



**EIA BRIEFING - ELEPHANTS**

**RECOMMENDATIONS REGARDING CERTAIN  
AGENDA ITEMS FOR CITES COP17**

Below are comments and recommendations from the Environmental Investigation Agency, UK (EIA) on agenda items relating to elephants for CITES CoP17. EIA, as a member of the Species Survival Network (SSN), also supports and associates itself with comments submitted by SSN. EIA is supportive of all proposals that increase protection for African and Asian elephants and contribute to ending trade. A summary of EIA’s recommendations is provided below followed by more detailed rationale.

Proposal /Document	EIA Recommendations	Rationale
<p><b>Doc. 24. National Ivory Action Plans (NIAP) Process</b></p>	<p><b>SUPPORT IN PART</b> the draft decisions and NIAP guidelines proposed by the Secretariat and <b>CALL FOR</b> several amendments to strengthen the NIAP process as described in detail below (see Section I) including:</p> <ul style="list-style-type: none"> <li>• request all NIAP countries revise their existing NIAPs or adopt new NIAPs to ensure that they comply with the NIAP Guidelines</li> <li>• recommend that NIAPS include appropriate indicators to demonstrate the impact of implementation of the NIAP</li> <li>• recommend that NIAPs be developed in consultation with ICCWC members and other relevant stakeholders</li> <li>• establish an ICCWC panel of experts to assess progress made on implementation of NIAPS taking into consideration both the self-assessment progress reports as well other independent information</li> </ul>	<p>It is important to ensure NIAPs include specific indicators which can be used to assess the actual impact of the implementation of the NIAPs including the NIAP indicators adopted at SC65 and the ICCWC indicators of effective enforcement.</p> <p>EIA remains concerned that the assessment of the progress made in implementation of the NIAPs relies solely on self-assessment progress reports submitted by the NIAP parties themselves. EIA recommends establishing an ICCWC panel of experts to independently review progress made on the NIAPs taking into consideration independent information from relevant stakeholders.</p>
<p><b>Doc. 57.2. Closure of domestic markets of elephant ivory</b></p>	<p><b>SUPPORT</b> the proposal submitted by African Elephant range States for the adoption of a Resolution calling for the closure of domestic ivory markets</p> <p><b>CALL</b> for a decision urging China (including Hong Kong SAR) to close its domestic ivory market by the end of 2016</p> <p><b>CALL</b> for a decision urging Cambodia, Côte d’Ivoire, the Democratic Republic of the Congo, Egypt, Guinea, Japan, Laos, the Philippines, Myanmar, Nigeria, Thailand and Vietnam to expeditiously close their domestic ivory markets no later than SC69</p>	<p>Of the 37 African elephant range States, 30 have declared their support for the closure of domestic ivory markets. The impacts of the CITES one-off ivory sale in 2008 have been confirmed in a scientific paper which concludes that the sale had a direct impact on the supply of illegal ivory and demand for ivory resulting in a 66% increase in supply of illegal ivory. Parallel legal markets create loopholes for laundering illegal ivory and stimulate demand.</p>

Proposal /Document	EIA Recommendations	Rationale
<b>Docs. 84.2 and 84.3 - Decision making mechanism for a process of trade in ivory (“DMM”)</b>	<b>SUPPORT</b> Doc. 84.2 and decide against extending the mandate under Decision 16.55 for a DMM  <b>REJECT</b> Doc. 84.3	Decision 14.77 to develop the DMM was originally adopted almost a decade ago, and renewed at CoP16 through Decision 16.55. There has since been an unprecedented escalation in poaching and illegal ivory trade.
<b>Doc. 57.5. Report on Monitoring the Illegal Killing of Elephants</b>  <b>Doc. 57.6. Report on the Elephant Trade Information System</b>	<b>CALL</b> for a decision to include Cambodia, the Democratic Republic of Congo, Japan, Laos, Mozambique, Thailand, and the United Arab Emirates as countries of primary concern  <b>CALL</b> for a decision to identify countries that have not conducted forensic analysis on all large-scale ivory seizures and request that such countries conduct said analysis, and make the analysis publically available	Due to lack of effective enforcement efforts and the data presented in the MIKE and ETIS reports, these 7 countries should be categorised as countries of primary concern.  Several Parties are yet to conduct forensic analysis of their large-scale ivory seizures which is preventing the development of effective enforcement strategies.

## I. CoP17 Doc. 24 – NATIONAL IVORY ACTION PLANS PROCESS

This document prepared by the Secretariat proposes a process for the development of National Ivory Action Plans (NIAPs) and assessment of progress made in implementation of the NIAPs. The Secretariat has developed “Guidelines to the National Ivory Action Plans Process” provided in Annex 3 to CoP17 Doc. 24 (“NIAP Guidelines”). EIA strongly supports the recommendations of the Secretariat in the NIAP Guidelines that all NIAPs and NIAP progress reports should be made publicly available (NIAP Guidelines, ¶2 (iii) (b) (ii)).

### Development of the NIAPs

**EIA strongly supports the Secretariat’s recommendation that NIAPs should include indicators to measure the impacts of the actions in the NIAP such as those indicators adopted at SC65** (CoP17 Doc. 24, ¶25(c); NIAP Guidelines ¶2(i)(c)(vi)). SC65 adopted a recommendation directed at the eight primary concern countries: “to review and, as necessary, revise their NIAPs, including the milestones and timeframes and, where possible, to include indicators to measure the impacts of actions in the NIAPs (e.g. through data on elephant poaching levels; number of ivory seizures; successful prosecutions; progress on paragraph d) under “Regarding trade in elephant specimens” of Resolution Conf. 10.10 (Rev. CoP16); and changes to legislation), based upon any new identified needs and these Parties’ own evaluations of progress.”<sup>1</sup> No Party reported to SC66 on the impacts of their NIAPs using the indicators identified at SC65.

Further, EIA notes that at SC66, ICCWC published a set of indicators to measure and monitor the effectiveness of law enforcement responses to wildlife and forest crime. **EIA recommends the integration of the use of relevant ICCWC indicators of effective law enforcement within the NIAP process.** The Secretariat has recommended that the “five pillars” of Resolution Conf. 10.10 (Rev. CoP16) should be used for a NIAP to be considered “adequate” (CoP17 Doc. 24, ¶25). Given that the five pillars involve very broad areas (i.e., (1) legislation and regulations, (2) national level enforcement, (3) international enforcement, (4) public awareness, and (5) reporting), EIA recommends that the eight outcomes and relevant indicators identified in the ICCWC indicators of effective law enforcement be used to develop actions in the NIAP particularly those related to pillars 1, 2 and 3 mentioned above.

Further, the Secretariat recommends that within the five pillars, the Party should address specific matters identified by the ETIS analysis (CoP17 Doc. 24, ¶25(b)). **EIA recommends that this recommendation be**

**expanded to also address relevant issues regarding ivory trade identified by ICCWC members (for example INTERPOL's Project Wisdom) and other relevant stakeholders (for example non-governmental organisations with information on ivory trade and trafficking in the NIAP country).**

The Secretariat has recommended that NIAPs be developed through a consultative and participatory process involving relevant actors in country as determined by each Party according to its national circumstance. EIA welcomes this recommendation and recommends that it also invite consultation with ICCWC members and other relevant stakeholders.

Assessment of progress on NIAP implementation

EIA remains concerned that the future NIAP process recommended by the Secretariat continues to rely solely on self-assessments of the identified NIAP countries (NIAP Guidelines ¶3). There is no independent third party assessment of progress made on NIAPs such as an independent review by ICCWC. The implicated Parties have been requested to conduct self-assessments and assign each NIAP action a progress rating of 'substantially achieved', 'on track' for achievement, 'challenging' or 'unclear'. These are subjective and unsubstantiated and have resulted in inaccurate progress ratings.<sup>2</sup>

**EIA recommends that a panel of experts from ICCWC be established to review progress made in implementing NIAPs.** The assessment by the panel should consider not only the progress reports submitted by the NIAP countries but also other information submitted by relevant stakeholders. The recommendations of the panel should be submitted to the Standing Committee for its consideration and to determine appropriate measures in accordance with Resolution Conf. 14.3

Identification of NIAP Countries

EIA's comment's regarding identification of NIAP countries under the three categories – primary concern, secondary concern and important to watch countries – are provided below under our comments on the ETIS report (see Section IV below – EIA comments on CoP17 Docs. 57.5 and 57.6). EIA is concerned about the recommendations in the ETIS report regarding Thailand, DRC, Japan, Mozambique, UAE and Cambodia and recommends that these countries be identified as primary concern countries.

**EIA recommends that CITES Parties:**

- 1) support in part the adoption of the draft Decisions in Annex 2 of CoP17 Doc. 24 and call for the following amendments:
  - a) request all NIAP countries to revise their existing NIAPs or adopt new NIAPs to ensure that they comply with the NIAP Guidelines and include appropriate indicators to demonstrate the impact of implementation of the NIAP; and
  - b) include Cambodia, the Democratic Republic of Congo, Japan, Laos, Mozambique, Thailand, and the United Arab Emirates as countries of primary concern; and
- 2) support in part the adoption of the NIAP Guidelines proposed by the Secretariat at Annex 3 of CoP17 Doc. 24 and call for the following amendments to strengthen the NIAP process;
  - a) include in paragraph 2 (i) (b) a recommendation for NIAPs to also address relevant issues regarding ivory trade identified by ICCWC members and other relevant stakeholders;
  - b) expand paragraph 2 (i) (c) (iv) to request that NIAPs should be developed in consultation with ICCWC members and other relevant stakeholders;
  - c) include in paragraph 2 (i) (c) (vi) a recommendation to include in the NIAPs the indicators adopted at SC65 and appropriate indicators from the ICCWC indicators of effective enforcement;
  - d) insert a new recommendation before paragraph 3 to establish a panel of experts from ICCWC members to review progress made in implementing the NIAPs taking into consideration the self-assessment progress reports as well as other independent information from relevant stakeholders; and

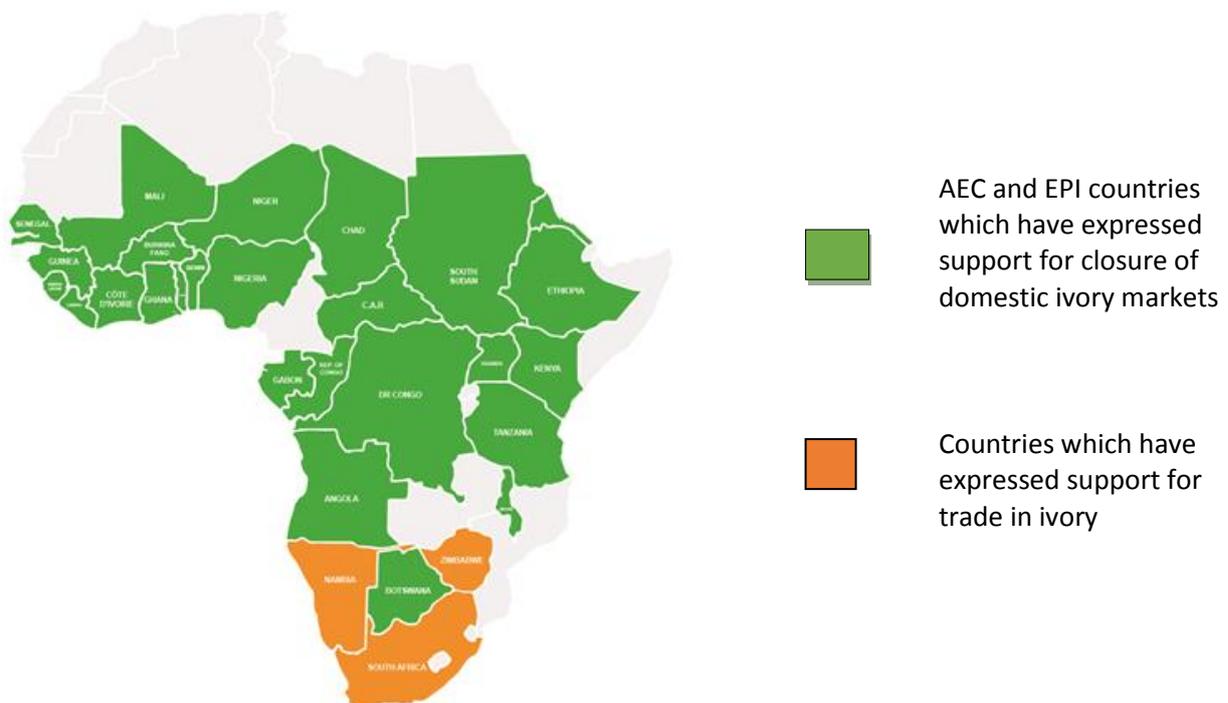
e) expand paragraph 3 regarding “*Assessment by the Secretariat and the Standing Committee*” to direct the Standing Committee to consider the recommendations of the ICCWC panel of experts in determining the progress made in implementation of the NIAPs.

## II. CoP17 Doc. 57.2 - CLOSURE OF DOMESTIC MARKETS FOR ELEPHANT IVORY

This document has been submitted by 10 African Elephant range States from East, West, Southern and Central Africa. EIA recommends that Parties support the proposal in this document for the adoption of a resolution calling for the closure of legal domestic markets for elephant ivory.

**The majority of African Elephant range States (81%) support the closure of domestic ivory markets.** Of the 37 African elephant range States, at least 30 States have expressed support for the closure of domestic ivory markets: these include 26 African elephant range States under the African Elephant Coalition and 11 range States under the Elephant Protection Initiative (EPI). In November 2015, 22 African elephant range States under the Cotonou Declaration agreed to “enact, implement and enforce legislation prohibiting domestic ivory trade and support all proposals and actions at international and national levels to close domestic ivory markets worldwide”.<sup>3</sup> Under the Elephant Protection Initiative (EPI), eight elephant range States have committed to closing domestic ivory markets.<sup>4</sup> The UK is a founding partner of the EPI and has provided significant support for this initiative.<sup>5</sup> Based on the Cotonou Declaration and the EPI, and taking into consideration the proponents of the proposal in CoP17 Doc. 57.2, it is clear that there is wide-spread and unequivocal support for the closure of domestic ivory markets from African elephant range States.

**Graph 1: The majority of African elephant range states and other African countries support the closure of domestic ivory markets<sup>6</sup>**



There continues to be growing global support for the closure of domestic ivory markets. **China and the US, announced in September 2015 that they will “take significant and timely steps to halt the domestic commercial trade of ivory”.** The US has since imposed a near- complete ban on the trade of African elephant ivory.

China remains the key driver behind the illicit trade in ivory; this has been re-iterated in the ETIS report to CoP17.<sup>7</sup> EIA welcomes the high-level commitment from China to close its domestic ivory market and urges China to expedite the implementation of this commitment. China should urgently ensure that no permits for the sale, purchase or processing of any form of ivory are renewed or issued, and that the government adopts

and publicizes a new policy that clearly prohibits all ivory trade within China.

On January 15, 2014, the Parliament of the European Union adopted a resolution on wildlife crime calling on all 28 of its Member States to “introduce moratoria on all commercial imports, exports and domestic sales and purchases of tusks and raw and worked ivory products until wild elephant populations are no longer threatened by poaching”.<sup>8</sup> At CITES CoP14, the EU emphasized that the core concerns regarding African elephants should be resolved by African countries themselves.<sup>9</sup> Most African countries are united in calling for the closure of domestic ivory markets; the EU should respect its commitment to support African countries in managing their elephant populations and demonstrate its commitment by supporting the proposal by Benin and other African elephant range States calling for the closure of domestic ivory markets.

Elephants continue to be killed for trade in ivory and there is overwhelming evidence to show that both domestic and international trade in ivory provide an avenue for laundering illegal ivory and stimulate consumer demand for ivory, thereby undermining enforcement as well as demand-reduction efforts. **A scientific study confirms that the legal domestic trade in ivory in China and Japan following the 2008 CITES one-off ivory sales had a direct impact on the supply of illegal ivory and demand for ivory – the study documents a 66% increase in supply of illegal ivory (hereinafter “NBER 2016”).**<sup>10</sup> Organized criminal syndicates involved in ivory trafficking, abuse legal loopholes in legal domestic ivory markets and take advantage of corruption to trade in illegal ivory. For example:

1. **China is the world’s largest destination market for illegal ivory.**<sup>11</sup> As confirmed by the NBER 2016 Paper, the primary factor accounting for the surge in illegal ivory trading in China is the creation of a parallel legal domestic market for ivory in China in 2008 under CITES. The demand for ivory in China and the smuggling of thousands of tons of illegal ivory from Africa to China to meet this demand have resulted in the dramatic decline of elephants in Africa. A wealth of evidence is now available that unquestionably shows that the domestic legal ivory market in China is perpetuating illegal trade in ivory.<sup>12</sup> For example in 2013, the owner of a licensed ivory carving factory (authorised to legally trade in the ivory purchased in the 2008 CITES one-off sale) was convicted for smuggling a total of 7.7 tonnes of ivory from Africa to China.<sup>13</sup>
2. **Hong Kong is the city with the world’s largest legal ivory retail market** with an ivory licensing system which is fraught with significant loopholes enabling illegal tusks to enter into existing stockpiles thereby enabling illegal ivory trafficking.<sup>14</sup>
3. Recent investigations have documented how **Japan’s legal domestic ivory trade control system is plagued by loopholes and undercut by weak legislation.** No meaningful control exists at even the most basic level.<sup>15</sup> Japan has consistently failed to enact major elements of CITES Resolution Conf. 10.10 (Rev. CoP16) including: failure to mark raw tusks, failure to register and mark cut pieces of ivory 1 kg and 20cm in length or larger, and generally exempting cut pieces from meaningful control. Japan’s whole tusk registration system fails to require proof of legal acquisition and origin, which was a stated requirement in the 2006 CITES Secretariat report presented to the Standing Committee following its CITES Verification Mission that same year. This neutralizes domestic enforcement, making it impossible to detect and prevent the laundering of illegal ivory onto the legal domestic market. Over 5,500 tusks have been registered in the last four years alone in Japan with no evidence of legal proof of origin or acquisition which is required at the time of registration. Investigative results revealed that of 37 interviewed ivory traders, 30 offered to engage in illegal activities to buy, sell or fraudulently register an unregistered tusk acquired in the year 2000 and thus not qualifying for Japan’s pre-1989 exemption that allows tusks to be registered.<sup>16</sup>
4. **Laos’ National Ivory Action Plan confirms that sale of ivory from registered elephants is legal under Laos’ National Wildlife and Aquatic Law (2007).** Investigations in Laos in 2014, 2015 and 2016 have documented elephant ivory openly for sale in Laos, primarily aimed at visiting Chinese tourists.<sup>17</sup> This is a major concern; Laos is a significant transit point and consumer destination for illegally sourced wildlife from Africa and Asia and it has not demonstrated any capacity or political will to curb such trade. Records indicate that since 2009, outside its territory, Laos has been linked to seizures of over 11 tonnes of ivory in large and small seizures.<sup>18</sup> A 2014 UNODC study found that not a single wildlife related case has been referred to prosecutors between 2011 and 2014,<sup>19</sup> and the most recent ETIS analysis notes Laos has not reported a single ivory seizure to ETIS since 1989.<sup>20</sup>
5. **Thailand’s domestic legal ivory market has been repeatedly exposed as a means for laundering illegal ivory.**<sup>21</sup> Last year Thailand enacted the Elephant Ivory Act B.E. 2558 (2015) to regulate the trade in “domesticated elephant ivory” following which, around 220 tons of African and Asian elephant ivory collected from 44,000 individuals was registered enabling legal trade in this ivory.<sup>22</sup> In addition to

the 220 tonnes of registered ivory, another open source of legal trade in ivory in Thailand is ivory obtained from registered domesticated elephants. It does not appear that Thailand has the resources or capacity to conduct DNA analysis on certified ivory products to determine whether the ivory is legal or illegal; the registration system is therefore flawed with serious concerns that the registered ivory could also comprise illegal ivory from Africa.

6. The 2016 ETIS report expresses concern about domestic ivory markets in several countries including Cambodia, China, Hong Kong SAR, Côte d'Ivoire, Democratic Republic of the Congo, Egypt, Guinea, Japan, Laos, Philippines, Myanmar, Nigeria, Thailand and Vietnam.

This issue has also been flagged by ICCWC partners. The U.N. Office on Drugs and Crime (UNODC) has observed that: "*The trade in illicit ivory is only lucrative because there is a parallel licit supply, and ivory can be sold and used openly. Ivory would lose much of its marketability if buying it were unequivocally an illegal act, or if ownership of these status goods had to be concealed.*"<sup>23</sup>

Demand for ivory is widely recognized to be the key factor driving the illegal killing of elephants.<sup>24</sup> The legal domestic trade in ivory is sustaining, and indeed promoting, a perception that such products are valuable, thereby stimulating demand. Recent surveys conducted in China show that an unequivocal ban would discourage consumers from buying the product.<sup>25</sup>

Moreover, there is sufficient precedent under CITES where recommendations have been adopted in Resolutions and Decisions that address domestic trade issues, where appropriate, for the species concerned.<sup>26</sup> EIA urges CITES Parties to support the growing international momentum to close domestic ivory markets which would ensure that laws and policies comprehensively tackle the trade that is threatening elephants, thereby securing the long-term survival of elephants in Africa and Asia.

**EIA recommends that CITES Parties:**

**a) support the proposal submitted by African elephant range States for the adoption of the draft Resolution presented in the Annex to CoP17 Doc. 57.2;**

**b) note that China remains the key driver of the illicit ivory trade and further note the devastating impact of the 2008 CITES one-off sale on elephants in the wild and urge China (including Hong Kong SAR) to close its domestic ivory market by end of 2016; and**

**c) urge Cambodia, Côte d'Ivoire, the Democratic Republic of the Congo, Egypt, Guinea, Japan, Laos, the Philippines, Myanmar, Nigeria, Thailand and Vietnam to expeditiously close their domestic ivory markets no later than SC69.**

**III. CoP17 Docs. 84.1, 84.2 & 84.3 - DECISION-MAKING MECHANISM FOR A PROCESS OF TRADE IN IVORY (DMM)**

The Report of the Standing Committee (CoP17 Doc. 84.1) outlines the efforts over several years to implement the DMM decision and invites the Conference of the Parties to decide whether the mandate directed to the Standing Committee in Decision 16.55 should be extended or not. CoP17 Doc. 84.2 is a proposal submitted by Benin and several elephant range States calling for a decision not to extend the mandate under Decision 16.55 (and formerly Decision 14.77) for a DMM. **EIA urges CITES Parties to support the proposal submitted by Benin and several other African elephant range States (CoP17 Doc. 84.2).**

EIA urges CITES Parties to reject the proposal submitted by Namibia, South Africa and Zimbabwe, which sets out a substantive proposal for a DMM as presented in Annex I of the document because the recommendations in the proposal will exacerbate the ivory trade threat and have a detrimental impact on elephants in Africa and Asia.

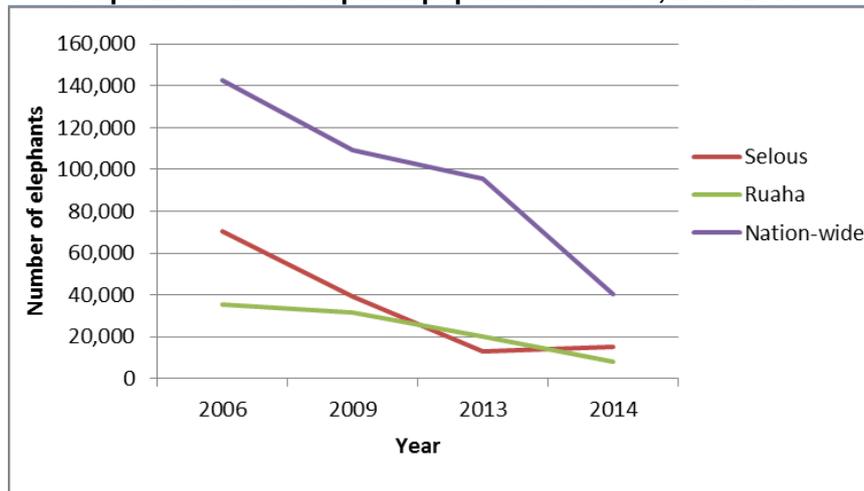
Proposal from Benin and several other African elephant range States (CoP17 Doc. 84.2)

Decision 14.77 to develop the DMM was originally adopted almost a decade ago, and renewed at CoP16 through Decision 16.55. **During this period, there has been an unprecedented escalation in poaching and illegal ivory trade. The landscape has vastly changed since 2007 when the decision to develop a DMM was originally adopted.** EIA urges CITES Parties to support the proposal submitted by Benin and several other African elephant range States (CoP17 Doc. 84.2) which provides a practical solution to the DMM issue taking into account the elephant poaching crisis in Africa. This proposal is based on a precautionary approach that will not further jeopardise the long-term survival of elephants in the wild.

Since the adoption of the DMM decision in 2007, ETIS has observed a “rapid increase” in illegal ivory transactions “to record high levels”, and a total of 273,547 kg raw ivory equivalent seized.<sup>27</sup> This is equivalent to 40,828 dead elephants.<sup>28</sup> Since 2008, the elephant population in Tanzania, one of the core countries for the species, has declined by over 60% (see Graph 2).

The MIKE report (CoP17 Doc. 57.5) confirms that poaching levels in 2015 remain high across African MIKE sites, and that the proportion of illegally killed elephants (PIKE) has, since the DMM decision was adopted in 2007, remained above 50% for all but one year (2009).<sup>29</sup>

**Graph 2: Tanzania elephant population decline, 2006-2014<sup>30</sup>**



Proposal from Namibia, South Africa and Zimbabwe (CoP17 Doc. 84.3)

EIA urges CITES Parties to reject the proposal submitted by Namibia, South Africa and Zimbabwe (CoP17 Doc. 84.3) and to express serious concern about the unrealistic demands outlined in the proposal. **This proposal is misleading as it does not address important information that forms the basis for suspension of the discussion on the DMM, i.e. the increase in poaching and ivory trafficking since the adoption of the DMM decision in 2007 and the detrimental impact of the 2008 CITES one-off ivory sale on elephants.**

The proposal submitted by Namibia, South Africa and Zimbabwe primarily rests on two arguments: (1) failure to implement Decision 14.77 / Decision 16.55 rendering the “compromise” package in the annotation null and void; and (2) failure to adopt a DMM undermines conservation in these three countries. However both arguments are invalid and should be rejected.

The first argument by the proponents fails to appreciate the distinction between various CITES instruments. **The annotation forms an integral part of the Convention and its appendices, and the failure to implement a CITES Decision cannot render any part of the Convention invalid.**

Despite best efforts and intentions, CITES Parties have been unable to adopt the DMM over the last 9 years for good reason – there has been a significant change of circumstances and it would be extremely risky to adopt a DMM at a time when elephants are being decimated for the ivory trade. **CITES decisions cannot be implemented in a vacuum without consideration of the decline in elephant population due to trade and CITES decisions must take on board any significant change in circumstances; after the adoption of the DMM decision, on average 33,630 elephants are being illegally killed each year for trade.**<sup>31</sup>

These concerns, which have been repeatedly raised by several African and Asian elephant range states and other CITES Parties, have not been addressed in the proposal from Namibia, South Africa and Zimbabwe. The second argument does not acknowledge the fact that while the proponents of the proposal reaped the monetary profits from the 2008 one-off sale, there was a devastating impact on elephants in other countries in Africa and Asia, including countries which strongly opposed the one-off sale.

The proponents of the proposal threaten to disregard the current annotation to *Loxodonta africana* as “*pro non scripto*” (as though it had not been written) if a DMM is not adopted at CoP17. Such threats to hijack the Convention itself, runs counter to the letter and spirit of the treaty and if these threats are implemented, this would constitute a serious violation of the Convention. **EIA recommends that trade sanctions be applied in such an event.**

*New scientific evidence confirming the impact of the one-off sale*

A scientific study provides evidence that proves that the 2008 CITES one-off ivory sales had a direct impact on the supply of illegal ivory and the demand for ivory. It concludes that “*a singular legal ivory sale [the 2008 CITES one-off sale] corresponds with an abrupt, significant, permanent, robust, and geographically widespread increase in the production of illegal ivory through elephant poaching, with a corresponding 2009 increase in seizures of raw ivory contraband leaving African countries.*”<sup>32</sup> The analysis has been made using the MIKE and ETIS data.

The key findings of the study are:

- The one-off ivory sale in 2008 corresponds with 66% increase in illegal ivory production across Asia and Africa. Ivory smuggling out of Africa increased by 71%, corroborating this finding. The increases could not be explained by natural mortality and alternative explanatory variables. This strongly suggests that the recent increase in elephant poaching likely originated with the legal sale.
- There is evidence that the 2008 one-off sale allowed “masking” which lowered costs in the black market supply chain. The “masking” effect takes place when legal versions of a product are introduced to a market making it easier to smuggle or trade illegal versions of the product, since illegal versions may masquerade as legal versions.
- There was no evidence for “competitive displacement” (i.e., black market demand should fall because some demand is satisfied in the legal market) and argues that the 2008 one-off sale likely increased demand for ivory due to the following factors:
  - observable legal consumption of ivory reduced stigma associated with consuming illegal ivory;
  - the risk of penalty for consuming illegal ivory is low due to masking on the supply side;
  - consumers misunderstand which versions of ivory are legal vs. illegal, and they participate as consumers in the black market by mistake; and
  - observing legal consumption of a product drives demand for the illegal counterpart and because ivory is a highly durable product more individuals may observe its consumption the longer it circulates in the market. For example, a legal ivory amulet will be observed by a growing number of people the longer its owner wears it, potentially generating greater demand over time.

There is compelling justification therefore, for ending the discussion on DMM in light of the escalation of elephant poaching and ivory trafficking, and new scientific evidence that proves that the 2008 one-off sale resulted in an increase in poaching.

**EIA recommends that CITES Parties support the proposal submitted by Benin, and other African elephant range States, CoP17 Doc. 84.2 and decide against extending the mandate under Decision 16.55 (and formerly Decision 14.77) for a DMM.**

**IV. CoP17 Docs. 57.5 and 57.6 - REPORT ON MONITORING THE ILLEGAL KILLING OF ELEPHANTS (MIKE) AND REPORT ON THE ELEPHANT TRADE INFORMATION SYSTEM (ETIS)**

Both the MIKE report, CoP 17 Doc. 57.5, and the ETIS report, CoP 17 Doc. 57.6, confirm that elephant poaching and ivory trafficking continue to take place at levels that pose a serious threat to elephants. Note that the analysis in both reports is limited to a specific period and does not include data from 2016 and in the case of the ETIS report, also excludes data from 2015. Further, the MIKE data for 2015 is limited because of a decline in reporting sites in that year.

- Poaching levels in 2015 remain high and several sites in Benin, DRC, Mozambique and Tanzania (including three sites in Tanzania) had a Proportion of Illegally Killed Elephants (PIKE) of 70% or higher.
- Poaching has increased in Southern Africa including in Kruger National Park in South Africa (nearly 2.5-fold increase in PIKE) - this was, until recently, one of only three sites in Africa which were considered secure - and in Chewore in Zimbabwe (69% increase in PIKE).
- The PIKE levels in Africa crossed 0.5 for the first time in 2008 and have remained at that level for a total of 7 years (2008 – 2015, punctuated by a decline in 2009).<sup>33</sup>
- The ETIS report concludes that the overall picture for illegal ivory transactions is one of rapid increase from 2007 through 2012/2013 to record high levels. Seizures of raw ivory involving large quantities of 100 kg or more remain high and this is a cause for concern because it is driving the increasing trend in illicit ivory trade. ETIS records indicate that between 2007 – 2014, at least 273,547 kgs of ivory have been seized. EIA estimates that this is likely equivalent to ivory sourced from 40,827 elephants,<sup>34</sup> however this represents a mere fraction of the actual level of trade.<sup>35</sup>
- The largest quantities of ivory since 1989 have been seized in the four most recent years, 2011-2014.

Implementation of Decision 16.83

Decision 16.83 recommends that Parties that have made large-scale ivory seizures (i.e., greater than 500 kg) should collect ivory samples and send them to appropriate forensic-analysis facilities to determine the origin of the samples. According to the ETIS Report, Parties have failed to implement Decision 16.83 and it appears that only 11 of the 61 large-scale ivory seizures (18%) that took place between June 2011 to 2014 that were reported to ETIS, have been assessed forensically.

Based on EIA records, between 2010 and June 2016, there have been at least 84 large-scale ivory seizures totalling over 145 tonnes of ivory (equivalent to ivory from nearly 22,000 dead elephants). Additionally, since the start of 2015 to date, there have been 19 large-scale seizures in nine different countries totalling over 26 tonnes of ivory. The information in Table 1 below has been compiled based on publicly available information of large scale ivory seizures - whether the Parties identified in Table 1 have conducted further DNA analysis on all of their large-scale seizures remains unclear.

<b>Country/territory</b>	<b>PC/SC/ITW/NC**</b>	<b>Number of large-scale ivory seizures 2010 - June 2016</b>	<b>Ivory samples sent for DNA analysis?</b>
Cambodia	ITW	1	N
Cameroon	SC	1	N
China (mainland)	PC	5	Y/N***
Germany	NC	1	NEW SEIZURE, NOT KNOWN
Hong Kong SAR	PC	11	Y/N
Kenya	PC	11	Y
Malawi	NC	1	Y
Malaysia	PC	5	Y/N
Mozambique	SC	1	Y/N

Singapore	NC	4	N
South Sudan	Non-party	1	NEW SEIZURE, NOT KNOWN
Spain	NC	1	NEW SEIZURE, NOT KNOWN
Sri Lanka	NC	1	Y
Tanzania	PC	4	N
Thailand	PC	8	Y/N
Togo	NC	2	Y
UAE	ITW	1	Y
Uganda	PC	4	Y/N
USA	NC	2	NA
Vietnam	PC	19	Y/N
<b>TOTAL</b>		<b>84</b>	

Source: EIA-compiled records. \*\*PC = Primary concern country; SC = Secondary concern country; ITW: Parties of importance to watch; NC: CITES Party that does not fall in any of the above three categories. \*\*\* Y/ N – Publicly available information suggests DNA analysis has been conducted on ivory samples from some of the seizures, however it is unclear whether all large-scale seizures identified above have been subject to forensic analysis.

EIA is also concerned that where forensic tests have been conducted, the results of the analysis have not been made publicly available. This information is important as it highlights hot spots for enforcement attention and enables the international community to assess areas that require support and attention in their efforts to combat elephant poaching and ivory trafficking. In light of the scale of the poaching crisis in Africa, the range of stakeholders and the significant level of investment in combating ivory trade in Africa, the results of the DNA analysis for ivory seizures, where conducted, must be made publicly available to enable a robust and transparent dialogue and identification of strategies to tackle poaching and trafficking.

#### Impact of the 2008 one-off sale

EIA is concerned that neither the MIKE nor ETIS reports make any mention of the possibility that the 2008 one-off sale could have had any impact on the current elephant poaching and ivory trafficking crisis. In the face of evidence highlighting that the legal domestic markets of China and Japan, recipients of the ivory from the 2008 sale, are used as an avenue for laundering illegal ivory and that a legal ivory market has stimulated demand in China, this is a serious omission. There is now evidence that the 2008 one-off sale had a direct and negative impact on elephant poaching; it did not, as speculated at the time, reduce the demand for illegally sourced ivory. Moreover, as described above, a recently published scientific paper confirms that the 2008 CITES one-off ivory sales had a direct impact on supply of illegal ivory and demand for ivory.

#### Identification of countries of concern

As described in section I above, EIA recommends that the ICCWC indicators of effective enforcement be applied to identify and assess the efforts of countries implicated in ivory trafficking. The ETIS report recommends changes in the current categories of primary concern Parties, secondary concern Parties and Parties of importance to watch without any real assessment of the impact of enforcement efforts on curbing ivory trafficking.

The changes recommended in the ETIS analysis to the existing categories of primary concern Parties (PCC), secondary concern Parties (SCC) and Parties of importance to watch (ITW) are summarized below. **EIA is concerned about the recommendations (highlighted in red) regarding Thailand, DRC, Cambodia, Japan, Mozambique and UAE and recommends that these countries should belong to the PCC.** These countries continue to play a significant role in ivory trafficking and trade. Based on publicly available information it appears that these countries are not undertaking meaningful enforcement efforts that result in prosecution of individuals and companies who are implicated in the trade and disruption of the criminal networks involved.

**TABLE 2: Change in NIAP status as recommended by ETIS**

Party	Change in status recommended by ETIS
Philippines	Deleted from PCC; moved to ITW
Thailand	Deleted from PCC; moved to SCC
Malawi	New addition to PCC
Singapore	New addition to PCC
Togo	New addition to PCC
Democratic Republic of Congo (DRC)	Deleted from SCC; moved to ITW
Egypt	Deleted from SCC; moved to ITW
South Africa	New addition to SCC
Cambodia	Deleted from ITW; moved to SCC
Japan	New addition to ITW
Mozambique	Deleted from SCC; moved to ITW
Qatar	New addition to ITW
United Arab Emirates (UAE)	New addition to ITW

Further, there remain serious concerns about the role of these countries in elephant poaching and ivory trafficking. For example, as explained in section II above, while **Thailand** has made some progress in amending its laws, its domestic legal market and registration system for trade in new ivory remains a serious concern and similarly the domestic legal market in **Japan** is subject to wide-spread abuse. Regarding **Mozambique**, the Selous Ecosystem of southern Tanzania/northern Mozambique has been indicated as a source of ivory seized globally.<sup>36</sup> In 2015 a large ivory and rhino horn seizure took place in Matola, Mozambique and Mozambique was also the reported exit point for ivory seized in Vietnam in mid-2015.<sup>37</sup> Recent elephant population surveys have estimated a 48% decline in elephant numbers in Mozambique in the last five years.<sup>38</sup> PIKE levels in Garamba in **DRC** crossed 0.7 in 2015 according to CoP17 MIKE report. Further, DRC has been connected to a shipment of ivory seized in Thailand in early 2015.<sup>39</sup> In addition, EIA recommends that **Laos** should be identified as a PCC and deleted from the ITW category. As explained in section II above, Laos plays a significant role as a transit hub and destination for ivory trafficking and ivory is openly available for sale. **UAE and Cambodia** have emerged as major transit points for ivory trafficking, however it is not clear based on publicly available information whether investigations have been conducted following ivory seizures resulting in arrests and prosecution and disruption of the criminal networks involved.

EIA recommends that CITES Parties adopt a decision:

- a) to include Cambodia, the Democratic Republic of Congo, Japan, Laos, Mozambique, Thailand, and the United Arab Emirates as countries of primary concern;
- b) to identify countries that have not conducted forensic analysis on all large-scale ivory seizures and request that such countries conduct said analysis; and
- c) noting that the ETIS report analysis on the impact of the one-off sale is inaccurate and that the 2008 one-off ivory sale authorised under CITES did have an impact on elephant poaching and ivory trafficking by enabling laundering of illegal ivory and stimulating demand for ivory products.

<sup>1</sup> SC65 Com. 7 and amended in document SC65 Sum. 10.

<sup>2</sup> See, e.g., EIA Briefing (2015), *Recommendations Regarding Certain Agenda Items For CITES SC66* (December 10, 2015), [https://eia-international.org/wp-content/uploads/EIA-Comments-SC66\\_Elephants.pdf](https://eia-international.org/wp-content/uploads/EIA-Comments-SC66_Elephants.pdf)

<sup>3</sup> Cotonou Declaration (Nov. 2015), [http://www.stopivory.org/wp-content/uploads/20151105\\_African-Elephant-Coalition-Cotonou-Declaration.pdf](http://www.stopivory.org/wp-content/uploads/20151105_African-Elephant-Coalition-Cotonou-Declaration.pdf).

<sup>4</sup> Elephant Protection Initiative, <http://www.elephantprotectioninitiative.org/about/>.

<sup>5</sup> Foreign & Commonwealth Office and The Rt Hon William Hague (Feb. 13 2014), *Press release: Decisive action agreed on illegal wildlife trade*, <https://www.gov.uk/government/news/decisive-action-agreed-on-illegal-wildlife-trade>.

<sup>6</sup> Cotonou Declaration (Nov. 2015); Elephant Protection Initiative; The Montreux Elephant Manifesto (June 2016), [http://www.ffw.ch/uploads/actualidad/archivos/The\\_Montreux\\_Elephant\\_Manifesto.pdf](http://www.ffw.ch/uploads/actualidad/archivos/The_Montreux_Elephant_Manifesto.pdf).

<sup>7</sup> CoP17 Doc. 57.6 – p. 15.

<sup>8</sup> European Parliament resolution of 15 January 2014 on wildlife crime (2013/2747(RSP)), <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P7-TA-2014-0031&language=EN&ring=B7-2014-0013>.

<sup>9</sup> Earth Negotiations Bulletin (2007), *Fourteenth Conference Of The Parties To CITES: 3-15 June 2007*, <http://www.iisd.ca/cites/cop14/compilation.pdf>.

- <sup>10</sup> Solomon Hsiang & Nitin Sekar (June 2016), *Does Legalization Reduce Black Market Activity? Evidence from a Global Ivory Experiment and Elephant Poaching Data*, NBER Working Paper No. 22314.
- <sup>11</sup> See, e.g., UNEP et al. (2013), *Elephants in the Dust – The African Elephant Crisis. A Rapid Response Assessment* at 40, 67; World Customs Organisation (2013), *Illicit Trade Report 2012* at pg. 49; TRAFFIC (2014), *Status of elephant populations, levels of illegal killing and the trade in ivory: a report to the CITES Standing Committee*, SC65 Doc. 42.1.
- <sup>12</sup> EIA (Nov. 2014), *Vanishing Point - Criminality, Corruption and the Devastation of Tanzania's Elephants*, <http://eia-international.org/vanishing-point-criminality-corruption-and-the-devastation-of-tanzanias-elephants>; EIA (March 2012), *Blood Ivory: Exposing the Myth of a Regulated Market*, <http://eia-international.org/bloodivory-exposing-the-myth-of-a-regulated-market>; EIA (Aug. 2011), Briefing Document for the 61st Meeting of the CITES Standing Committee – *Elephants*, <http://eia-international.org/briefing-document-for-the-61stmeeting-of-the-cites-standing-committee-elephants>; Elephant Action League (2015), *Blending Ivory: China's old loopholes, new hopes*; Save the Elephants (2014), *China faces a conservation challenge: The expanding elephant and mammoth ivory trade in Beijing and Shanghai*; TRAFFIC (2014), *ETIS report of TRAFFIC, CoP16 Doc. 53.2.2* at 14, 19; CITES Secretariat (2013), *Report of the Secretariat: Monitoring of illegal trade in ivory and other elephant specimens*, CoP16 Doc. 53.2.1, ¶ 34; Esmond Martin and Lucy Vigne (2011), *The Ivory Dynasty: A Report on the Soaring Demand for Elephant and Mammoth Ivory in Southern China*; IFAW (2012), *Making a Killing: A 2011 Survey of Ivory Markets in China*.
- <sup>13</sup> EIA (Feb. 2014), *In Cold Blood: Combating organised wildlife crime*, <http://eia-international.org/in-coldblood-combating-organised-wildlife-crime>.
- <sup>14</sup> WWF-Hong Kong (Sept. 2015), *The Hard Truth: How Hong Kong's Ivory Trade is Fuelling Africa's Elephant Poaching Crisis*; WildAid (Oct. 2015), *The Illusion of Control: Hong Kong's 'Legal' Ivory Trade*; Elephant Action League (2015), *Blending Ivory: China's old loopholes, new hopes*.
- <sup>15</sup> EIA (2015), *Japan's Illegal Ivory Trade and Fraudulent Registration of Ivory Tusks*, <http://eia-global.org/news-media/fraudulent-tusk-registration-fuels-ivory-trade-in-japan>.
- <sup>16</sup> *Id.*
- <sup>17</sup> The video footage of ivory openly available sale in Laos has been compiled by EIA into a short film available here: <https://vimeo.com/163565556/6f67b42684>; see also EIA (2015), *Sin City: Illegal wildlife trade in Laos' Golden Triangle Special Economic Zone*, <https://eia-international.org/wp-content/uploads/EIA-Sin-City-FINAL-med-res.pdf>; ITV (March 2016), *ITV News goes undercover in Laos - a country where the illegal ivory trade thrives*, <http://www.itv.com/news/2016-03-15/itv-news-goes-undercover-filming-at-a-market-in-laos-openly-selling-ivory-products>.
- <sup>18</sup> EIA-compiled records.
- <sup>19</sup> UNODC (Oct. 2014), *Criminal Justice Responses to Wildlife and Forest Crime in Lao PDR*.
- <sup>20</sup> CITES CoP17 Doc. 57.5 Annex.
- <sup>21</sup> TRAFFIC (2014), *Polishing Off The Ivory: Surveys Of Thailand's Ivory Market*.
- <sup>22</sup> WWF (Aug. 2015), Thailand destroys stockpile of illegal ivory, [http://wwf.panda.org/wwf\\_news/?251412/thailand-destroys-stockpile-of-illegal-ivory](http://wwf.panda.org/wwf_news/?251412/thailand-destroys-stockpile-of-illegal-ivory)
- <sup>23</sup> UNODC (2010), *The Globalization of Crime: A Transnational Organized Crime Threat Assessment* at 278, <http://www.unodc.org/unodc/en/data-and-analysis/octa-2010.html>.
- <sup>24</sup> Report of the Secretariat: Monitoring of illegal trade in ivory and other elephant specimens (2012), CoP16 Doc. 53.2.1, ¶ 20; Report of the CITES Secretariat, Elephant Conservation, Illegal Killing and Ivory Trade, SC62 Doc. 46.1 (Rev. 1) at p.12; UNEP et al. (2013), *Elephants in the Dust – The African Elephant Crisis. A Rapid Response Assessment* at p.4.
- <sup>25</sup> See, e.g., John Bredar (2013), *The Ivory Trade: Thinking Like a Businessman to Stop the Business*, (“Nearly 60 percent of respondents believe that making ivory ‘illegal to purchase under any circumstances’ or ‘the strong recommendation of a government leader’ would be the most effective way to stop ivory trading”).
- <sup>26</sup> See, e.g., CITES Resolution Conf. 6.10, *Trade in rhinoceros products*; Resolution Conf. 11.8 (Rev. CoP13), *Conservation of and control of trade in the Tibetan antelope*; Resolution Conf. 10.10 (Rev. CoP16), *Trade in elephant specimens*; Resolution Conf. 12.5 and Decision 14.69 regarding tigers and other Asian big cats.
- <sup>27</sup> CITES CoP17 Doc. 57.5 Annex.
- <sup>28</sup> Assuming that a pair of tusks from one African elephant is equivalent to 6.7kg of ivory, <http://conservationbiology.uw.edu/files/2013/08/CCB-Tracking-Ivory-2013.pdf>.
- <sup>29</sup> CITES CoP17 Doc. 57.5, ¶12 Figure 1.
- <sup>30</sup> CITES Cop15, Doc. 68 annexe 6a, 2010; Tanzania Wildlife Research Institute (TAWIRI) (June 2010), Tanzania Elephant Management Plan 2010-2015 at p.10; IUCN African Elephant Database; Frankfurt Zoological Society (FZS) (June 1, 2015), FZS commits to support Tanzania in intensifying anti-poaching efforts as Great Elephant Census reveals rapidly declining elephant population, <https://fzs.org/en/news/press-releases/great-elephant-census/>; Speech by the Minister for Natural Resources and Tourism, Hon. Lazaro S. Nyalandu, for the Announcement of the Tanzania 2014 Elephant Census Results Arusha, Tanzania (June 1, 2015), <http://www.lazaronyalandu.org/the-announcement-of-the-tanzania-2014-elephant-census-results-arusha-tanzania/>
- <sup>31</sup> George Wittemeyer et al (2014), *Illegal killing for ivory drives global decline in African elephants*, PNAS.
- <sup>32</sup> *Supra* n. 10.
- <sup>33</sup> CoP17 Doc. 57.5, p.3, Figure 1.
- <sup>34</sup> *Supra* n.28.
- <sup>35</sup> George Wittemeyer et al (2014), *Illegal killing for ivory drives global decline in African elephants*, PNAS.
- <sup>36</sup> SK Wasser et al. (June 2015), *Genetic assignment of large seizures of elephant ivory reveals Africa's major poaching hotspots*, Science, Science. DOI:10.1126/science.aaa2457.
- <sup>37</sup> EIA-compiled records.
- <sup>38</sup> WCS News Release (May 26, 2015), *Govt of Mozambique announces major decline in national elephant population*.
- <sup>39</sup> EIA-compiled records.