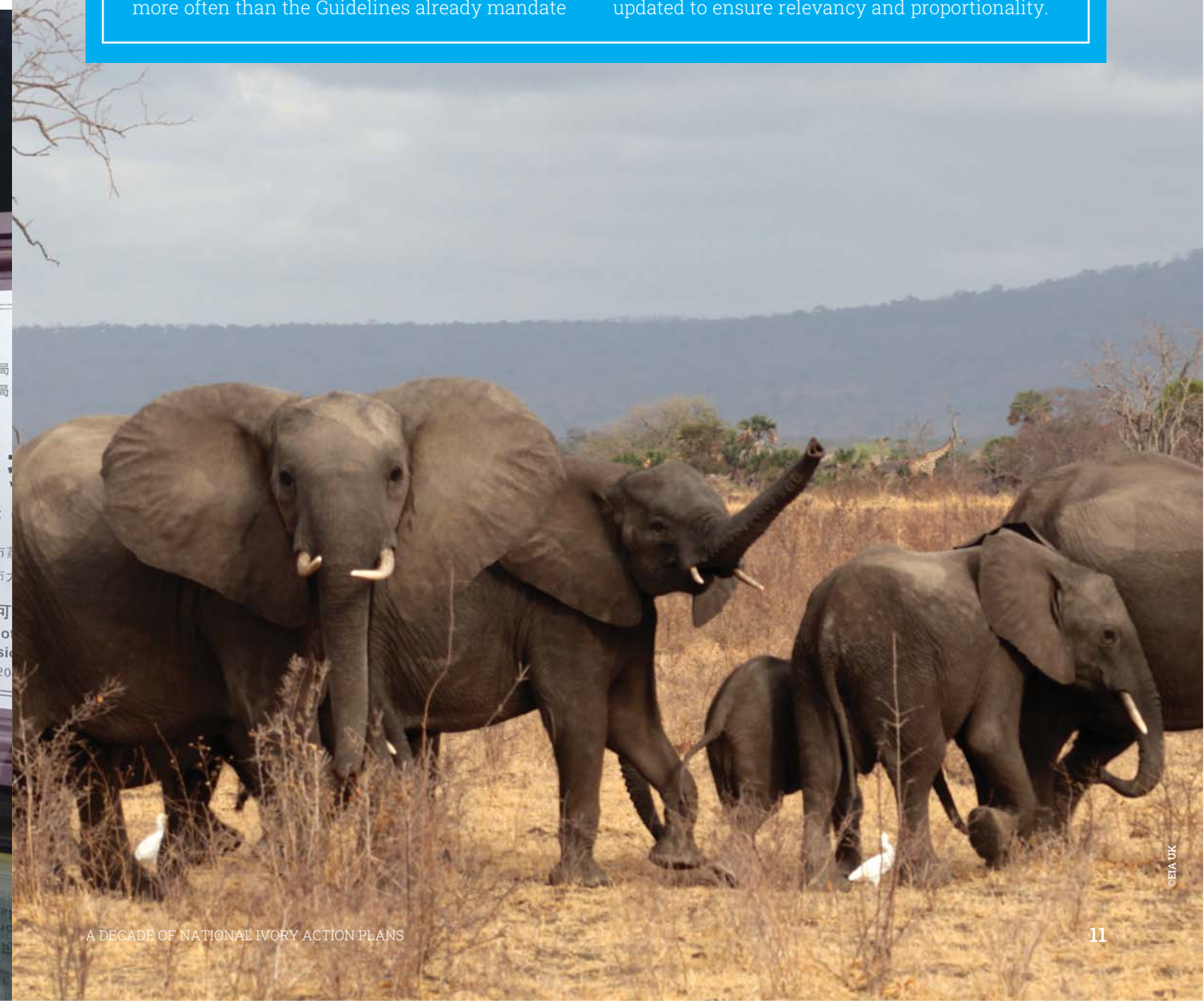
To ensure that NIAP Parties are treated equitably and for the process to adequately address current challenges, the NIAP Guidelines should be amended to include clear provisions and timeframes for all NIAP Parties to review their NIAPs prior to each CoP for any necessary updates. In instances where NIAP activities take years to develop and implement (such as legislative reform), Parties may not need to update activities prior to each CoP, although they should be required to confirm this in writing.

Similarly, the NIAP Guidelines should provide scope for the Secretariat to ask Parties, at the Standing Committee's request, to revise/update their NIAPs in light of new information (for example, from sources such as ETIS or ICCWC toolkit assessment recommendations).

However, the amendments should not enable the Secretariat to request Parties to update their NIAPs more often than the Guidelines already mandate

Parties to self-reflect on necessary updates (intersessionally). Parties could be encouraged to make use of the ICCWC Indicator Framework to self-reflect on their NIAPs for any necessary updates prior to each CoP (see section "Area for review: Integrating new tools")

Furthermore, if any other substantial changes are made to the NIAP template or to the criteria in the NIAP Guidelines, existing NIAPs should be revised to reflect the changes. Furthermore, the SC should request that a Party revise its NIAP to address changed circumstances during the period of a NIAP, rather than waiting for the end of the period to request that a new NIAP be developed. Should a NIAP country undergo a general ICCWC assessment, that country also should be requested to revise its NIAP to reflect any recommendations stemming from the ICCWC assessment. Standard procedures need to be mainstreamed into the NIAP Guidelines to ensure NIAPs are consistently updated to ensure relevancy and proportionality.





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Area for review: NIAP entry/exit criteria

Currently, countries are chosen to participate in the NIAP process based on reports generated by ETIS, which provide a trend analysis of illegal ivory trade across the world.

However, there is currently no standard source of information or mechanism to determine whether a country has fully implemented its NIAP and can exit the process. When formulating recommendations for Parties to exit the NIAP process, the Secretariat is currently requested to factor in whether the Party in question is still identified by ETIS analyses as requiring attention.⁵ However, several countries have already been allowed to leave the NIAP process even though they continue to be flagged as countries of concern in the ETIS reports. This was the case for the following Parties who left the NIAP process at SC70: China, Kenya, Philippines, Thailand, Uganda and Tanzania.

Addressing this is important, not only to provide Parties with clarity regarding their trajectory in the process but also for establishing trust in the process that Parties are treated equitably. As long as the exit criteria are not effectively the reverse of the entry criteria, countries will continue to leave the NIAP

process on an ad-hoc basis even if they continue to present worrying poaching and trafficking trends. This procedural discord undermines the goals of the NIAP process.

ETIS uses seizure data information and subsidiary information to determine which Parties are Category A *“most affected by illegal trade in ivory”*, Category B *“markedly affected by illegal trade in ivory”*, or Category C *“affected by illegal trade in ivory”*. The Standing Committee then votes on the inclusion of the identified countries in the NIAP process, based on the categorisation provided in the ETIS analysis. However, there is currently no clear guidance or criteria specified for each Category in the ETIS analysis. Clearer definitions for “most affected”, “markedly affected” and “affected” are necessary to provide clarity and equity for countries identified for inclusion in the process and to provide clarity regarding a country’s exit from the process.

Above: Criteria for exiting the NIAP process must be the reverse of the criteria for entering the process, to ensure Parties have achieved impactful change during their time in the process.

Where do we go from here?

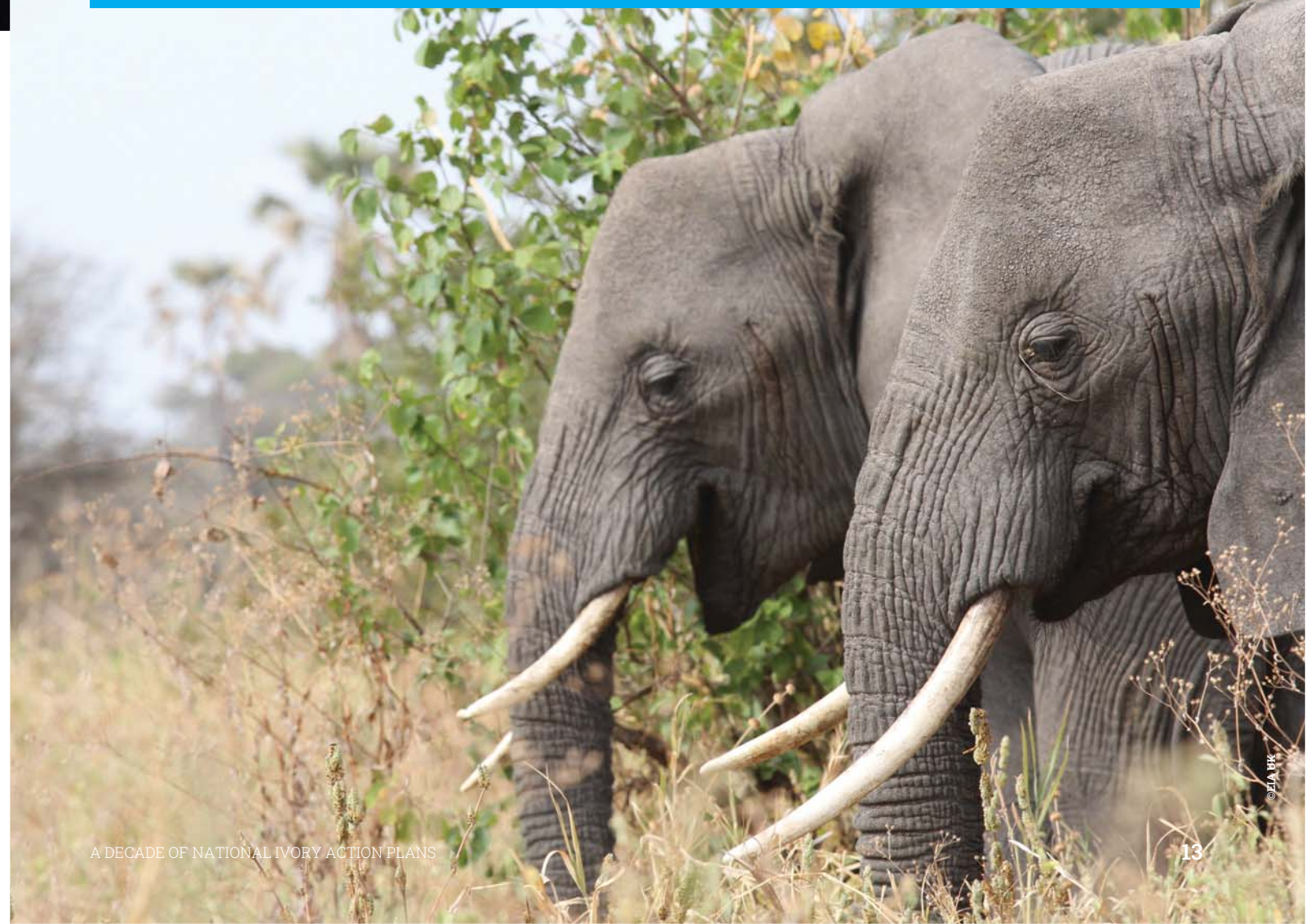
Clearer definitions of the NIAP Categories are needed to create standardised entry/exit criteria. While ETIS information is a foundation for identifying Parties for inclusion in the process, seizure data alone should not be interpreted as a complete measure of a Party’s ability to tackle poaching or ivory trafficking. Seizure instances are not an indicator nor outcome of law enforcement capacity. For this reason, the NIAP process must go further to explicitly integrate other tools that assess long-term ability of Parties to respond holistically to poaching and trafficking in a way that deters criminals and secures convictions.

For example, this can be done by better integrating existing tools such as the ICCWC Wildlife and Forest Crime Analytic Toolkit and the ICCWC Indicator Framework. After identification as a country of concern by ETIS, it is recommended that Parties undergo a needs assessment to generate recommendations that can be form the basis of that Party’s NIAP. This needs assessment can be modelled on the ICCWC Indicator Framework/Toolkit.

Whether a country is ready to exit the NIAP process can then be determined by conducting a follow-up ICCWC assessment to demonstrate how the NIAP activities have achieved *impact* to reduce poaching and trafficking – including on indicators already in the NIAP Guidelines such as reduced poaching, increased prosecution and so on.

Where a Party has achieved a significant number of actions in its NIAP but is yet to demonstrate such impact, or effectiveness of measures, there may be a need to revise its NIAP and/or to reduce its reporting obligations to address only the relevant indicators. Effectively, the criteria for exit would become the reverse of the criteria for entering the process (as identified by the ICCWC assessment).

This would be in line with both recommendation 2o and 6a of the 2018 Maputo NIAP Conference which respectively called for a thorough assessment of needs to take place before investing in remedial action under the NIAP process and for more clarification on the process for entry into and exit from the NIAP process for the sake of simplification and transparency.⁶



Area for review: Compliance proceedings

The costs of non-compliance with CITES processes can be high for the survival of endangered species. Unlike most international conventions which do not contain provisions to penalise non-compliance, when Parties fail to effectively fulfil the CITES Convention's requirements, they can become subject to one or more compliance measures, including trade suspensions.

NIAP countries may be subject to a recommendation by the SC to suspend commercial or all trade in specimens of one or more CITES-listed species if they persistently fail to comply with their obligations under the NIAP process.⁷ This stipulation, brought in at CoP18, is a welcome development that acknowledges the urgency and the consequences of non-compliance with the NIAP process on elephant conservation.

However, there is a need for better alignment and integration between NIAP compliance proceedings and other CITES compliance proceedings, such as Article XIII processes, which are currently operating as two parallel processes. Aligning these mechanisms could strengthen the compliance of NIAP Parties and enforcement efforts by the Secretariat. Following the last meeting of the Standing Committee (SC74, March 2022), there are now four countries undergoing Article XIII proceedings which are also NIAP countries (DR Congo, Laos, Nigeria and Vietnam).

Below: The NIAP process aims to strengthen responses to poaching and illegal ivory trade. In recognition of the threats to endangered elephants, non-compliance with the process may result in sanctions.



Where do we go from here?

It is necessary to address the duplication of compliance proceedings in a manner that prevents watering down the existing non-compliance procedures under the NIAP Guidelines (Res Conf. 14.3). As a suggested starting point, it is recommended that:

A) A default assumption should apply that countries subject to Article XIII are also non-compliant in their NIAPs, on the basis that there are systemic problems with their implementation of the Convention. In such instances, the SC should decide to take one of more of the following measures in accordance with paragraph 29 of Res. Conf. 14.3 against non-compliant NIAP Parties:

- provide advice, information and appropriate facilitation of assistance and other capacity-building support to the Party concerned;
- request special reporting from the Party concerned;
- issue a written caution, requesting a response and offering assistance;
- recommend specific capacity-building actions to be undertaken by the Party concerned;
- provide in-country assistance, technical assessment and a verification mission, upon the invitation of the Party concerned;
- send a public notification of a compliance matter through the Secretariat to all Parties advising that compliance matters have been brought to the attention of a Party and that, up to that time, there has been no satisfactory response or action;

- issue a warning to the Party concerned that it is in non-compliance, e.g. in relation to national reporting and/or the National Legislation Project; and
- request a compliance action plan to be submitted to the SC by the Party concerned identifying appropriate steps, a timetable for when those steps should be completed and means to assess satisfactory completion.
- In certain cases, the SC decides to recommend the suspension of commercial or all trade in specimens of one or more CITES-listed species.

B) NIAP countries identified under *both* Article XIII and Res. Conf. 14.3 should automatically enter the Compliance Assistance Programme (CAP) which was established at CoP18. One of the reasons for establishment of the CAP was to assist Parties "understand and prioritize the recommendations made under the existing compliance mechanisms, sometimes in a simultaneous and parallel manner".⁸ At CoP19, Parties are set to vote on whether CAP should be integrated into Res. Conf. 14.3, which would facilitate instigating remedial action for non-compliance NIAP Parties. It should then be considered whether failure to engage with CAP or implement CAP recommended activities within agreed timeframes should result in trade sanctions.

C) In cases where NIAP Parties are subject to compliance proceedings under Res. Conf 14.3 but not Article XIII, the NIAP Party in question should be required to take urgent remedial action as per paragraph 29 in 14.3 (see above).



Area for review: Additional reporting requirements

Annual illegal trade reports

Since 2015, all countries signatory to CITES are required to submit an annual illegal trade report (AITS) on all seizures involving CITES-listed species (including elephant ivory), irrespective of whether the seizure was made at an international border or at domestic level; for example, during the search of a private or business property or during inspections at domestic markets.

Annual illegal trade reports provide important insight into wildlife trafficking trends and submissions are mandatory. Unfortunately, the failure to submit AITSs is currently not subject to compliance proceedings,

even though the failure to submit annual *legal* trade reports is subject to compliance proceedings. This discrepancy suggests illegal trade is not being fully considered as a compliance and enforcement matter and there is an urgent need to do so.

In particular, given the importance of AITSs to reflect trafficking trends, it is concerning that a number of Category A and C NIAP countries have either *never* or *rarely* submitted an AITS.

Below: To map wildlife crime dynamics and to identify gaps in government responses, it is essential that Parties regularly provide data on illegal trade.



Where do we go from here?

As part of their responsibilities in the process, NIAP Parties should be specifically mandated to submit annual illegal trade reports in time for consideration at Standing Committee meetings.

The current deadline for submission of AITS is 31 October each year, which means that reports – if provided at all – may not be available for consideration at SC meetings if they are scheduled before that date. This is concerning as major NIAP-related decisions are made at SC meetings which should draw on information in AITSs as an indicator of compliance with the Convention.

To counter the impact of the late submission of AITSs on SC proceedings relating to NIAPs, it is recommended that the NIAP Progress report template should be revised to include the format of the annual illegal trade report for reporting on enforcement actions in relation to illegal trade in ivory and other elephant specimens.

This alignment would ensure that key information relating to NIAP countries' law enforcement efforts are being captured. For example, the AITS template contains columns on "method of detection", "laws under which charges were brought", "sanction" and "disposal of confiscated specimens".⁹ Including this level of detail in the NIAP progress reports would showcase a NIAP country's capacity and prioritisation to respond to ivory trafficking – a measure of long-term commitment to tackling the problem.

Separately, it should be explored how compliance proceedings can be introduced under the AITS process to mirror existing compliance proceedings for non-submission of annual *legal* trade reports.





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Ivory stockpile reporting

Under Resolution Conf 10.10 (Rev. CoP18), countries are urged to maintain an inventory of government-held ivory stockpiles and, where possible, of significant privately held stockpiles of ivory within their territory and to report the stockpile levels to the Secretariat each year before 28 February.

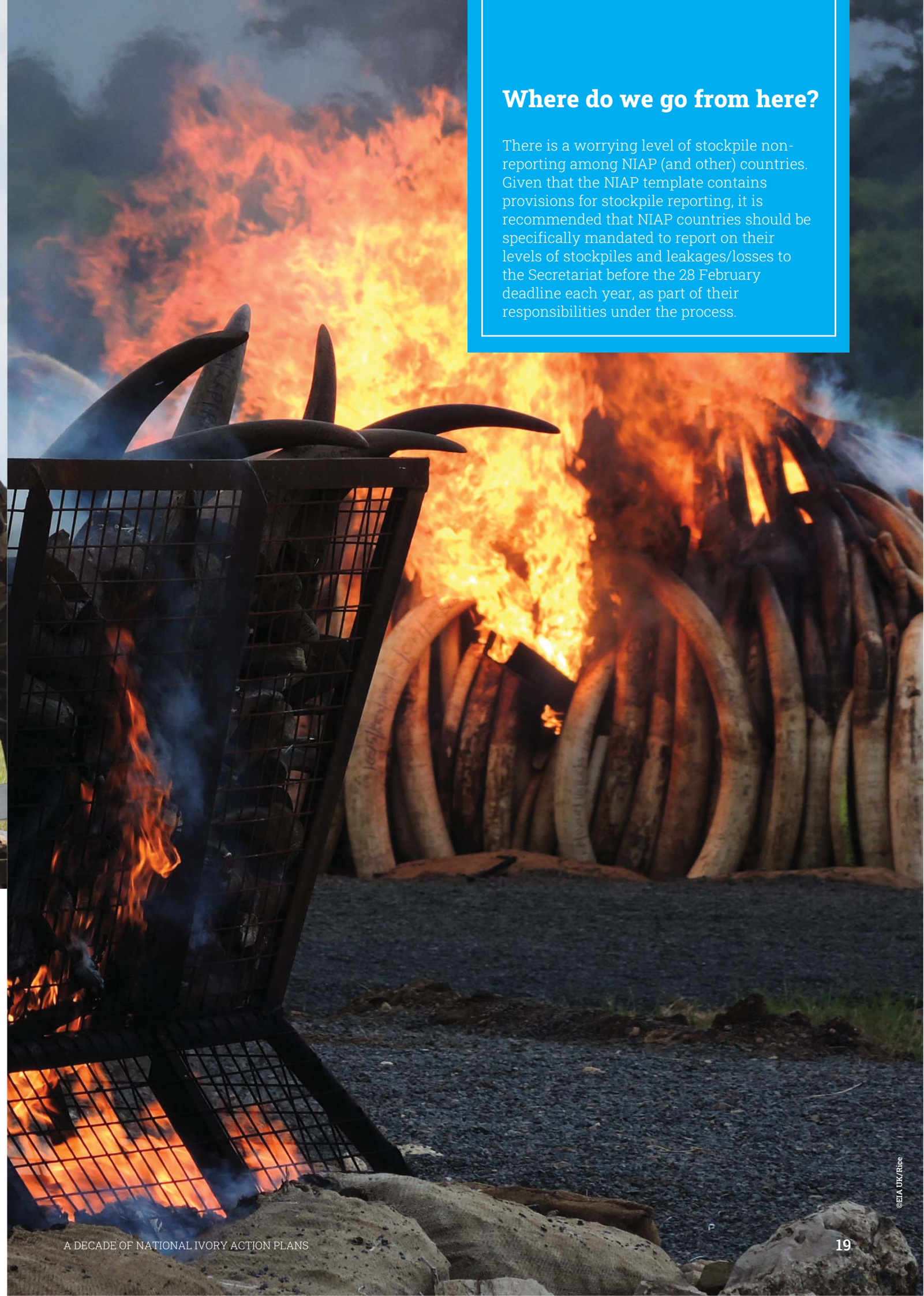
Such stockpile information is meant to inform the MIKE programme and ETIS for their analyses. Improper stockpile storage can result in leakage into the illegal ivory market. Ensuring traceability of stockpiled ivory is therefore critical to prevent and disrupt ivory trafficking.

Despite this important recognition, several NIAP countries, including Category A countries which are those most affected by illegal ivory trade, have *never* declared their ivory stockpiles, despite having reporting obligations under the NIAP process specifically on ivory stockpiles. This applies to Cameroon, the DR Congo and Togo.¹⁰

Above and right: Ivory burn in Nairobi, Kenya 2016.

Where do we go from here?

There is a worrying level of stockpile non-reporting among NIAP (and other) countries. Given that the NIAP template contains provisions for stockpile reporting, it is recommended that NIAP countries should be specifically mandated to report on their levels of stockpiles and leakages/losses to the Secretariat before the 28 February deadline each year, as part of their responsibilities under the process.



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Area for review: Integrating new tools

The NIAP process began nearly a decade ago. In that time, new tools have been developed under CITES that can, if used effectively, enhance the process. For example, it does not currently fully integrate the International Consortium on Combating Wildlife Crime (ICCWC) framework to assess gaps in responses to wildlife crime.

Although the NIAP Guidelines encourage countries to report against specific performance indicators such as elephant poaching levels, ivory seizures, successful prosecutions and other relevant indicators from the ICCWC Indicator Framework, ICCWC is otherwise not mainstreamed into the process.

This is a missed opportunity as ICCWC's Analytic Toolkit and Indicator Framework can complement the NIAP process by providing a comprehensive framework to improve law enforcement responses to ivory trafficking and wildlife and forest crime more generally.¹¹

The Toolkit, in particular, is designed to serve as a framework around which a prevention and response strategy can be developed and as mentioned in section V above, would be an ideal method to conduct a needs assessment for countries identified for inclusion in the NIAP process and to form the basis of that country's NIAP.

Similarly, the Indicator Framework is a tool to enable countries to measure and monitor the effectiveness of their law enforcement responses to wildlife and forest crime. It contains 50 indicators arranged against eight desired outcomes of effective law enforcement to combat wildlife crime.

Below: Integrating ICCWC tools into the NIAP process may strengthen implementation of NIAP activities.



Where do we go from here?

As explored above in NIAP entry/exit criteria, ICCWC tools can assist with the development of NIAPs and can also be used to determine when a Party is ready to exit the process.

In addition, mainstreaming ICCWC into the NIAP process can ensure the process goes further in encouraging countries to report on the *impact* of activities undertaken in the context of NIAP. For example, the NIAP template could be revised to mirror the ICCWC indicator framework so that countries of concern are mandated to report their progress against specific standardised performance indicators reflecting their national law enforcement capacity and effectiveness over time. Currently, countries produce self-assessed progress reports that do not effectively demonstrate the *impact* of NIAP activities on poaching or trafficking levels.

Furthermore, incorporating ICCWC indicators into the NIAP and NIAP progress report templates could provide the necessary guidance and structure to countries regarding their reporting requirements. This may in turn increase reporting compliance, which is especially important as countries continuously fail to submit progress reports in time for assessment at the relevant SC meetings; for example, since 2016, a total of 24 progress reports were not submitted in time by NIAP Parties for consideration at regular SC meetings.

Since 2018, the Secretariat has recommended the issuance of two notifications to suspend trade with Nigeria for non-reporting under the NIAP process and, at the most recent SC74 meeting, six of the 14 NIAP Parties were issued with warnings for failure to submit progress reports in time for

consideration at the meeting. Furthermore, since 2016 the Secretariat has repeatedly highlighted that NIAP Parties are failing to report on progress using the agreed templates.

Incorporating ICCWC tools would provide standardised templates for an expert technical advisory group (which should involve ICCWC members) to independently assess.

It is anticipated that standardised NIAP and reporting templates using the ICCWC indicators might increase compliance with the NIAP process by providing tailored and actionable plans that NIAP Parties can implement in a manner proportionate to their capacity and resources. In turn, this would provide scope for more transparency and accountability in the process.

In addition, deploying the ICCWC Toolkit as a needs assessment to aid in the development of a country's NIAP is necessary to generate NIAP activities that are proportionate with countries different levels of capacity. Basing the NIAP on the outcomes of the ICCWC Toolkit assessment would ensure that limited resources are deployed in most effective and realistic manner, which may also increase compliance with the NIAP process. This is in line with recommendation 2 (o) of the Maputo conference.¹²

Similarly, should countries in the NIAP process undertake ICCWC Toolkit assessments (for general responses to wildlife and forest crime), these countries should be required by the Secretariat to update and review their NIAPs in light of any recommendations stemming from the ICCWC Toolkit assessment.



Recommendations for CoP19

Looking ahead to CoP19 in Panama City from 14-25 November 2022, EIA, WCS and WWF fully support the call for an external consultant to conduct a review of the National Ivory Action Plan process called for by the USA, Malawi and Senegal in CoP19 Doc. 66.7 and encourage CoP19 to:

- support the establishment of a Working Group at CoP19 comprised of Parties and Observers to generate the terms of reference for the review of the NIAP process. It is critical that the review be a consultative process that includes a variety of technical experts and stakeholders
- reject the Secretariat's comments in Doc. 66.7 which seek to remove references to the need for a transparent and independent review of the NIAP process. In particular, EIA, WCS and WWF reject the Secretariat's proposed deletion of the recruitment of an external consultant to conduct the review of the NIAP process. It is crucial that the review be conducted by an external consultant to ensure that transparency and external oversight remains central to the NIAP review to ensure an effective evaluation of the process.

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