

CONSIDERATION OF PROPOSALS FOR AMENDMENT OF APPENDICES I AND II

Other proposalsA. Proposal

Transfer of populations of *Loxodonta africana* currently listed in Appendix II to Appendix I

- 1) In accordance with Article II (1) of the Convention.
- 2) In accordance with Resolution Conf. 9.24, Annex 4 on "Precautionary Measures", (A): "When considering proposals to amend the appendices, the Parties shall, in the case of uncertainty, either as regards the status of a species or as regards the impact on the conservation of a species, act in the best interest of the conservation of the species." Specifically, to eliminate the problem of ineffective enforcement controls (see sections 3.4.2 and 4.3.1 of this proposal).
- 3) Retrospectively, in accordance with Resolution Conf. 9.24, Annex 4 on "Precautionary Measures", (B)(2): "Species included in Appendix I should only be considered for transfer to Appendix II if they do not satisfy the relevant criteria in Annex 1. Even if such species do not satisfy the relevant criteria in Annex 1, they should be retained in Appendix I unless they satisfy one of the following criteria:
 - a) the species is not in demand for international trade [not applicable];
 - b) the species is likely to be in demand for trade, but its management is such that the Conference of the Parties is satisfied with: i) implementation by the range States of the requirements of the Convention, in particular Article IV; and ii) appropriate enforcement controls and compliance with the requirements of the Convention; or
 - c) an integral part of the amendment proposal is an export quota approved by the Conference of the Parties, based on management measures described in the supporting statement of the amendment proposal, provided that effective enforcement controls are in place; or
 - d) an integral part of the amendment proposal is an export quota approved by the Conference of the Parties for a specified period of time, based on management measures described in the supporting statement of the amendment proposal, provided that effective enforcement controls are in place; (emphasis added)" (see sections 3.4.2 and 4.3.1 of this proposal).
- 4) Considering Decision 10.1, condition (g) which stipulates that "the Standing Committee has agreed to a mechanism to halt trade and immediately re-transfer to Appendix I populations that have been transferred to Appendix II, in the event of non-compliance with the conditions in this Decision or of the escalation of illegal hunting of elephants and/or trade in elephant products owing to the resumption of trade" (see section 7 of this proposal).
- 5) Since the three populations of the African elephant were transferred to App II at the tenth meeting of the Conference of the Parties, many range States have noted increased poaching levels. An upsurge in elephant poaching has even been reported from some Range countries in Asia.
- 6) CONCERNED that consideration and approval of proposals to transfer population of the African elephant (*Loxodonta africana*) from Appendix I to Appendix II may lead to further increases in poaching of African and Asiatic elephants in anticipation of a legalised trade in elephant ivory;
- 7) AWARE that an agreed system to monitor the illegal killing of the African and Asiatic elephants and trade in their parts may go undetected for a considerable period of time, seriously impacting their most vulnerable populations;
- 8) CONVINCED that the risk of increased illegal killing of elephants and trade in their parts has led to increased management and enforcement costs in many range States which has seriously undermined the restoration and conservation of the species.

9) GIVEN that the one-off sale to Japan of a specified amount of ivory has now taken place, bringing to an end the first part of the ivory trade "experiment". The proponents, are not satisfied that the conditions for this sale as set down in Decision 10.1 were complied with. Furthermore, many elephant range States believe that poaching has increased as a result of the sale. The proponents are concerned about the huge sum of money which is to be raised for Monitoring the Illegal Killing of Elephants (MIKE), and we believe that this money would be far better spent if it were allocated to elephant range States in order to build enforcement capacity and to protect our elephants against poaching and illegal ivory trade.

The Text of the Proposed Amendment:

Appendix I

Appendix II

FAUNA
MAMMALIA
PROBOSCIDEA
ELEPHANTIDAE

Loxodonta africana
African elephant

B. Proponents

Kenya and India

C. Supporting Statement

1. Taxonomy

1.1	Class	Mammalia
1.2	Order	Proboscidea
	Suborder	Gomphotherioidea
1.3	Family	Elephantidae
	Subfamily	Elephantinae
1.4	Genus	<i>Loxodonta</i>
	Species	<i>africana</i> (Blumenbach, 1797)
	Sub-species	<i>africana</i> ("bush" or "savannah") (Blumenbach, 1797) <i>cyclotis</i> ("forest") (Matschie, 1900)
1.5	Scientific synonyms:	None

Western and Central Africa

Peuhl:	N'jaomba, Gnioua (Cameroon)
Mossi:	Ouabogou
Ouolof:	Niei
Bambara:	Sama
Bete:	Lo
Sonhrai:	Tarkouada
Dioula:	Sama
Toubou:	Koum
Toucoulour:	Gniva
Mandingu:	Samon
Baoule:	Sui or Sui-koffi
Fon:	Adjionakou
Ewe:	Atigbigen
Cotocoli:	Tou
Djerma:	Am-beri or Tie beri

Soussou:	Sili
Ewondo:	Zok
Bamboun	N'suen
Bassa:	N'gombi
Arabe:	Fil
Sara:	Kedji
Bornouan:	Kemaguem
Boudouma:	Am-bou
Kotoko:	Arfou
uadaien:	Mouone
Massa:	Pekne
Sango:	N'doli
Banda:	M'bala
Baya:	Foro
Zande:	Guimbala or M'bara
Bangala:	N'djoko
M'beti:	N'djoko
Pahouin:	N'zock
M'boko:	N'zao
Balali:	N'zao
Loango:	N'zagou

Eastern Africa

Nyamwezi:	Nzovu or Mpule
Chagga:	Njofu
Sukuma:	Mnhuli
Makonde:	Ndembo or Ndovu
Somali:	Marodhi
Kiswahili:	Ndovu or Tembo
Maasai:	Olkanchawi or Lenkaina
Kitoro:	Enjovu
Kiganda:	Njovu
"Burundi"	Inzovu
Kinyarwanda:	Inzovu
Kikuyu:	Njogu
Abaluhma:	Injofu
Arabe:	Fille
Kilou:	Liech

Southern Africa

Shona:	Nzou
Herero:	Onjohu
Ovambo:	Ondjamba or Ondjou
Ovadirico:	Njovu
Ovacuangari:	Nzovu
Mambakushu:	Thovu, Ndovo, Ordjowu
Bechuana:	Tlou or To
Setswana:	Tlou
Barotse:	Tou:u
Ngamiland:	Thlo
Chinkoya:	Ndovu
Chilovale:	Njamba
Chitonga:	Nzovu
Berg Damara Bushmen:	Khoab
Naron Bushmen:	Khoab or Koa
Nama Bushmen:	Khoab
K'auen Bushmen:	Kho or Xo
Kung Bushmen:	Kho
Sikwengo Bushmen:	Kwa
Nuen Bushmen:	Xabe

N'ke Bushmen:	Xwa
Nam-kake Bushmen:	Xoa
O'kung Bushmen:	Xo
Africaans:	Afrikaanse Olifant
1.7 Code number	CITES A-115.001.002.001 ISIS 5301415001002001001

2. Biological Parameters

2.1 Distribution

The African elephant is found in thirty-six sub-Saharan African countries, covering a range of 5,789,752 km² (Said *et al.*, 1995). It is found in almost all habitats, from savannas to rain forests, swamps to deserts and seashores to high mountains (Laursen & Bekhoff, 1978; African Elephant Conservation Co-ordinating Group, 1988).

The two recognised subspecies are sympatric in parts of their range (Western, 1986). *L. a. cyclotis* is found throughout Africa's equatorial forests, from western Uganda / northern Rwanda to Sierra Leone. *L. a. africana* is found over the remainder of the species' range, to the north, east and south of the range of *L. a. cyclotis*.

Habitat fragmentation due to human encroachment (including agricultural and forestry activities) has been an important threat to both subspecies. In many countries, elephants exist in small, isolated populations that are restricted to parks, reserves and other protected areas. In less than 20% of its total range is the species provided with some degree of protection, and in less than 2% of its total range is the species offered a high level of protection (Douglas-Hamilton, 1988). Most large elephant populations are found in parks and reserves (e.g. in Pendjari National Park in Benin, Burrill and Douglas-Hamilton, 1987) or in remote regions where human densities are low (e.g. in south-east Burkina Faso, Bousquet and Szaniawski, 1981).

2.2 Habitat availability

While the estimated range of 5,789,752 km² (Said *et al.*, 1995) is a large area, it does not necessarily reflect large numbers of elephants, especially in areas where poaching has been or is a factor. For example, Chad possibly has 1,040 elephants (although none were actually sighted during the 1995 survey) in a vast range of 205,523 km². In some areas, poaching has eliminated elephants from areas where suitable habitat exists.

Western Africa contains small, isolated populations, highly fragmented and scattered across a vast area. There, increasing human populations and droughts have confined elephants to isolated pockets of national parks and other reserves. Some specific examples of habitat destruction include: Ghana's southern forest area, where elephant habitat is being destroyed by timber exploitation and expansion of human settlement (Merz, 1986; Burrill and Douglas-Hamilton, 1987); Ivory Coast, where gradual fragmentation and destruction of elephant habitat has reduced their range by 83% since the end of the 19th century (Roth *et al.*, 1984; Burrill and Douglas-Hamilton, 1987; Douglas-Hamilton, 1988).

Central Africa contains a virtually undocumented spread of elephants through the lowland rainforest, where individuals are almost impossible to count and the area of suitable habitat extends for thousands of square miles. Maintenance of the integrity of lowland rainforest is crucial to the conservation of elephants in the region. Large expanses, particularly in Gabon and the Congo, remain sparsely populated by humans and relatively unexploited.

In Eastern Africa, loss of habitat due to human activity is one factor in the decline, extermination and compression of elephant populations.

In parts of Southern Africa the habitat is fragmented by human encroachment.

2.3 Population status

The most recent continental population estimates are from 1995 (Said *et al.*, 1995); see Table 1. These data are divided into four categories: "definite", "probable", "possible", and "speculative". Considering all four categories combined, West Africa contains 15,220 elephants; Central Africa contains 228,237 elephants; East Africa contains 129,343 elephants; and Southern Africa contains 242,469 elephants; for a total of 615,269 elephants. 39.4% of African elephants reside in Southern Africa; 37.09% in Central Africa; 21.1% in East Africa; and 2.5% in West Africa.

Table 1. Summary of Elephant Population Estimates, By Country, 1995 (Source: Said *et al.* 1995).

	Definite	Probable	Possible	Speculative	Total
West Africa					
Benin	0	0	1,400	150	1,550
Burkina Faso	1,469	583	583	0	2,635
Ghana	245	427	1,416	443	2,531
Guinea	0	0	0	1,000	1,000
Guinea Bissau	0	0	0	35	35
Ivory Coast	551	250	810	585	2196
Liberia	0	0	0	1,783	1,783
Mali	0	611	151	45	807
Niger	0	0	0	800	800
Nigeria	0	0	1,065	550	1,615
Senegal	0	0	20	20	40
Sierra Leone	NE	NE	NE	NE	NE
Togo	0	0	85	143	228
Subtotal	2,265	1,871	5,530	5,554	15,220
Central Africa					
CAR	1,750	0	2,640	4,894	9,284
Cameroon	1,100	6,689	8,824	600	17,213
Chad	0	0	1,040	2,100	3,140
Congo	0	0	32,563	0	32,563
Eq. Guinea	0	0	407	0	407
Gabon	0	61,794	20,218	0	82,012
DRC	4,470	13,174	65,974	0	83,618
Subtotal	7,320	81,657	131,666	7,594	228,237
East Africa					
Eritrea	0	0	70	30	100
Ethiopia	847	0	1,560	0	2,407
Kenya	13,834	5,273	6,447	924	26,478
Rwanda	39	0	32	10	81
Somalia	0	0	130	120	250
Sudan	NE	NE	NE	NE	NE
Tanzania	73,459	12,419	12,301	0	98,179
Uganda	1,318	0	530	0	1,848
Subtotal	89,497	17,692	21,070	1,084	129,343
Southern Africa					
Angola	0	0	0	8,170	8,170
Botswana	62,998	8,588	8,588	0	80,174
Malawi	1,111	540	436	250	2,337
Mozambique	825	185	485	13,405	14,900
Namibia	5,843	3,058	3,098	0	11,999
South Africa	9,990	20	0	0	10,010
Swaziland	20	0	0	0	20
Zambia	19,701	6,574	6,729	0	33,004

Zimbabwe	56,297	11,674	13,884	0	81,855
Subtotal	156,785	30,639	33,220	21,825	242,469
Continental Total	255,867	131,859	191,486	36,057	615,269

The current world-wide estimate of captive African elephants is fewer than 500 with most of these in zoos in the United States. The species does not breed or survive well in captivity, the captive population is not self-sustaining, and it does not contribute to the survival of the species in the wild. Most elephants in zoos were recruited from wild populations.

The proponents do not consider the removal of elephants from the wild for display in zoos and circuses to be appropriate or acceptable. The recent incident in which thirty elephant calves were forcefully removed from their families in Botswana by a South African game dealer for the purpose of selling them to zoos and safari parks is ethically unjustifiable and should not be repeated.

2.4 Population trends

The continental population decreased from an estimated 1,203,501 in 1981 to an estimated 615,269 in 1995, representing a decrease of 48.9% during this time period. However, it should be noted that the 1995 figures listed in Table 2 are not conservative; they contain data that have been described as "definite", "probable", "possible", and "speculative" (Said *et al.*, 1995). Eliminating the latter two categories from the calculations provides for a conservative 1995 continental population estimate of 387,726, representing a maximum possible decrease of 67.8% during this period.

Again, using the non-conservative data, of the thirty-six countries listed in Table 2, the elephant populations of fourteen experienced a continued downward population trend between the years 1981 and 1995; ten experienced fluctuations in population sizes that defy a statement of trend (these may be actual fluctuations or the results of different sampling methods); eight experienced upward population trends; and three cannot be categorised because the data are incomplete.

All regions except Southern Africa experienced a continual downward population trend between 1981 and 1995. West Africa lost 14.4% of its elephants between 1981 and 1995; Central Africa lost 47.7% of its elephants;

East Africa lost 70.5% of its elephants; while the population trend in Southern Africa fluctuated over this period making a statement of trend difficult.

Table 2 suggests that populations may have continued to decline in many countries between 1987 and 1995, despite the listing of the species on Appendix I during the latter half of this period. However, the extent of the decline that occurred between 1990 and 1995, as compared to 1987 to 1990, is unknown. It should also be noted that there are no more recent data on continental elephant populations than those of Said *et al.* in 1995, making it impossible to know the impact of the 1997 listing of the elephant populations of Botswana, Namibia and Zimbabwe on Appendix II and the export of certain quantities of ivory from stockpiles to Japan.

Table 2. Elephant Population Estimates, By Country, 1981 - 1995 (Source: Cumming and Jackson, 1984; Martin, 1985; AERSG 1987; Burrill and Douglas-Hamilton, 1987; Said *et al.* 1995).

	1981	1985	1987	1995*	Trend
West Africa					
Benin	1,250	2,300	2,100	1,550	Mixed
Burkina Faso	3,500	3,500	3,900	2,635	Mixed
Ghana	970	1,000	1,100	2,531	Up
Guinea	800	800	320	1,000	Up
Ivory Coast	4,800	4,800	3,300	2,196	Down
Liberia	2,000	800	650	1,783	Mixed
Mali	780	700	600	807	Mixed

Mauritania	40	0	20	-	Unk.
Niger	800	800	800	800	Stable
Nigeria	1,820	1,500	3,100	1,615	Mixed
Senegal	370	100	50	40	Down
Sierra Leone	500	500	250	-	Unk.
Togo	150	100	100	228	Mixed
Subtotal	17,780	16,900	16,290	15,220	Down
Central Africa					
CAR	31,000	19,500	19,000	9,284	Down
Cameroon	5,000	12,400	21,200	17,213	Mixed
Chad	-	2,500	3,100	3,140	Up
Congo	10,800	59,000	61,000	32,563	Mixed
Eq. Guinea	-	1,800	500	407	Down
Gabon	13,400	48,000	76,000	82,012	Up
DRC	376,000	523,000	195,000	83,618	Down
Subtotal	436,200	666,200	375,800	228,237	Down
East Africa					
Eritrea	-	-	-	100	Unk.
Ethiopia	9,000	9,000	6,650	2,407	Down
Kenya	65,056	28,000	35,000	26,478	Mixed
Rwanda	150	100	70	81	Down
Somalia	24,323	8,600	6,000	250	Down
Sudan	133,772	32,300	40,000	-	Mixed
Tanzania	203,900	216,000	100,000	98,179	Down
Uganda	2,320	2,000	3,000	1,848	Down
Subtotal	438,521	296,000	190,720	129,343	Down
Southern Africa					
Angola	12,400	12,400	12,400	8,170	Down
Botswana	20,000	45,300	51,000	80,174	Up
Malawi	4,500	2,400	2,400	2,337	Down
Mozambique	54,800	27,400	18,600	14,900	Down
Namibia	2,300	2,000	5,000	11,999	Up
South Africa	8,000	8,300	8,200	10,010	Up
Zambia	160,000	58,000	41,000	33,004	Down
Zimbabwe	49,000	47,000	43,000	81,855	Up
Subtotal	311,000	202,800	181,600	242,469	Mixed
Continental Total	1,203,501	1,181,900	764,410	615,269	Down

* Includes all categories in Said *et al.* (1995): "definite", "probable", "possible", and "speculative" population sizes; see Table 1.

2.5 Geographic trends

Between 1988 and 1995 (the year for which most recent data are available), the overall range of the African elephant decreased by 144,248 km², an approximately 2.4% loss from 1988 levels (see Table 3). The most significant decreases in range were in West Africa, which lost 44,812 km², or 16.3% of 1995 levels; and Eastern Africa, which lost 427,951 km², or 28.4 % of 1995 levels. Apparent increases in elephant range in Central and Southern Africa, which are probably attributable to better sampling methodology rather than actual increases in elephant range, offset significant losses of range in West and Eastern Africa. The overall range of the African elephant encompassed 7,300,000 km² in 1979 (Douglas-Hamilton, 1979); this decreased to 5,934,000 km² by 1988 (Douglas-Hamilton, 1988); and further decreased to 5,789,752 km² by 1995 (Said *et al.* 1995). The decrease in range of nearly

20% between 1979 and 1988 has been widely attributed to the ivory trade (e.g. Douglas-Hamilton, 1988).

The much slower rate of decrease in range between 1988 and 1995 may be attributed to the positive effect of the CITES Appendix I listing of all populations of the African elephant during most of this period.

Table 3: Distribution of the African Elephant by Range Country (Sources: Douglas-Hamilton, 1988; Said *et al.*, 1995)

Country	1995 Range Area (km ²)	% of Area	1988 Range Area (km ²)	Area (km ²)	Trend
Central Africa					
Cameroon	469,370	235,264	50.12	253,000	Down
CAR	624,278	314,418	50.37	348,000	Down
Chad	1,277,301	205,523	16.09	202,000	Up
Congo	344,011	246,673	71.70	216,000	Up
Equatorial Guinea	25,183	14,593	57.95	23,000	Down
Gabon	266,521	263,902	99.02	249,000	Up
Zaire	2,343,242	1,479,904	63.16	1,421,000	Up
Subtotal	5,349,906	2,760,277	51.59	2,712,000	Up
Eastern Africa					
Eritrea	122,352	591	0.48		
Ethiopia	1,133,575	102,984	9.08	139,000	Down
Kenya	594,704	135,005	22.70	408,000	Down
Rwanda	25,376	1,263	4.98	3,000	Down
Somalia	637,726	10,186	1.60	56,000	Down
Sudan	2,509,212	385,143	15.35	382,000	Up
Tanzania	947,948	425,384	44.87	501,000	Down
Uganda	242,841	13,493	5.56	13,000	Down
Subtotal	6,213,734	1,074,049	17.29	1,502,000	Down
Southern Africa					
Angola	1,255,004	680,326	54.21	459,000	Up
Botswana	580,865	81,671	14.06	139,000	Down
Malawi	118,775	8,388	7.05	19,000	Down
Mozambique	789,855	468,113	59.27	247,000	Up
Namibia	828,183	145,344	17.55	207,000	Down
South Africa	1,224,437	22,695	1.85	42,000	Down
Swaziland	17,360	281	1.62		Unk.
Tuli Block	-	-	-	15,000	Unk.
Zambia	755,834	211,944	28.04	240,000	Down
Zimbabwe	392,729	106,476	27.11	77,000	Up
Subtotal	5,963,042	1,725,238	28.93	1,445,000	Up
West Africa					
Benin	116,279	21,152	18.19	20,000	Up
Burkina Faso	276,372	21,320	7.71	36,000	Down
Ghana	240,311	31,250	13.00	29,000	Up
Guinea	246,163	9,316	3.78	11,000	Down
Guinea Bissau	34,184	331	0.97	400	Down
Ivory Coast	232,970	36,688	15.75	50,000	Down
Liberia	96,509	22,053	22.85	17,000	Up
Mali	1,257,166	34,021	2.71	50,000	Down
Niger	1,190,316	2,387	0.20	6,000	Down
Nigeria	915,252	34,391	3.76	29,000	Up
Senegal	197,928	8,447	4.27	10,000	Down
Sierra Leone	72,790	2,921	4.01	3,000	Stable
Togo	57,407	5,911	10.30	7,000	Down
Subtotal	4,933,647	230,188	4.67	275,000	Down
Continental Total	30,043,980	5,789,752	19.27	5,934,000	Down

2.6 Role of the Species in its Ecosystem

Elephants play a key role in the ecology of their habitats; their feeding habits have the effect of opening up the forest canopy and they keep open forest pathways used by humans and animals alike (Carroll, 1988).

Elephants act as seed dispersal agents for many tree species – for example, in a study in the Tai Forest, Ivory Coast, 30 per cent of tree species whose seed dispersal mechanism were known, were dispersed by elephants, and seeds from 37 tree species were identified in elephant droppings (Alexandre, 1978). Loss or depletion of populations of this keystone species can be expected to have a significant negative impact on the ecosystem as a whole.

2.7 Threats

The range of the African elephant once spanned the entire continent (Mauny, 1956; Douglas-Hamilton, 1979), including North Africa up to the Mediterranean coast (Bryden, 1903) where the species is now extinct. The contraction of the range of the species has been attributed to three factors (e.g. Douglas-Hamilton, 1979; 1987; 1988): i) demand for ivory; ii) desertification in North Africa and the Sahara; and iii) conversion of land for human uses (habitat fragmentation and loss).

Of these three, the trade in ivory has contributed most significantly and intensively to the contraction of the range of the species (Douglas-Hamilton, 1979; AERSG, 1987). Although Africa still maintains vast expanses of suitable elephant habitat, pressure from poaching has either eliminated entire elephant populations or reduced population densities to very low levels (Burrill and Douglas-Hamilton, 1987). The effect of desertification played an important role historically but is currently trivial and does not impact most elephant populations.

The ivory trade caused the elephant to become extinct in North Africa in the Middle Ages, causing ivory traders to look elsewhere (Bryden, 1903); brought some populations in South Africa to the brink of extinction in the 18th and 19th centuries (*ibid*); and so scattered and fragmented populations in West Africa in the late 19th and early 20th centuries (Bourgoin, 1936) that they have never recovered. A combination of the adoption of laws controlling ivory trade and a drop in demand for ivory after World War I, allowed populations to recover from earlier over-exploitation. But demand for ivory rose again in the 1970s and continued rising through the 1980s and many populations became significantly reduced (see Section 2.4). According to one report issued towards the end of this period, the elephant conservation situation is "one of appalling conservation and mismanagement. Economically, rather small short-term gains are being sacrificed for far greater profits which could be made under sensible management." (AERSG, 1987). A full discussion of the impact of the ivory trade on elephant populations is presented in the United Republic of Tanzania's successful 1989 proposal to list the species on CITES Appendix I.

The proponents of this proposal remain convinced that the international commercial ivory trade poses the most serious threat to most African elephant populations. Protection of elephants from poaching for the ivory trade is not effective in most African elephant range States due to lack of financial resources to support enforcement activities (see Section 4.3.1 of this proposal). Elephant populations continue a downward trend in numbers in many range States (see Section 2.4 of this proposal). Population monitoring is also severely limited by lack of resources (see Section 4.2.1 of this proposal) and, as a result, it is impossible for most African elephant range States even to properly analyse the impact on their elephant populations caused by the 1997 proposal to list the elephant populations of Botswana, Namibia and Zimbabwe on CITES Appendix II and the export of certain quantities of stockpiled ivory to Japan.

Therefore, the proponents consider that the "effective enforcement controls" called for in Resolution Conf. 9.24, Annex 4 on "precautionary measures", (B)(2) (see text under item (A)(3) on page 1 of this proposal) were not in place when the Parties agreed to list the three populations on Appendix II.

To date, although the Standing Committee has allowed the three countries to export ivory to Japan, a mechanism to detect increases in elephant poaching and illegal trade in ivory has not been approved, has not been funded, and is not in effect (see Section 3.4.2 of this proposal).

Destruction and fragmentation of elephant habitat is also an important threat to the survival of the species and the range of the African elephant continues its downward trend in many range states (see sections 2.2 and 2.5 of this proposal).

Other threats include war and political instability.

3. Utilisation and Trade

For centuries ivory has been in demand as a luxury commodity, although there have been periods in history when demand waxed and waned. To a great extent, extensive use of ivory has historically been associated with colonial government, for example the Romans in North Africa and, centuries later, the western Europeans in sub-Saharan Africa.

The period between 1970 and 1990, however, showed a rapid growth in international trade and by the late 1980s the three regions where demand was considered to be highest were North America, Europe and Japan.

During the 1980s Japan was estimated to be the single largest consumer of African elephant ivory (raw and worked, combined), taking on average one-third of all ivory reported to be in trade. Japan's total consumption for this decade was an estimated minimum of 2,665 tonnes (Government of Tanzania, 1989).

While there was a demand for intricate ivory carvings and statues in many parts of the world, the growing popularity and affordability of solid ivory "hanko", or name seals, in Japan resulted in the mass manufacture of hanko to supply the market. Entrepôts in the Middle and Far East were set up to manufacture hanko "blanks" using ivory-cutting machines. These machines could produce hundreds of hanko in minutes. Much of this ivory was exported first to Hong Kong, where it was still legal to import "worked" ivory.

Hong Kong was used as a staging post for a great deal ivory, which was subsequently re-exported. According to Hong Kong Customs data of 1987, as much as 73% of Hong Kong's exports of worked ivory was exported to the United States and Japan (Government of Tanzania, 1989)

The availability of mass-produced ivory hanko made from poached ivory was compounded by a major enforcement problem, that is, the fact that the Appendix II listing of the African elephant permitted international trade in ivory, subject to export quotas. This provided a "cover" for a much larger illegal trade and inadvertently supplied the dealers with valuable documentation which could be used and re-used for illegal shipments. Ironically these documents, which were easily forged, greatly increased the value of their illegal ivory.

The Appendix I listing effectively closed this loophole and, although the proponents are aware that elephants are still being poached for their ivory and that ivory is still illegally traded, we strongly submit that the current scale of illegal trade does not even approach that of the decade prior to the Appendix I listing, when there was a legal international trade.

The issue of whether or not demand has decreased since the Appendix I listing has been hotly debated. However, there is no doubt that in North America, Hong Kong and some parts of Europe, ivory virtually disappeared from the shelves of souvenir and "art" shops in the aftermath of the listing.

The proponents fear that demand will increase in Japan and elsewhere as a result of the resumption of trade, since ivory will be viewed once again as an attractive and legal commodity.

3.1 National Utilisation

Elephants are utilised in a variety of ways in Africa.

In some parts of Africa, elephants are hunted for their meat and for ivory. Ivory is used for ceremonial purposes, for personal adornment and for musical instruments. In 1989 it was reported that, as a result of the unsustainable killing of elephants and subsequent changes in elephant demographics, the

indigenous carving tradition had also changed because of the increasing rarity of large tusks (Government of Tanzania, 1989).

Elephant meat is consumed in West, Central and Southern Africa. Elephant meat resulting from culls in South Africa and Zimbabwe has been donated or sold for local consumption. In Zimbabwe, elephant meat was used to feed crocodiles in the ranching industry (Government of Tanzania, 1989).

Ivory carving is a well-established tradition in many parts for Africa: in the 1970s and 1980s there were sizeable carving industries in Central African Republic, Cameroon, Congo, Ethiopia, Gabon, Ivory Coast, Somalis, Sudan, Zaire, Zambia, Zimbabwe, South Africa, Botswana and Malawi.

Elephant hunting as a form of "sport" was not traditional in Africa before the arrival of the Europeans.

There has been a domestic trade in live elephants in some parts of Africa for many years, both during the full Appendix I listing and since the transfer to Appendix II of the elephant populations of Botswana, Namibia and Zimbabwe.

Elephant calves captured as a result of culls in Zimbabwe have been sold to private reserves within the country. In 1992/93, 1,400 elephants were sold to local farmers and translocated from the drought-ridden Gonarezhou Park in the lowveld (Government of Zimbabwe, 1997).

Juvenile elephants from the Kruger National Park in South Africa have been both sold to private reserves and translocated to other parks in the country.

Elephants are used in the Democratic Republic of Congo, Zimbabwe and Botswana for elephant-back safaris.

Wildlife tourism is the third largest earner of foreign exchange in Zimbabwe, and is the country's fastest-growing industry (Government of Zimbabwe, 1997). Tourism ranks first in Kenya in terms of foreign currency earnings and is also high on the list of top foreign exchange earners for Botswana, South Africa, Tanzania and Namibia.

In 1998, Africa as a whole earned US\$9.5 billion from tourism, more than double the figure for 1989 (WTO, 1999). While it is not possible in all range states to establish the precise tourism value of wildlife generally, let alone elephants, the species is regarded as one of the "big five" and is therefore a major drawcard.

There are large stockpiles of ivory in Africa, resulting from seizures of illegal ivory, culling, problem animal control and natural mortality. It is not known how much ivory is stockpiled in Africa, but the result of the audit of some government-held stockpiles (carried out in accordance with Decision 10.2) is as follows:

Country	Declared Stock Total kg	Verified Stock No. Pieces	Total Kg	No. Pieces	Comments
Botswana	10,013.20	3,552	9,999.40	3,551	
Burkina Faso	187.30	47	199.30	47	
CAR	886.80	52	121.80	47	22 ivory tusks and pieces, weighing 535.50 kg, were privately owned at the time of the declaration
Ethiopia	3,717.10	954	3,218.30	926	
Kenya	9,515.85	968	9,610.75	1,013	
Malawi	4,579.70	1,615	5,108.70	1,643	
Mozambique	1,846.80	266	1,840.40	269	
Namibia	32,139.01	6,266+	31,914.54	6,266+	
Niger	54.40	19	53.55	19	
Sudan	46,894.00	10,881	4,971.56	1,276	9,602 ivory tusks and pieces, weighing 41,669.80 kg, were

Togo	311.28	77	0.00	0	privately owned at the time of the declaration The entire declared stock of ivory is privately owned
Uganda	1,226.97	2,612	1,239.65	2,612	
Tanzania	70,312.23	17,888	72,196.30	18,414	
Zambia	8,786.60	2,078	8,712.90	2,078	
Zimbabwe	8,800.00	1,828+	8,890.20	1,786	
TOTAL	199, 271.24+	49,103+	158,077.35	39,947+	

Source: Notification to the Parties No. 1998/11

3.2 Legal International trade

After the 1997 transfer to Appendix II of the elephant populations of Botswana, Namibia and Zimbabwe, international trade in elephant products was limited to specified quantities of raw ivory from Botswana, Namibia and Zimbabwe (to Japan only) and worked ivory and hides for non-commercial purposes from Zimbabwe.

The proponents are aware that Botswana, Namibia and Zimbabwe have auctioned ivory and that the ivory was exported to Japan, but have not been informed of the quantities sold or revenues received by each country. The proponents were unable to obtain up to date information relating to the volume of worked ivory exported from Zimbabwe.

An international auction of elephant hides took place in Zimbabwe in June 1998. The total volume sold was 82.8 tonnes, which achieved an average price of \$US 12.78 per kg. The total value realised was \$US1.3 million. This represents an annual value of \$US 130,000 per year (not taking into account annual price fluctuations or foreign exchange rates) since the Zimbabwean hides had been stockpiled for ten years. The principal buyers at the Harare auction were from South Africa, Japan and the United States (Milliken, 1999).

Elephant skins, feet, tails have been marketed internationally for decades. Elephant skin is used in the manufacture of boots, handbags, luggage and briefcases. Feet and tails have been marketed both for local consumption and as tourist souvenirs.

Live elephants were sold internationally during the period of the full Appendix I listing and since CoP10. During the 1992/93 drought, 200 elephants were sold and translocated to South Africa (Government of Zimbabwe, 1997).

South Africa exported 180 live elephants between 1986 and 1993 (Government of South Africa, 1993).

Thirty elephant calves captured in Botswana in September 1998 were sold to an animal dealer in South Africa.

Other trade, deemed non-commercial under CITES, is comprised of the import and export of specimens for educational or scientific purposes and the export of sport-hunted trophies.

No information is currently available to the proponents regarding the import and export of ivory in other non-commercial categories.

Export of elephant tusks as hunting trophies is permitted from:

Country	Quota for 1998	Quota for 1999
Botswana	348 tusks	348 tusks
Cameroun	160 tusks	0 tusks
Ethiopia	6 tusks	0
Mozambique	20 tusks	20 tusks

Namibia	150 tusks	150 tusks
South Africa	86 tusks	86 tusks
Tanzania	100 tusks	100
Zimbabwe	800 tusks	800 tusks

Source: CITES Secretariat Notification 1998/36 and 1999/05

3.3 Illegal Trade

3.3.1 Illegal ivory seizures

The following are some examples of confiscations of illegal ivory since the last meeting of the CoP:

In January 1997, Belgian Customs seized eight parcels of semi-worked ivory which was en route from Gabon to South Korea (TRAFFIC bulletin, September, 1997).

In May 1997, French Customs seized a tusk at Orly airport. It had been sent from Uganda and was bound for Hong Kong (TRAFFIC bulletin, September, 1997).

In May 1997, UK Customs seized 366 kg of sawn ivory, including 58 tusk tips, which were in transit from Zambia to Malaysia. Some of the ivory was freshly cut (TRAFFIC Bulletin, September, 1997).

In July 1997, Customs officers in Pusan, South Korea, seized 83 kg of ivory and 2,140 ivory blocks from Gabon (TRAFFIC Bulletin, September, 1997).

In August, 1997 a "huge quantity" of worked ivory items was seized en route for Hong Kong from Nigeria (Agence France Presse, undated).

In late 1997, it was reported that a shipment of over 500 ivory pieces and one whole tusk had been seized by Dutch Customs at Schipol Airport. The ivory believed to have been valued at 200,000 Dutch Guilders, was reported to have been en route to Chile from Zambia (confidential source).

In February 1998, two tusks were seized in the Omay District of Zimbabwe (Harare Herald, February 10th, 1998).

In February 1998, 1.5 tonnes of raw and worked ivory were reported to have been seized at Keelung Harbour, Taiwan. The alleged country of export was Nigeria (confidential source).

In June 1998 it was reported in the Namibian press that the Namibian Police Protected Resources Unit confiscated 21 elephant tusks at Brakwater near the capital, Windhoek. It was reported to be the largest haul of ivory for many years (The Namibian, June 12th, 1998).

In July 1998, two men were arrested they allegedly tried to sell an 8kg elephant tusk to undercover investigators from the Mpumalanga Parks Board. The tusk was believed to have come from the Kruger National Park (Wild Net Africa News Archive, July 27th, 1998).

In October 1998, French customs found nearly 600 kg (1,300 lbs) of raw ivory in the luggage of a North Korean diplomat at Charles de Gaulle airport, Paris. The man was travelling from Cameroon to China. The seizure amounted to the equivalent of the entire quantity of ivory seized in France in an average year. The diplomat was released because of his diplomatic status (Reuters, October 31st, 1998).

In November 1998 Chinese customs officials seized 1.6 tonnes of smuggled African ivory worth 1.68 million yuan (\$202,409) in the southern province of Guangdong. The ivory was hidden among 8.9 tonnes of imported African wild ox horns, which had been declared to customs (Reuters, November 16th 1998).

In January 1999, customs officers, Criminal Investigations Department and Kenya Wildlife Service security officers seized 200 kg of ivory in transit from the Democratic Republic of Congo, the

suspects of Zairean origin were travelling with fake documents and are dealers in gem stones. The suspects were charged in a Nairobi court and pleaded guilty.

In April 1999 it was reported that more than 21,000 pieces of ivory were available for sale in Egyptian shops, according to a report by Esmond Bradley Martin, a leading analyst of the trade in ivory and rhinoceros horn. Much of the ivory is reported to be entering Egypt via Sudan, and the report indicates that the majority of poachers are Sudanese or Sudanese-led. Sudanese elephants are thought to be the source of some of the ivory, according to the report.

Some of the ivory is also believed to be coming from Garamba NP in the Democratic Republic of Congo. A study carried out by the Protected Areas of Congo in collaboration with the Forestry Brigade traced the ivory route from Pokola and Douala. The ivory is transported in large trucks which are used to carry timber, from Douala, the ivory goes to Nigeria for onward transportation to Saudi Arabia, Dubai and the United Arab Emirates. These routes were also confirmed by delegates of Cameroon and Nigeria at Arusha in 1998. Bradley Martin reports that bulk shipments are being exported from Khartoum, mostly to China and South Korea and that the ivory trade is still being replenished by new ivory from recently killed elephants.

Ivory is also being carried home by tourists from Italy, France, Spain and Latin America, packed in their suitcases.

A TRAFFIC spokesperson is quoted as saying "there is clearly a problem with elephant poaching in central and western Africa. The trade in ivory in Egypt is not a new development, but it is a continuing and disturbing one." However, Bradley Martin's research suggests that the volume of ivory being sold through Egypt has declined since the CITES ban (Sunday Telegraph (UK), April 4th 1999).

In April 1999, Russian Customs seized over half a ton of elephant tusks, which was being carried from Nigeria to China in the baggage of the wife of a North Korean diplomat. Officials carrying out a routine inspection of transiting cargo confiscated the 537 kg of ivory tusks but it is not known what will happen to the ivory (United Press International, April 30th 1999).

In July 1999 over 350 kg of ivory prepared for transportation to the northern border was seized in the Maralal a northern town in Kenya. This represented 51 tusks and some had bullet holes through them. Two men are facing charges for illegal possession and dealing in ivory. In August another seizure of 75 kg was made at the same site, and included two fresh tusks each weighing over 25 kgs, and further in September two tusks of 8 kg were also recovered at the same site.

In August 1999, approximately 700 kg of ivory was seized at Nairobi International Airport. A North Korean diplomat was arrested and faces legal charges in Kenya. The diplomat expressed surprise at being arrested in Kenya as he claims to have transported similar amounts of ivory several times in the past through other East African countries without hindrance. The diplomat from Equatorial Guinea was returning to N. Korea via Dubai and Beijing where he indicated he would offload the ivory.

Smaller seizures of ivory from Zimbabwe and Zambia were also made at the Nairobi and Mombasa airports and four pieces of ivory were confiscated from diplomats' residence in Nairobi. All diplomats implicated in illegal dealing in ivory have avoided arrest due to their diplomatic immunity.

In October 1999 police seized 150 elephant tusks at a private residence near Lisbon, Portugal and arrested four men accused of being involved in an international smuggling ring. The suspects were arrested in a joint operation by the Portuguese and South African police who specialise in endangered species protection. The Portuguese daily newspaper A Capital said 70 elephants were killed to obtain ivory estimated at US \$ 265,000 (Euro 250,000).

On 11th October 1999, it was reported that 1.8 tonnes of ivory had been impounded by Customs officers at Dubai Airport. The shipment, packed in 41 containers was in transit from "an African country" (11/10/99, The Star, South Africa).

3.3.2 Poaching Incidents

There have been numerous reports by wildlife officials suggesting a rise in elephant poaching since CoP10. Though many of these are of necessity anecdotal, they are nonetheless of concern not only because of the numbers involved, but because they indicate apparent resurgence of poaching in areas that had been relatively quiet since the 1989 transfer of the species to Appendix I. During a consultative meeting with range States, nearly all the delegates reported recent increases in illegal killing of elephants.

Some examples follow:

In late 1997 there were anecdotal reports that around 200 elephants had been poached in Manovogunda National Park, Central African Republic.

In July 1997, it was reported in Namibia that two elephants had been killed, along with "scores of smaller game" in the past month (The Namibian, 23rd July, 1997).

In September 1997, Willas Makombe, then Acting Director of the Zimbabwe Department of National Parks and Wildlife Management, told the Zimbabwe Sunday Standard that "about 25" elephants were poached between January and June 1997. The same article reported that between June and July 1997, six elephants were poached.

In September 1997 Daphne Sheldrick reported that twenty nine elephants had recently been poached on private land (pers. comm.).

In late September 1997, poachers in Kenya killed five adult bull elephants, 90 miles north of Nairobi at a private reserve the tusks were removed (Outside Online, October 7th, 1997).

In October 1997, in a letter to the UK Sunday Telegraph, Dr Richard Leakey & Dr Joyce Poole said that a minimum of 33 elephants had been poached since September 1st (Sunday Telegraph, October 26th, 1997).

In late October, 1997 two cow elephants were poached in the West Caprivi Game Reserve, Namibia. Tusks and tails had been removed. There was evidence that a third elephant had been shot but had escaped. The poaching was described as "professional" (The Namibian, November 21st, 1997).

In 1998 it was reported that South Africa's Kruger National Park had lost 311 elephants to poachers in one year (Saturday Star, March 4th, 1998).

In January 1998, there were anecdotal reports to the effect that large amounts of ivory were leaving Garamba National Park in the Democratic Republic of Congo. The ivory was reported to be destined initially for Uganda.

In March 1998 it was reported that a group of heavily-armed ex-Unita members from Angola recently entered the Caprivi strip in Namibia and rounded up a huge herd of elephants, which they drove into Angola to slaughter. The Ministry of Environment and Tourism announced that it would investigate the report but no further details appear to have been published. (The Namibian, March 21st, 1998).

In June 1998 the Panafrican News Agency reported on poaching levels in a number of West African range states. Seyni Seydou, Director of Wildlife, Fisheries and Aquaculture in Niger said that shortly after CoP10 Niger saw its first elephant poaching in five years. M. Seydou said that "cross-border networks have emerged following the CITES decision that allowed two or three countries to sell their stocks of ivory" (Panafrican News Agency, June 8th 1998).

In June 1998 Senegal reported that no elephants from an estimated country-wide population of 20 - 60 could be found at all, even in the Niokolo Koba Game Reserve. Wildlife experts were reported as saying that poachers were responsible for the disappearance, although drought and the advancing desert were also factors (Panafrican News Agency, June 8th 1998).

In June 1998, Ghana reported that seven elephants in total had been killed in the months following CoP10. Ghana had previously reported that its first elephant poaching in a decade had occurred days after the CoP10 decision. Nicholas Ankudey was quoted as saying "Since the Harare Conference, we have recorded seven cases in which elephants were killed for their tusks. We are very sceptical about the resumption of controlled trade in ivory by certain countries." (Panafrican News Agency, June 8th, 1998).

In June 1998, an "alarming" poaching problem was also reported to have occurred in Togo (Panafrican News Agency, June 8th, 1998).

In July 1998 Dr Richard Leakey said that "there is evidence that since the lifting of the ban on ivory exports, there has been an increase in the killing of elephants". Dr Leakey said that in 1997 twenty elephants were poached in Kenya and that 1998 figures showed that between fifty and one hundred had been poached (Reuters July 8th 1998).

In February 1999 Tchad reported the poaching of a large number of elephants between January 1997 and December 1998, as well as the death of Tchadian field staff.

As a result, the CITES Secretariat issued Notification number 1999/12 on 9th January 1999, which stated that "confirmed reports indicate the use of automatic rifles and machine guns, although poachers have also used spears. The transportation used by poachers has included military four-wheel-drive vehicles, horses and camels. Tusks have been removed from elephants killed in each case, and the removal of meat and other body parts is also common. Suspected culprits include soldiers, local farmers and nomads". The Secretariat asked Parties to "alert their law enforcement officials to this criminal activity in Chad and to be vigilant for ivory and other elephant products smuggled from that area".

In May 1999, it was reported that Zimbabwe had lost 65 elephants in 1999 (The Herald, May 7th, 1999).

Congo reported at the October 1999 Kenyan range States consultative meeting that poaching had decreased after the ban on ivory trade, but since the downlisting of some populations to Appendix II, there has been an increase in illegal killing of elephants. Although the elephant meat is eaten, elephants are principally killed for their ivory. In 1996 for example just before CoP 10 about 220 elephants were killed in one site Maodje (Sangha). The incidences have reached a critical level, between September and May 1999 nearly four elephants were killed per week in the Pokola areas and in March 1999 more than 20 tusks were seized in Odzala alone.

Heavily armed poachers have begun hunting elephants with anti-tank mines, which threatens to wipe out the population in Angola's National Parks. Elephant tusks are sold on the black market in neighbouring Namibia, the director of the Huila Forest Department, Christo Chipe told EFE (Luanda 5th October 1999).

These reports suggest that elephant poaching has increased since CoP10 in a number of range states, and that the pattern of poaching continent-wide has shifted - rendering it unlikely that the occurrences reported merely represent a gradual increase in poaching over the past decade that would have continued if the 1997 downlistings had not occurred. The proponents feel further that these increases cannot be explained away by such factors as civil unrest or decreased enforcement budgets, since they have occurred in a variety of range states which are managing their elephants under a variety of conditions.

3.4 Actual or Potential Trade Impacts

3.4.1 Effects of Legal Trade Upon Illegal Trade

The proponents are not satisfied with current arrangements for safeguarding the elephant populations of the majority of range states against any negative impacts arising from the re-opening of trade from Botswana, Namibia and Zimbabwe.

Res. Conf 9.24, Annex 3 states that "listing of a species in more than one appendix should be avoided in general in view of the enforcement problems it creates". The split-listing of the African elephant has,

we believe, created major enforcement problems, not only in the ivory exporting and importing states but in all the range states of both Africa and Asia.

The impact of a legalised trade in ivory, even if that trade originates in only some range states, was convincingly demonstrated prior to the 1989 transfer of the species to Appendix I. The chief problem was that a legalised trade permitted illegal dealers to launder very large amounts of ivory onto the legitimate market. Despite intense efforts by the Parties to develop a reliable mechanism for separating the legally- and illegally-acquired streams of ivory in the marketplace, at the 1987 Meeting of the CoP the African Elephant and Rhino Specialist Group (AERSG) reported that some 78% of the ivory in trade with legal CITES permits originated from poached animals. By the late 1980s it was estimated that, despite many attempts to control the flow of ivory, over 90% of ivory on the international market was illegally acquired.

After the 1989 transfer to Appendix I, illegal traffic in ivory was greatly reduced world-wide and poaching levels fell substantially. There is evidence that the listing of the African elephant on Appendix I, and the publicity surrounding it, was a major contributing factor to a dramatic reduction of demand for ivory in the USA and Europe, and also to some extent in Japan.

At CoP10, much was made of the "safeguards" put in place to prevent a resurgence of the problems of the 1980s. However, these safeguards - even if fully implemented - were designed to prevent illegal ivory from flowing into Japan as part of legalised shipments from Botswana, Namibia and Zimbabwe. The proponents remain unconvinced, however, that this is, or can be, sufficient. Although a monitoring and tracking system was put in place in Japan, we remain unsatisfied that it is sufficient to prevent illegally taken ivory from other range states from entering the country.

A greater concern, not addressed by the "safeguards" of the 1997 proposals, is that re-opening the legal ivory trade, even to a very limited degree, will stimulate demand for illegal ivory in other countries. There are certainly potential markets. At the December 1996 meeting of the CITES Asian Region, Hong Kong was critical of the suggestion that the importation of ivory should be limited to Japan. They argued that Hong Kong, too, should be allowed to import ivory (Minutes of CITES Asian Regional Meeting, 1996).

Prior to the tenth meeting of the CoP in Harare the CITES Panel of Experts suggested that in Japan "there is a possibility that reopening a legal trade in ivory will make it easier for illegal ivory to be traded". The Panel also concluded that "poachers and dealers may increase activities in anticipation of a future expansion in ivory trade" (Report of the CITES Panel of Experts on the African Elephant, February 1992).

The negative impact of any increase in demand for ivory cannot be stressed too strongly. Many of the proponents have elephant populations, which cannot sustain even a small increase in poaching. As discussed in section 3.3.2 above, there is already some evidence that poaching patterns have altered since CoP10.

3.4.2 Monitoring of Elephant Poaching

The 1997 transfer to Appendix II of elephant populations in Namibia, Botswana and Zimbabwe was viewed by all Parties as being in the nature of an experiment. In order for any experiment to be meaningful, however, a practicable and affordable system must be devised which will monitor its effects in a consistent and timely manner. Decision 10.1 therefore mandated the development of a system to monitor and report on elephant poaching trends, and to establish the causes of any changes in these trends.

However, the system subsequently devised by IUCN in order to carry out this function, known as Monitoring of Illegal Killing of Elephants ("MIKE"), is, in our view, fundamentally flawed. Further, its cost will cut severely into necessary elephant management activities, as part of MIKE's projected \$US11 million cost must be contributed by cash-strapped range states.

MIKE will not, by the admission of its own authors, be able to provide the data required to monitor the effects of the 1997 downlisting until it has been in operation for six years. Even then, it will not be able to detect a change in poaching trends of 30% or less with more than 95% confidence. Furthermore, the entire analysis will be rendered meaningless should a small proportion of range states

fail to provide the data required. This falls well short of what the proponents believe was required by the Parties in Decision 10.1.

The proponents offer the following specific criticisms of MIKE:

1. The system requires data input every two years. To detect trends it therefore must be maintained for at least 6 years to yield any meaningful results at all.
2. The system requires good data from 45 sites across the range states. If any sites fail to provide the data, resolution of the system will decline. If a number of sites fail to provide data, the analysis will be rendered meaningless. The financial risk will thus be great for those range states and donors, which choose to fund MIKE.
3. The system requires a vast amount of data that some countries or sites may not be capable of providing. These include detailed surveys of elephants in specific sites, mortality rates, and law enforcement efforts, as well as a measure of other external factors such as civil strife, human activity, other illegal activity, effectiveness of law enforcement, illegal activity in neighbouring areas, community participation in neighbouring areas, changes in elephant behaviour and distribution, poacher camps, intelligence reports and changes in the profile of illegal hunters.
4. MIKE is clearly unable to establish causality. Since this is one of its two main functions (the first being to determine poaching trends) it will not be able to perform the task mandated by Decision 10.1.
5. There are insufficient baseline data upon which to measure current and future levels of elephant poaching. This will have the effect of skewing any resulting analysis.
6. There is no provision for range States to determine the causes of any increases in poaching. Furthermore, the concerns of individual countries will not be seriously considered unless these concerns are supported by other nations in the same region in the form of a regional submission.

The proponents feel that MIKE fails to provide the reliable means of monitoring changes in poaching trends needed to provide an early warning system in the event of an increase. The Standing Committee clearly recognised at its forty-first meeting that MIKE was unable to carry out the function prescribed for it. However, instead of agreeing that in the absence of an adequate Monitoring and Reporting System, no trade could take place, the Committee instead decided to rely upon the Secretariat's Interim Reporting System, which was originally designed to cover the period prior to a resumption of trade. At the consultative meeting of range States held in Kenya, most States noted that they had not seen the standard reporting forms and some concurred the forms were too elaborate and those who had seen them, were not filling it for submission to the CITES Secretariat.

This system, originally intended as a temporary measure, is in effect a database with little prospect for accurate analysis. It will not be able establish poaching trends in any scientific way, nor will be able to establish causality. This is clearly inadequate for conservation purposes and it does not fulfil the requirements of Decision 10.1.

The range states are, therefore, left without a reliable system for detecting changes in poaching levels and trends. Our elephants are undergoing an experiment but there is no system for monitoring or assessing its progress. The experiment should, therefore, be halted until such a system is devised.

3.5 Captive Breeding or Artificial Propagation for Commercial Purposes

None known. African elephants have, in fact, a very poor breeding record in captivity.

4 Conservation and Management

4.1 Legal Status

4.1.1 National

The following section provides information on the national legal status of African elephants in the range States.

The proponents were unable to conduct a thorough review of current domestic legislation in the Range States. In the following section, therefore, all information apart from CITES accession dates is taken from the Government of Tanzania (1989), except for countries marked with an asterisk. The proponents are aware that some of this information will, of necessity, be out of date.

Of the range states, Angola remains outside CITES. Only Burkina Faso, Cameroon, Ethiopia, Malawi, Mozambique, Namibia, Nigeria, Senegal, South Africa, Togo and Zimbabwe currently permit domestic trade in ivory (Arusha Communiqué).

In 1999, Botswana, Mozambique, Namibia, South Africa, Tanzania and Zimbabwe have elephant trophy quotas (CITES Secretariat Notification 1999/05).

Angola*

Not Party to CITES. The Hunting Regulations of December 11th, 1957 prohibit the taking of elephants with tusks weighing less than ten kg (ELC, 1987). Dispatch 64/78 of 3/22/78 provides for the reopening of hunting throughout the national territory with the limitations and conditions therein established. Requirements, prohibitions, permits, exemptions, license fees, etc. are covered (Global Legal Information Network (GLIN), US Library of Congress, 1999).

Benin

Party to CITES since May 28th, 1984. Decree of February 11th, 1980 concerning Hunting and Capturing Licenses, Bag Limits and Professional Hunters establishes that elephants with tusks weighing less than five kg are fully protected; elephants with heavier tusks are partially protected. In addition, individuals working ivory for commercial purposes must record all transactions in a register (ELC, 1987).

Botswana*

Party to CITES since February 12th, 1970. The Wildlife Conservation and National Parks Act was brought into effect in 1992. The Fifth Schedule to the Act consists of the text of CITES, together with a version of the Appendices (Report of the CITES Panel of Experts, 1997).

Burkina Faso

Party to CITES since August 8th, 1988. Under the Wildlife Conservation and Hunting Act of December 31st, 1968 the taking of the African elephant was prohibited in 1973 for a period of five years. This prohibition was renewed for an additional five years in 1979 (ELC, 1987). Current status is unknown.

Cameroon*

Party to CITES since September 3rd, 1981. While elephant hunting is prohibited in the extreme north of the country, there is a hunting season for only 80 special permits from December 15th to May 31st in the remainder (Consultative Meeting, 1999). Cameroon is the only West African country still sanctioning domestic trade in ivory (Government of Tanzania, 1989).

Central African Republic

Party to CITES since November 25th, 1980. Under specific Ordinance, hunting of elephants was banned January 30th, 1985 (ELC 1987).

Chad*

Party to CITES since May 9th, 1989. The regulation of 28th /3/83 and 14/83 allowed killing of elephants with more than 5 kgs of ivory but this law is being amended. On 8th March 1999 there was a presidential decree No. 04/1998 closing all hunting except only in permitted sites for private investors and controlled game hunting (Consultative Meeting, 1999).

Congo, Democratic Republic of

Party to CITES since May 1st, 1993. Hunting of elephants is permitted during a hunting season from May 1st to October 31st (Government of Tanzania, 1989).

Congo, Peoples' Republic of

Party to CITES since October 18th, 1976. Zaire has had an ivory export ban since 1980 (Caldwell & Barzdo, 1985), and hunting of elephants has been banned since January 26th, 1984 (Caldwell, 1987).

Côte d'Ivoire

Party to CITES since November 21st, 1994. Under the Wildlife and Hunting Act of August 4th, 1965 the killing of young elephants and female elephants accompanied by their young is prohibited (ELC, 1987). Various procedures for handling of ivory are established under Decree.

Equatorial Guinea

Party to CITES since March 10th, 1992. The Hunting Regulations of the Spanish Territories of the Gulf of Guinea of April 29th, 1953 prohibit the taking, transport and export of elephant tusks weighing less than five kg each. In addition, the Regulations establish that found ivory belongs to the government (ELC, 1987).

Ethiopia

Party to CITES since April 5th, 1989. According to the Wildlife Conservation Regulations of January 19th, 1972, the elephant is protected, although the Regulations allow a certain amount of trophy hunting (ELC, 1987).

Gabon

Party to CITES since May 15th, 1989. According to Decree Concerning Wildlife Protection of February 3rd, 1981, hunting of elephants, and transport and export of tusks are prohibited (ELC, 1987).

Ghana

Party to CITES since February 12th, 1976. According to the Wild Animals Preservation Act of March 22nd, 1961, elephants are fully protected (ELC, 1987).

Guinea

Party to CITES since December 20th, 1981. Hunting of elephants is banned (Government of Tanzania 1987).

Guinea-Bissau

Party to CITES since May 16th, 1990. Protection status unknown.

Kenya

Party to CITES since March 13th, 1979. Under the Wildlife Act of 1976 the elephant is fully protected and, in addition, raw ivory is declared a prohibited import and export which shall not be imported or exported by any person or organisation other than the government (ELC, 1987).

Liberia

Party to CITES since June 9th, 1981. Hunting of elephants has been banned since 1979 (Government of Tanzania, 1989).

Malawi

Party to CITES since May 6th, 1982. The elephant is protected in Malawi (ELC, 1987).

Mali

Party to CITES since July 18th, 1994. Hunting of elephants has been banned since 1978 (Government of Tanzania, 1989).

Mauritania

Party to CITES since March 13th, 1998. Protection status unknown.

Mozambique*

Party to CITES since June 23rd, 1981. Resolution 8/97 of April 1st, 1997 approves the Policy and Strategy of Wildlife Development, which sets forth the objectives and priorities of environmental policies to promote wildlife (Global Legal Information Network (GLIN), US Library of Congress, 1999). A ban on hunting was instituted by the government in 1990 because of insufficient information about elephant populations severely reduced during the civil war. However, Mozambique had a trophy quota of 20 tusks for 1998 and 1999 (CITES Secretariat Notifications 1998/36 and 1999/05).

Namibia*

Party to CITES since December 18th, 1990. "Elephants are classified as 'Specially Protected Species' in Namibia. Hunting, capture, transport, being in possession, and trade in raw ivory, live animals and other derivatives are subject to permit conditions. The maximum penalty for contraventions related to controlled game products is N\$200,000 (approx. \$US50,000) and/or 20 years imprisonment" (Ministry of Environment & Tourism, Namibia).

Niger*

Party to CITES since December 7th, 1975. Under the Hunting Act of August 4th, 1962 the elephant was protected for a renewable period of two years (ELC, 1987). Under amendment 8806/29th April 1998 the African elephant was placed on Appendix I (Consultative Meeting, 1999)

Nigeria

Party to CITES since July 1st, 1975. Under the Endangered Species Decree of April 20th, 1985 immature elephants are fully protected (ELC, 1987).

Rwanda

Party to CITES since January 18th, 1981. The Ordinance Establishing the Office of Tourism and National Parks of 18 June 1973 establishes that elephants with tusks weighing less than five kg are fully protected (ELC, 1987).

Senegal*

Party to CITES since November 3rd, 1977. The elephant is fully protected under the Game and Wildlife Protection Regulations of May 30th, 1967 (ELC, 1987) and decree No. 86/04/1986 and supplemented by No. 86/44/86. A new draft Bill is in the National Assembly (Consultative Meeting, 1999).

Sierra Leone

Party to CITES since October 28th, 1994. According to the Wild Life Conservation Act of 1972, elephants with tusks under a total weight of five kg are fully protected (ELC, 1987).

Somalia

Party to CITES since March 2nd, 1986. The Law on Fauna and Forest of January 25th, 1969 establishes that the elephant may be killed in defence of life (ELC, 1987).

South Africa*

Party to CITES since July 15th, 1975. "Provincial legislation is used to implement CITES. Inconsistencies in legislation between various provinces have resulted from a lack of a national legal framework to effect comprehensive trade controls for wildlife. While the provincial ordinances collectively provide a basic legal framework, a number of deficiencies or loopholes are apparent and this places the Convention on an unequal footing in the various parts of the country. The large number of agencies responsible for the issuing of permits also leads to inconsistent interpretation and application of the Convention.

South Africa has been accused of being one of the conduits used to launder illegal wildlife products. Fragmented and inconsistent legislation has not helped to contradict these allegations" (Southern Africa Environment Project presentation to the Select Committee on Land, Agriculture and Environmental Affairs, National Council of Provinces, September 1st 1998).

An Endangered Species Protection Draft Bill, to be introduced to Parliament in late 1999, aims to provide legislative controls, administrative structures and other procedures for the trading of endangered species. The requirements and aims of CITES, and any other relevant convention or treaty, will be legislated into a national act. Schedules of endangered species on a national and provincial level

will be included in the Bill (Southern Africa Environment Project Contact Parliamentary Update No. 1 of 1999, January 27th, 1999).

Sudan

Party to CITES since January 24th, 1983. According to the Federal Law of 1986, the elephant is protected except that special licence may be issued for the take of individuals with tusks weighing more than five kg (ELC, 1987). Export of ivory is a prohibited act for any person or organisation other than the government (Martin, 1985).

Tanzania

Party to CITES since February 27th, 1980. Except for safari hunting, the elephant is protected. In addition, as of 1986, no individual or organisation other than the government can engage in commerce in ivory. This applies to both raw and worked ivory (Government of Tanzania, 1989).

Togo

Party to CITES since January 21st, 1979. Hunting of elephants is allowed under Ordinance on Wildlife Protection and Hunting of 1968, but no further details are available (ELC, 1987).

Uganda

Party to CITES since July 18th, 1991. The Game Act of 1959 classifies the elephant as a dangerous animal the wounding of which must be reported. An amendment to this Act of November 14th, 1975 prohibits the possession of ivory, whether obtained lawfully or in contravention of the provisions of the Act (ELC, 1987).

Zambia

Party to CITES since February 22nd, 1981. Zambia banned elephant hunting in 1982 (Martin, 1985).

Zimbabwe*

Party to CITES since August 17th, 1981. The Parks and Wildlife Act of 1975, as amended 1 August 1991, and the Control of Goods (Import and Export) (Wildlife) Regulations of 1982 make provision for control of international and domestic trade in wildlife products, including ivory (Report of the CITES Panel of Experts, 1997).

4.1.2 International

Ghana listed the African elephant on Appendix III of CITES on February 26th, 1976. The species was transferred to Appendix II at CoP 1, effective February 4th, 1977; a reservation was entered by the United Kingdom on behalf of Hong Kong, but was withdrawn, effective July 3rd, 1978. The entire species was transferred to Appendix I at CoP 7, effective January 18th, 1990. Reservations to the transfer were entered by Botswana, China, Malawi, South Africa, the United Kingdom on behalf of Hong Kong, Zambia, and Zimbabwe. The United Kingdom withdrew its reservation effective July 18th, 1990, and China withdrew its reservation effective January 11th, 1991.

Namibia entered a reservation against the listing on acceding to the Convention on March 18th, 1991. Zambia withdrew its reservation effective March 20th, 1997.

At CoP10, the populations of Botswana, Namibia and Zimbabwe were transferred to Appendix II, subject to the annotations outlined in section A of the introduction to this proposal.

The transfer became effective on 18 September 1997. Zimbabwe withdrew its reservation against the listing of the entire species on Appendix I on 17 September 1997; Botswana and Namibia followed suit on the 18th (Notification to the Parties No. 997, 29 October 1997).

Under the terms of Decision 10.1, Part A, par. (d), trade in raw ivory was not to be permitted under the Annotation until "the Standing Committee has agreed that all of the conditions in this Decision have been met".

Although in our opinion a number of the conditions in Decision 10.1 have not been met, the Standing Committee agreed at its 41st Meeting that the trade permitted by the annotation could commence.

4.2 Species Management

4.2.1 Population Monitoring

Although reasonably accurate surveys of elephant populations can be made in localised areas, particularly in open country or savanna where the animals can be spotted using aerial surveys, over a great part of its range assessing African elephant numbers is a difficult, if not impossible, task. This is particularly true for elephant populations in the equatorial forests of Central and West Africa - areas where poaching may be at its highest level continent-wide.

The African Elephant Database, housed at the United Nations Environment Programme (UNEP) Headquarters in Nairobi, stores in computerised form data from elephant population surveys beginning in 1976. Reviews of its data have been made in 1979, 1981, 1987, 1989 and 1991; the 1991 estimates were revised by range states at the African Elephant Range States and Donors meeting held in Nairobi in 1992 (Douglas-Hamilton and Michelmore, 1996). A hard copy of the database was released in 1996 (Said *et al.*, 1995). The 1995 version contained updates for thirty-two of thirty-seven range states.

However, the report warned that:

"Population estimates have changed in many instances since 1992, but comparisons may be misleading and may not reflect a real change in elephant numbers. Sometimes, these estimates are far from the true numbers. This is as a result of survey estimates being subject to random errors and biases. Estimates are only a rough guide to the true numbers and some estimates are better approximations than others".

Thus the estimates for each country, region and the continent, are divided into definite, probable, possible and speculative numbers of elephants, rather than being given as accurate counts. Although the Database contains a great deal of useful information, therefore, it does not and cannot represent a truly accurate survey of elephant populations. This is not intended as a criticism; the value of the database is governed by the data it receives. A review in the Rhino and Elephant Journal for December 1997 noted that:

"Except for a few, small, confined populations for which a true number can be stated, all the figures given in the AED are estimates. In fact, for more than one-third of range states, the national estimates are derived mainly from guesswork. Because of this variation in quality the estimates in the AED have been categorised so that the user can evaluate their reliability and comparability. The estimates for each country region and the continent, are grouped as definite, probable, possible and speculative numbers of elephants based on criteria related to the quality of the data".

Thus, despite the accuracy of counts of elephant populations in Botswana, Namibia and Zimbabwe - where aerial surveys are possible - we are still far short of a mechanism by which the effects of their 1997 transfer to Appendix II on the species continent-wide can be judged. According to noted elephant biologists Katy Payne, Iain Douglas-Hamilton, Cynthia Moss and Joyce Poole:

"The CITES [Standing] Committee was not authorised to approve trade in ivory in the absence of a method whereby the impact of the trade on elephant populations would be assessed. We believe such a method is still lacking. Each of us has attempted to count elephants by various methods and can attest that a reliable, sensitive census is extremely difficult even in the best of circumstances" (The Mail & Guardian, April 13th, 1999).

We agree with these conclusions, and believe very strongly that the admitted inadequacies of currently available survey techniques - particularly in highly critical rainforest areas - should have required a much more precautionary approach to the question of trade in ivory than we feel was adopted by the Parties at CoP10, or by the Standing Committee thereafter.

In addition, even carrying out the kinds of counts that are possible, such as aerial surveys where these are appropriate, involves considerable expense. For many range states the financial constraints in the way of gaining a more accurate estimate of their elephant populations are of greater importance than the purely technological ones. The Communiqué of the Third Meeting of the African Elephant Range States Dialogue in Arusha (Sept. 28th - Oct. 2nd, 1998) (Arusha Communiqué) noted that:

"Because of the nature of elephant habitats in Central and West Africa, population data are difficult and costly to collect and, as a result, the precision of population estimates for these sub-regions remains relatively poor. The Meeting acknowledged that the indirect population survey techniques used to estimate elephant numbers in the extensive forest habitats of these sub-regions would benefit from further investment and development to provide more reliable and precise population estimates in future. The Meeting recognised that although it may never be possible to know with precision the true population numbers of elephants throughout their range, there is considerable room for improvement in the quality of data available today. More and better survey data are required for many populations of Central and West Africa as well as some in several countries in the other sub-regions".

It is therefore a matter of considerable concern that funds that could be used for this purpose may have to be diverted into dealing with the complexities of the MIKE programme on the one hand, and, possibly, into increased anti-poaching activities on the other.

The following describes recent survey methods being used in some range states:

Botswana: Aerial surveys of the elephant range have been carried out twice-yearly, in the wet and dry seasons, although a decision has been taken to only carry out annual dry-season surveys in the future, with wet-season surveys being conducted every third year, or when there is a special requirement (Report of the CITES Panel of Experts, 1997). Regular aerial surveys of elephant populations have been carried out since the early 1970s, but these are variable in coverage and quality. Surveys prior to 1987 were neither complete nor objective, and "are not useful and cannot be made useful in analysis of trends".

The most recently-reported survey was in September 1995. Although recent surveys indicate a rise in Botswana's elephant population, this increase, even if real, does not necessarily imply natural increase through breeding. The northern Botswana population is not closed and net immigration or emigration could occur from neighbouring countries. A measure of the intrinsic rate of increase of the population is not possible until a time-series of estimates of the entire regional population becomes available. Although simultaneous surveys of neighbouring Namibia and Zimbabwe have been carried out (Craig, 1996), the available data are insufficient to determine an overall trend (Gibson *et al.* 1998).

Ghana and Togo: A preliminary study of the status of elephants in north-eastern Ghana and northern Togo, an important migration corridor between the two countries, was undertaken in April-June 1996 (Okoumassou and Barnes, 1998).

Kenya: Early in 1999, the Kenya Wildlife Service launched a five-day census of elephants in Tsavo National Park, using a team flying 10 aircraft, with support staff on the ground. The count revealed a population of 8,100 animals, a lower figure than expected.

Namibia: Namibia carries out aerial surveys, now synchronised with those of Botswana under the ELESMAF scheme (Report of the CITES Panel of Experts, 1997).

The Panel concluded that "Namibia's ability to monitor its elephant population is now satisfactory", but pointed out that information taken prior to 1995 is difficult to compare with recent survey data.

Zimbabwe: "Zimbabwe has carried out a regular series of aerial surveys of its elephant population since 1980 using standard sample count techniques. Zimbabwe has one of the best sets of elephant population data in Africa. At the time of the Panel's visit there was adequate donor funding to ensure

that the survey programme will continue for the next two years at least. However, the recent loss of DNPWLM's survey aircraft may have an adverse effect on the programme" (Report of the CITES Panel of Experts, 1997).

4.2.2 Habitat Conservation

The issue of habitat conservation, though of vital concern to all elephant range states, is not directly relevant to the current proposal, which is primarily concerned with, on the one hand, the risks posed by renewed illegal trade and, on the other, the inadequacy of some of the "safeguards" promised to the Parties when they agreed to transfer the elephant populations of Botswana, Namibia and Zimbabwe to Appendix II. However, of direct relevance - as has been pointed out elsewhere herein - is the issue of the financial and human resources needed to protect elephant habitat. We therefore repeat our concerns that the added burdens imposed by the requirements of MIKE on the one hand, and the increased law enforcement requirements that may result from the re-opening of even a limited legal trade in ivory on the other, may make it more difficult for range states to give elephant habitat the protection that the species and its ecosystem require.

Details of habitat protection measures that relate to the conservation of the African elephant may be found in the AfESG Protected Areas dataset, a subset of the African Elephant Database, which contains the major protected areas of the African elephant range states.

4.2.3 Management Measures

The terms of the current annotation do not permit legal trade in freshly-harvested ivory. There is therefore no issue of sustainable levels of harvest connected with ivory sales from Botswana, Namibia and Zimbabwe.

However, the annotation also permits the sale of hides and the export of live animals. As Decision 10.1 did not require any demonstration of management techniques related to these items, following CoP10 the relevant Parties did not report to the CITES Secretariat on management measures connected with their harvest. The recent removal of a number of juvenile elephants from the Tuli Block region of Botswana for export to South Africa, a matter that has received considerable publicity, does not seem to have been undertaken as part of any co-ordinated management scheme designed for that purpose.

In Zimbabwe, political difficulties may be affecting wildlife management, including elephant management. The Herald (Harare, Zimbabwe) reported that "policing of some of the country's animal sanctuaries suffered badly" as a result of departmental infighting (Harare Herald 7th May 1999). These difficulties have reportedly led to the suspension of a World Bank loan designed to improve infrastructure within the Department of National Parks and Wildlife Management.

4.3 Control measures

4.3.1 International Trade

Illegal trade in elephant products is addressed by the 1994 Lusaka Agreement on Co-operative Enforcement Operations Directed at Illegal Trade in Wild Fauna and Flora (the Lusaka Agreement), which entered into force in December 1996. Parties to this Agreement are Congo, Ethiopia, Kenya, Lesotho, South Africa, Swaziland, Uganda, Tanzania and Zambia.

At its second Governing Council meeting, held in Nairobi in March 1999, a six-nation task force to fight cross-border wildlife crimes was established under the auspices of the Lusaka Agreement. The task force includes Kenya, Uganda, Tanzania, Lesotho, the Democratic of Republic of Congo and Zambia.

The need for improved co-operation at the international level is, or ought to be, self-evident. South Africa's Endangered Species Protection Unit (ESPU)'s Operation Jumbo involved a number of investigative teams from ESPU visiting 13 African countries to look at the capacity for law enforcement of illegal trade in endangered species. According to a report released by ESPU in February 1999:

"CITES unfortunately must rely on the member countries to enforce its regulations. In most countries this does not happen. Project Jumbo indicated that Botswana, Namibia and Zimbabwe have relatively strict controls to prevent poaching and illegal trafficking, but they share borders with countries which do not - and many of these borders are unfenced, enabling animals to move between countries".

"Even in the seemingly more organised countries, there simply aren't the funds or resources to enforce anti-poaching measures. For instance, "Zimbabwean customs are limping due to inadequate equipment such as computer systems, especially when taking into account that one of the busiest trade routes leads through Zimbabwe to South Africa." (Mail & Guardian, February 15th, 1999).

The ESPU has called for more support for the Lusaka Agreement. Unfortunately, Botswana, Namibia and Zimbabwe have not acceded to this agreement, nor to any equivalent agreement for international co-operation to combat trans-border illegal trade in elephant products. Decision 10.1 required Botswana, Namibia and Zimbabwe to "support and commit themselves to" an international agreement to this effect - either the Lusaka Agreement or an agreement of similar scope and intent. However, the Standing Committee allowed these states to "fulfil" this condition simply by asserting their support for such agreements - leaving no mechanism in place in these three range states for improving cross-border enforcement efforts.

Not only was this entirely inadequate, it effectively eliminated one of the crucial "safeguards" under which the Parties agreed to accept the 1997 downlisting proposals.

4.3.2 Domestic measures

The level of control of illegal trade in Botswana, Namibia and Zimbabwe was assessed by the Panel of Experts in its report presented to the Parties at CoP10. The Panel identified a number of concerns in all three Parties, and Decision 10.1 accordingly required that trade in raw ivory not resume unless:

- a) deficiencies identified by the CITES Panel of Experts (established pursuant to Resolution Conf. 7.9, replaced by Resolution Conf. 10.9) in enforcement and control measures have been remedied;
- b) the fulfillment of the conditions in this Decision has been verified by the CITES Secretariat in consultation with the African regional representatives on the Standing Committee, their alternates and other experts as appropriate.

Compliance with the conditions in Decision 10.1 par. (a) was subject to verification during a mission by the Secretariat to Botswana, Namibia and Zimbabwe in November 1998 (Doc. SC.41.6.1 (Rev.)). The mission found outstanding deficiencies in Botswana, which the Management Authority of Botswana reported having addressed in a letter to the Secretariat, dated 21 December 1998. The mission report was included as Annex 2 to SC.41.6.1 (Rev.), and provides the most recent independent information on domestic controls in the three states.

As we have indicated in a number of places throughout this proposal, we are not satisfied that all of the conditions set out in Decision 10.1 have, indeed, been complied with. Our chief concerns relate to paragraphs other than (a). We are prepared to accept that the three countries have made improvements to their domestic ivory controls, though we note with some concern the apparent deterioration of conditions at the Zimbabwe Department of National Parks and Wildlife Management.

We remain, however, unconvinced that these improvements provide the level of protection necessary to elephant populations in other range states as long as the populations of Botswana, Namibia and Zimbabwe remain on Appendix II. As noted above, South Africa's ESPU has expressed concern that, because of conditions in adjoining states, the borders of these three countries cannot be regarded as secure. Further, of course, even the strictest of controls in these three countries may have little restrictive effect on the activities of poachers in other range states, particularly if these poachers perceive that they once again have access to legal markets.

Of greater concern, therefore, to other range states is the degree of control against illegal trade in ivory, the sole country permitted to import ivory legally under the terms of the annotation. Even if it is

perhaps unlikely that ivory taken in other states found its way into stockpiles in Botswana, Namibia and Zimbabwe and was, as a result, included in shipments from those countries to Japan under the terms of Decision 10.1, if controls in Japan are not capable of denying entry to illegal ivory at any point in the trade stream, the opportunity exists for ivory smuggled into Japan through other routes to find its way onto legal markets.

The Panel of Experts Report of 1997, in discussing Japan's domestic controls, stated that "The control of retail trade is not adequate to differentiate the products of legally acquired ivory from those of illegal sources. With the system as currently implemented, it is unlikely that the import of partially worked ivory could be reliably detected. More inspections are needed, including physical checking of the stockpiles. A method needs to be devised to allow the verification of scraps and wastes produced".

We are aware that on June 3rd, 1997, and again on April 28th, 1998, the Cabinet Order pertaining to the Law for the Conservation of Endangered Species of Wild Fauna and Flora (LCES) was partly amended by the Government of Japan to introduce modifications to Japan's domestic management system (effective March 18th, 1999), and that these amendments were in response to deficiencies pointed out by the Panel of Experts. Details are given in Inf. SC.41.4, "Measures taken by the Government of Japan in Response to the Report of the Panel of Experts". The Government of Japan clearly believes that these changes are more than adequate to answer range state concerns ("Measures taken by the Government of Japan in response to recommendations of the CITES Panel of Experts", Doc. SC.40/Inf. 9).

However, there still appear to be potential difficulties, whose effect remains unclear at the time of writing, only a few months after the amended decree became effective. Registration under the system is still not mandatory for all retailers, and there is no requirement that sales of signature seals to the general public be reported even by registered dealers (although retailers must record the source of ivory seals they receive for sale). Further, although certification seals are available for attachment to carvings "recognised as having been produced from legally obtained tusks", and there is a penalty for affixing a seal to a carving other than the one for which it was issued, it is neither mandatory for such seals to be affixed nor illegal to sell a carving without a seal.

Thus, though the certification system can be used to identify a legal carving by a dealer wishing to do so, it would appear to be of little or no use in preventing the sale of illegally-acquired ivory on the Japanese retail market.

Although the Japan Federation of Ivory Arts and Crafts Association (JFICA) has agreed to abide strictly by the LCES, the federation holds less than 70% of the registered raw ivory currently in stocks (Doc. SC.40/Inf. 9).

Further, the units of measurement used to record ivory in commerce differ between manufacturers and retailers, with manufacturers required to record ivory by weight while retailers record the number and size of pieces. Such a system makes it difficult to trace ivory through the chain of commerce.

The new system extends inspection to cover retailers as well as manufacturers, and Doc. SC.40/Inf. 9 states that at least 2-4 premises are inspected per week. However, according to an article in a hanko (signature seal) industry journal, there are possibly be over 40,000 ivory retailers in Japan, including stationery stores and mail-order companies. At an inspection rate of four per week, it would therefore take over 830 years to inspect each dealership once. While we commend the Government of Japan for trying to improve the situation, we must remain not entirely confident of the result.

In the other range states, efforts to improve domestic control of illegal trade are in various stages of development. Although all East African and Southern African countries have working relationships with INTERPOL and the World Customs Organisation (WCO), these relationships still need to be developed in most Central African and some West African countries (Arusha Communiqué). As with many other issues discussed in this proposal, one of the chief barriers in the way of improvement is the limitation on available funding; as we have also stated above, we are concerned that the combined effects of the 1997 downlisting and the requirements of the MIKE system will take further funds away from such improvements.

Some information on other range States follows:

Kenya: "The Kenya Wildlife Service established an Elephant Mortality Database in 1992 for monitoring all incidents of elephant mortality to enable the relevant departments to respond appropriately to each particular circumstance. The database has information on poaching, illegal trafficking of ivory, patrols, surveillance, problem animal control, etc. From this data, it is possible to organise effective anti-poaching operations and elephant management programmes. It is possible to respond to unfounded reports, considering that elephant poaching is an emotive issue which attracts international concern" (Waithaka, 1998).

Zambia: the Species Protection Department of the Anti-Corruption Commission has set up a computerised database to track and cross-reference intelligence information and better understand smuggling networks.

5 Information on Similar Species

5.1 Asian Elephants

The Asian elephant has been listed in Appendix I of CITES since 1976. No sport hunting of Asian elephants is permitted.

While some ivory dealers claim to be able to distinguish between Asian and African elephant ivory by sight, it is unlikely that any ivory consumer is able to do so. This is especially true once the ivory has been carved. Some Asian range states have opposed any resumption of commercial ivory trade for this very reason.

Asian ivory is said to be particularly attractive to Japanese ivory dealers. This because it combines the qualities of "hard" African ivory, i.e. that the colour does not change with handling and African "soft" ivory i.e. that the texture is finer (Sakamoto, 1999). In India, the years 1996 - 1998 saw escalation in elephant poaching and there are fears that the Asian elephant will increasingly become a target as a result of the resumption of trade (Menon & Kumar, 1998).

6 Other Comments

Specific efforts were made to invite all range States to the consultative meeting held in Kenya from the 25th to the 27th October, where Kenya presented the proposal to the delegates who attended. In all 21 countries attended and there was a general support for the proposals. Two countries Namibia and South Africa declined the invitation. Ghana, Guinea, Mali and Sierra Leone could not make the flight connections. Namibia and Zimbabwe did not respond to the invitation. The document has been forwarded to countries that could not attend for their comments. Below are comments made by some delegates.

Cameroon

There is general support for the proposal and this will be a rare chance for Africans to make the meeting of CoP understand it. However, it is not enough to have a 'beautiful resolution', What is needed is funds to support and means to enforce and protect the elephant. A lot of money is needed for elephant protection and to do conservation work. A lot of money is being put into MIKE and not to management authorities.

Congo

If we are discussing problems facing elephants, then it is because of ivory. Do we really need ivory as a product? Congo fully supports the proposal. Can we find a way to enable us to solve the problem once and for all?

Cote d'Ivoire

The elephants of Cote d'Ivoire have always been on Appendix I. It is clear that much poaching is going on, before the down listing of the three populations illegal killing was lower. All countries will be losing their elephants except the three countries that sold their ivory. Cote d'Ivoire has always supported the Appendix I listing of all elephant populations and fully supports the proposal.

MIKE will not change the situation on the ground that is getting worse.

14 Countries registered their stocks of ivory and some will still be accumulating. It seems that donors are not interested in the buyouts. The issue of ivory stockpiles should be considered and incorporated in the proposal.

Eritrea

What is the long-term vision for elephant conservation? We need the means to protect elephants and achieve protection of biodiversity. He expressed support for the proposal, but added that it needed strengthening in certain areas. There is need to obtain concrete information on the illegal hunting that that was occurring before the down listing took place this will help strengthen the proposal.

Ethiopia

Expressed support for the proposal

Liberia

During the civil war the elephant population of Liberia suffered tremendously. Any further down listing will be a recipe for the extinction of Liberia's elephants, Liberia supports the proposal. Those countries that suspect and have records of increased poaching should be supported to carry out surveys now.

Mozambique

All the three countries that benefited from the sales should have been present.

Niger

The Appendix I listing of elephants had helped to curb illegal killing.

Senegal

It is important to recognise elephant problems at all levels. Emphasis should not also be on the transfer of elephants from Appendix I to II and vice versa, but should be on building strong conservation and anti-poaching efforts, however, Senegal supports the transfer of elephants to Appendix I as the trade is causing too much security problems.

Donors should be funding direct conservation efforts as opposed to international monitoring consultancies like MIKE.

Sudan

The information to show that there is increased poaching needs to be sufficient.

Swaziland

There seems to be no scientific evidence prior to and after the down listing. It is speculative to attribute poaching to down listing since the rate is unknown. However, Swaziland never supported the down listing at CoP 10.

Tanzania

Before the down listing of some populations of elephants to Appendix II, elephant poaching in Tanzania was almost zero. Tanzania has now seen poaching not for subsistence, but tons of ivory have been seized, there is sufficient intelligence data to show that poaching is on the increase. The market should be cut. Tanzania strongly believes that the down listing has had a serious impact on their elephants. The proposal gives enough support information to document the scale of the problem.

Togo

At the Lomé meeting it was agreed that elephants are kept on Appendix I. The solution for the three countries is worrying, but they should have zero quota (ivory).

Zambia

Although there is information in the proposal regarding seizures and poaching, more should be collected and brought to CoP 11.

India

The Asian elephant is on Appendix I and India like many Asian countries fully supports the proposal. At least twelve seizures have been made totaling more than 1,200 kg. One of these seizures was of 'hankos' indicating a link between ivory from India and Japan (Menon, pers. comm.).

7 Additional Remarks

While recognising that there are a number of threats to elephant populations, the proponents continue to believe that the most serious of these threats is the international ivory trade. It is for this reason that the great majority of elephant range states throughout Asia and Africa have consistently opposed any resumption of legal trade in ivory.

Prior to the transfer to Appendix I in 1989, all efforts, including the CITES quota system, failed to stop the rapid acceleration of poaching. We remain entirely unsatisfied that the current arrangements will prevent the mixing of legal and illegal streams of ivory that provided the financial basis of this acceleration. The proponents therefore believe that the three elephant populations currently listed in

Appendix II should be transferred to Appendix I in accordance with the Precautionary Measures in Annex 4 of Res. Conf 9.24.

Decision 10.1 required, *inter alia*, that the Standing Committee was to agree "to a mechanism to halt trade and immediately re-transfer to Appendix I populations that have been transferred to Appendix II, in the event of non-compliance with the conditions in its Decision or of the escalation of illegal hunting of elephants and/or trade in elephant products owing to the resumption of legal trade". However, the Secretariat has noted in its footnote to this decision that the only way that this can be legally accomplished under the terms of the Convention is through presentation of a proposal to amend the Appendices. The footnote reads:

"This decision is in conflict with the text of the Convention. The mechanism for the transfer of species (including populations) from Appendix II to Appendix I is specified in Article XV of the Convention. Any such transfer can be done only if it is proposed by a Party and is agreed by the Conference of the Parties, either at a regular meeting or by the postal procedure, and will enter into force only 90 days after the proposal is adopted by the Conference. An appropriate action for the Standing Committee would be to request a Party (such as the Depository Government) to submit the required proposal".

Such a proposal, to be available for consideration at the 11th Meeting, would have to be submitted by November 12th, 1999.

As the situation involving the African elephant is still in a state of flux, and as actual shipments of ivory to Japan under the terms of Decision 10.1 will have preceded that deadline by only a few months, it is quite possible that even more cogent reasons for returning the species to Appendix I under the terms of that decision could arise in the ensuing months leading up to the 11th Meeting. It is therefore not only appropriate but necessary that a proposal to transfer down-listed populations back to Appendix I be placed before the Parties, in fulfillment of their expressed wish that such a mechanism be in place and available for use. However, the proponents have had no clear indication from the Standing Committee that it has taken steps to ensure that such a proposal is prepared and submitted.

The proponents therefore submit this proposal, not only because we believe that there is a cogent case for ending the "experiment" of the 1997 split-listing and restoring Appendix I status to all elephant populations, but also because the submission of it fulfils the express wishes of the Conference of the Parties to this Convention as set out in Decision 10.1.

The proponents believe that, while the "experimental sale" may be over as regards the three downlisted elephant populations, it may not yet be over for other elephant populations. Many range States have reported poaching increases in recent months, and there have been worrying reports of ivory seizures in many parts of the world. This is particularly alarming when it occurs in places such as Dubai, which played a significant role in the laundering of huge quantities of illegal ivory during the 1980s. We believe that the time has passed for MIKE to be of any real use to the range States or to the Parties. Its results will be too few and too late. In submitting this proposal to the Parties, we wish to make clear our commitment to preventing the carnage of the 1980s from ever happening again and we believe that, with all elephant populations on Appendix I, with sufficient and with the mutual co-operation of all elephant range States, we can and will achieve this goal.

8. References

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