

# CITES Briefing Document

## **Key Priorities and Recommendations for CoP19**

September 2022

EIA encourages CITES Parties and stakeholders to consider information contained in this document when making decisions on proposals and matters in relation to endangered fauna and flora at CoP19

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## I. CoP19 Proposals to amend Appendices

### RHINOCEROSES

#### CoP19 Prop. 2 Transfer the population of Namibia from Appendix I to Appendix II with the annotations (Namibia & Botswana)

EIA encourages CoP19 to reject the proposal from Namibia and Botswana to transfer Namibia's population of southern white rhino (*Ceratotherium simum simum*) from Appendix I to Appendix II with an annotation limiting commercial trade to live animals for in-situ conservation only and hunting trophies. CITES Parties voted against the adoption of a very similar proposal from Namibia at CoP18.

Namibia's white rhino population is small, at 1,237 individuals according to the proposal, and is at risk from continued poaching and illegal trade. It therefore meets the criteria for inclusion in Appendix I pursuant to Resolution Conf. 9.24 (Rev. CoP17). The population is also limited in its distribution, with the majority (n=952) spread among 85 private properties and the remaining 285 white rhinos located in three State-run protected areas. No white rhinos are currently living in Namibian community conservancies.

Although the proposal indicates Namibia's small white rhino population is increasing, much of this increase has been due to live rhino imports from South Africa and the continental white rhino population continues to decline primarily as a result of poaching. Poaching remains a threat to Namibia's rhinos, with 382 rhinos poached from 2006-20.<sup>1</sup> In August 2022, Namibia's Ministry of Environment, Forestry and Tourism announced that rhino poachers were shifting their focus to private farms, where most of Namibia's white rhinos are located.<sup>2</sup> By September 1, 2022, Namibia had lost 48 rhinos to poaching (32 black rhinos and 16 white rhinos), which exceeds the 44 rhinos poached in the entirety of 2021 and the 42 rhinos poached in 2020.<sup>3</sup>

EIA recognises the accomplishments Namibia has made with respect to enforcement efforts targeting rhino poaching and appreciates the detailed Operation Blue Rhino report that Namibia supplied to SC74 (SC74 Doc. 37 A2). However, most rhino enforcement statistics supplied by Namibia have focused on arrests and prosecutions, with little information provided on the outcome of such processes, including convictions. The IUCN/TRAFFIC report on African and Asian Rhinoceroses Status, Conservation and Trade to CoP18 reported that "case backlogs due to trial

<sup>1</sup> Knight, M. 2021. African Rhino Specialist Group Chair Report. Pachyderm. Available at: <https://pachydermjournal.org/index.php/pachyderm/article/view/465/452> [last accessed 16/09/2022]

<sup>2</sup> Nyaungwa, N. 2022. Namibia rhino poaching surges in June, ministry says. *Reuters*. Available at: <https://www.reuters.com/world/africa/namibia-rhino-poaching-surges-june-ministry-says-2022-06-15/> [last accessed 16/09/2022]

<sup>3</sup> Xinhua. 2022. Rhinoceros poaching surges in Namibia. *Xinhua*. Available at: <https://english.news.cn/20220901/52829492356549b1b3b882682c1150db/c.html> [last accessed 16/09/2022]

postponements while awaiting forensic reports appears to be an issue” in Namibia and it is unclear if this has been resolved.<sup>4</sup>

Rhino trophy exports are already permitted and occurring under the current Appendix I listing. In fact, Namibia has a greater white rhino harvesting rate for trophies (up to 1.78 per cent) than neighbouring South Africa (up to 0.79 per cent).<sup>5</sup> Namibia’s white rhino trophy exports benefit from additional oversight provided by the import permit requirements detailed in Article III of the Convention. If this proposal is adopted, such oversight would be lost. This is especially concerning given the reports of discrepancies between export data for rhino trophies exported by Namibia to the Russian Federation and the US contained in the CoP18 IUCN/TRAFFIC report.<sup>6</sup>

### EIA calls on CoP19 to:

- **OPPOSE the proposal from Namibia and Botswana**

### CoP19 Prop. 3 Remove the existing annotation on the Appendix II listing of Eswatini’s population (Eswatini)

EIA encourages CoP19 to reject the proposal from Eswatini that seeks to eliminate the annotation associated with its Appendix II-listed population of southern white rhino (*Ceratotherium simum simum*), which currently limits commercial trade to live animals and hunting trophies.

The proposal by Eswatini is nearly identical to proposals it submitted to CoP17 and CoP18, which CITES Parties resoundingly rejected. Eswatini’s white rhino population is very small, at just 98 individuals found in two protected areas which are particularly susceptible to drought and, like all rhino populations, is at risk from poaching and the illegal rhino horn trade.

If adopted, Eswatini’s proposal would dismantle the international ban on commercial trade in rhino horn established by CITES in 1977 and risks severely increasing consumer demand for rhino horn, which continues to threaten the survival of all rhino populations in Africa and Asia. From 2006, when rhino poaching first began to escalate in Africa after a decade of low poaching pressure, through to 2020, at least 10,539 rhinos have been poached across Africa, according to the IUCN SSC African Rhinoceros Specialist Group.<sup>7</sup>

The rhino poaching crisis continues to impact white and black rhino populations in Africa, with South Africa and Botswana bearing the brunt of the poaching in recent years and consumer demand for rhino horn remains significant. EIA has recorded the seizure

<sup>4</sup> CITES CoP18 Doc. 83.1 Annex 2. 2019. African and Asian Rhinoceroses – Conservation, Status and Trade. Available at: <https://cites.org/sites/default/files/eng/cop/18/doc/E-CoP18-083-01.pdf>

<sup>5</sup> CITES CoP19 Doc. 75 Annex 4. 2022. African and Asian Rhinoceroses – Conservation, Status and Trade. Available at: <https://cites.org/sites/default/files/documents/E-CoP19-75.pdf> [last accessed 16/09/2022]

<sup>6</sup> Id.

<sup>7</sup> Knight, M. (2021). African Rhino Specialist Group Chair Report. Pachyderm. Available at: <https://pachydermjournal.org/index.php/pachyderm/article/view/465/452> [last accessed 16/09/2022]

of approximately 9.1 tonnes of rhino horn from 2006 through July 2022 and the 2020 UNODC World Wildlife Crime Report concluded that “it is too soon to confirm a decline in the rhino horn market”.<sup>8</sup>

The proposal provides no references to support its claims of the size of a rhino horn market, ignores the fact that rhino horn trade is illegal in the major end-use countries that Eswatini presumably is considering as potential trade partners and dangerously downplays the risk of increasing demand for rhino horn and the impact this would have on rhinoceros poaching and illegal trade.

#### EIA calls on CoP19 to:

- **OPPOSE the proposal from Eswatini**

## ELEPHANTS

### CoP19 Prop. 4 Amend Annotation 2 pertaining to the populations of Botswana, Namibia, South Africa and Zimbabwe (Zimbabwe)

EIA urges CoP19 to oppose the proposal from Zimbabwe which seeks to amend Annotation 2 pertaining to the elephant populations of Botswana, Namibia, South Africa and Zimbabwe to permit trade in leather goods for commercial purposes for Zimbabwe and to permit trade in registered raw ivory from government stockpiles of Botswana, Zimbabwe, Namibia and South Africa.

EIA shares the CITES Secretariat and IUCN/TRAFFIC concerns<sup>9</sup> that this proposal fails to outline any precautionary safeguards to address the risks of increased poaching or illegal trade in ivory associated with a legal trade in registered government-owned raw ivory stocks. Crucially, the proposal fails to address how the proposed future trade in registered government-owned raw ivory would be conducted, regulated and enforced, which presents a significant loophole.

A similar proposal (CoP18 Prop.11) was rejected at CoP18, with assessments concluding that “enforcement controls and compliance may be problematic” in the proponent countries and that “independent assessments of stockpile management have not been conducted in recent years”. The Secretariat’s assessment of the CoP18 Proposal concluded that the precautionary safeguards in Annex 4 of Resolution Conf. 9.24 (Rev. CoP17) had not been satisfied. At CoP18, Zimbabwe was a country of concern due to enforcement and compliance around raw and worked ivory (CoP18 Elephant Trade Information System (ETIS) Report; IUCN/TRAFFIC on Prop 11). There is no evidence that the situation has changed since and these concerns are relevant to the CoP19 proposal.

<sup>8</sup> UNODC. World Wildlife Crime Report 2020: Trafficking in Protected Species. Available at:

[https://www.unodc.org/documents/data-and-analysis/wildlife/2020/World\\_Wildlife\\_Report\\_2020\\_9July.pdf](https://www.unodc.org/documents/data-and-analysis/wildlife/2020/World_Wildlife_Report_2020_9July.pdf)

<sup>9</sup> As highlighted in the Secretariat’s assessment of provisional proposals to amend the Appendices, available in CITES Notification No.2022/066 and in the IUCN/TRAFFIC Analyses of Proposals to amend the CITES Appendices at CoP19. Available at: <https://citesanalyses.iucnredlist.org/> [last accessed 13/09/2022]

Since CoP18, savannah and forest elephants have been classified as closer to extinction than previously assessed by the IUCN. The Monitoring of Illegal Killing of Elephants (MIKE) Report to CoP19 (Doc 66.5) reveals an increase in the illegal killing of elephants in Southern Africa in 2021 compared to 2020 levels. Other studies have confirmed that illegal killing of elephants in Southern Africa<sup>10</sup> shows little improvement or in some instances has worsened since 2011. Poaching continues to be a grave concern across the continent, a situation which the resumption of trade would exacerbate. For example, the same MIKE report to CoP19 indicates that in the past five years, poaching shows no sign of abating in Central Africa and rates of illegal killing in West Africa remain well above continental averages.

The previous one-off sale authorised by CITES in 2008 stimulated demand for ivory in China and other Asian markets and exacerbated elephant poaching and ivory trafficking. The one-off sale in 2008 resulted in “the greatest illicit ivory trade flows out of Africa” (CoP17 Doc. 57.6), with 6,900kg of ivory seized in 2008.

Zimbabwe’s proposal to resume trade in government stockpiles risks increasing demand, fuelling poaching and illegal trade and consequently setting back the law enforcement and conservation gains made in recent years to tackle illegal killing and trade. Further, 76 per cent of Africa’s elephants are found in transboundary populations including the populations of Botswana, Namibia, Zimbabwe and South Africa. The species is threatened in most range States. African elephant conservation can only be addressed effectively at the continental level. International ivory markets are global in nature and do not distinguish between source countries with different levels of protection or management capacity. If international commercial ivory trade is resumed, it will stimulate global demand, thus threatening all elephant populations.

Furthermore, EIA encourages CoP19 to oppose the proposal in light of ongoing discussions relating to the nomenclatural changes. For the reasons above, it is crucial that Parties and stakeholders adopt a precautionary approach when considering this species. (see pages 49-50 for more detail).

#### **EIA calls on CoP19 to:**

- **OPPOSE Zimbabwe’s proposal**

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<sup>10</sup> Schlossberg, S., Chase, M. J., Gobush, K. S., Wasser, S. K., & Lindsay, K. 2020. State-space models reveal a continuing elephant poaching problem in most of Africa. *Nature Scientific Reports*, 10(1), 1-9. Available online at: <https://www.nature.com/articles/s41598-020-66906-w> [last accessed 13/09/2022]

### CoP19 Prop. 5 Transfer populations of Botswana, Namibia, South Africa and Zimbabwe from Appendix II to Appendix I (Burkina Faso, Equatorial Guinea, Mali, Senegal, Syrian Arab Republic)

EIA encourages CoP19 to support the proposal from Burkina Faso, Equatorial Guinea, Mali, Senegal and the Syrian Arab Republic which seeks the inclusion of all populations of *Loxodonta africana* (African elephants) in Appendix I, through a transfer from Appendix II to Appendix I of the elephant populations of Botswana, Namibia, South Africa and Zimbabwe.

The African elephant meets each of the criteria for inclusion on Appendix I, included in the Annexes to Resolution Conf. 9.24 (Rev. CoP17), given the marked population declines and the fact that many populations are not national, but transboundary. Since CoP18, the IUCN Red List Assessment has shown a continued decline in the overall status of African elephants, described as “continuing and likely irreversible”, primarily due to illegal ivory trade and ongoing habitat loss.

#### EIA calls on CoP19 to:

- **SUPPORT the uplisting proposal**

## TREES

EIA encourages Parties to adopt proposals to list the following tree species on Appendix I or II and encourages Parties to reject the proposal to delist *Dalbergia sissoo*. EIA has undertaken investigations around the world and seen the scale and pace of illegal logging increase over the past decades. Of the nearly 60,000 known tree species, more than 16,000 are threatened with extinction globally,<sup>11</sup> while fewer than 1,000 are listed in the CITES Appendices. All tree species proposed for listing below are heavily traded internationally and are subject to illegal harvest and other crimes in the source countries.

### CoP19 Prop. 44 Trumpet trees (*Handroanthus* spp., *Roseodendron* spp. and *Tabebuia* spp.): Include in Appendix II with annotation #17 (logs, sawn wood, veneer sheets, plywood and transformed wood) (Columbia, European Union and Panama)

International trade in Ipe species is significant, while overharvesting and illegal logging<sup>12</sup> are threatening the survival of wild populations.<sup>13</sup> EIA considers that the

<sup>11</sup> Botanic Gardens Conservation International. 2022. Global Tree Assessment. Available at: <https://www.bgci.org/our-work/networks/gta/> [last accessed 16/09/2022]

<sup>12</sup> Greenpeace. 2018. Imaginary Trees, Real Destruction. Available at: [https://www.greenpeace.org/static/planet4-international-stateless/2018/03/b91d03c3-greenpeace-report\\_imaginary-trees-real-destruction\\_march-2018.pdf](https://www.greenpeace.org/static/planet4-international-stateless/2018/03/b91d03c3-greenpeace-report_imaginary-trees-real-destruction_march-2018.pdf)

<sup>13</sup> Forest Trends 2022. Demand for Luxury Decks in Europe and North America is Pushing Ipê to the Brink of Extinction Across the Amazon Basin and Threatening the Forest Frontier. Available at: <https://www.forest-trends.org/publications/demand-is-pushing-ipe-to-brink-of-extinction-across-the-amazon-basin/>



proposal meets the criteria for Appendix II (RC 9.24 (Rev. CoP17)), Criterion B; Annex 2 a, Criterion A Annex 2 b: high levels of international trade; populations declining from overharvesting; popular in trade; timber from all species is similar in appearance.

**EIA calls on CoP19 to:**

- **SUPPORT Colombia, European Union and Panama proposal**
- 

**CoP19 Prop. 46 Pod mahoganies (*Azelia* spp.): Include all African populations in Appendix II with annotation #17 (logs, sawn wood, veneer sheets, plywood and transformed wood) (Benin, Côte d'Ivoire, European Union, Liberia and Senegal)**

International demand and trade for *Azelia* spp. has been increasing with populations declining from overharvesting and illegal logging throughout their range. EIA considers that the proposal meets the criteria for Appendix II (RC 9.24 (Rev. CoP17), Criterion B Annex 2a and Criterion A Annex 2b: high levels of international trade; populations declining from overharvesting; popular in trade; timber from all species similar in appearance.

**EIA calls on CoP19 to:**

- **SUPPORT Benin, Côte d'Ivoire, European Union, Liberia and Senegal proposal**
- 

**CoP19 Prop. 47 North Indian rosewood (*Dalbergia sissoo*): Delete from Appendix II (India and Nepal)**

EIA recommends Parties reject the proposal to delist *Dalbergia sissoo*, as it is the same proposal that was rejected at CoP18, the lookalike issues of specimens in trade still exist and India has taken a reservation on the *Dalbergia* spp. Appendix II listing.

**EIA calls on CoP19 to:**

- **OPPOSE the proposal from India and Nepal**
- 

**CoP19 Prop. 48 Cumaru (*Dipteryx* spp.): Include in Appendix II with annotation "Logs, sawn wood, veneer sheets, plywood, transformed wood and seeds" (Colombia, European Union and Panama)**

*Dipteryx* spp. species are in high demand for international trade and populations are declining due to overharvesting and increasing habitat degradation. Illegal logging and trade are considered very high in most range states and have in some cases been

documented as widespread and systemic.<sup>14</sup> EIA considers that the proposal meets the criteria for Appendix II (RC 9.24 (Rev. CoP17)), Criterion B Annex 2a and Criterion A Annex 2b: high levels of international trade; populations declining from overharvesting; popular in trade; timber from all species is similar in appearance.

**EIA calls on Parties to:**

- **SUPPORT Colombia, European Union and Panama proposal**

**CoP19 Prop. 49 Brazil wood (*Paubrasilia echinata*): Transfer from Appendix II to Appendix I with annotation "All parts, derivatives and finished products, including bows of musical instruments, except musical instruments and their parts, composing travelling orchestras and solo musicians carrying musical passports in accordance with Res. 16.8." (Brazil)**

The national tree of Brazil, which provides extremely lucrative wood, has been subject to heavy overexploitation and subsequently eradicated from most of its natural range. Notable populations still exist in protected areas, but illegal logging and timber smuggling for musical instrument bows remains widespread and hard to control.

The proposal states "investigations by the Brazilian Institute for the Environment and Renewable Natural Resources (IBAMA) and the Federal Police found that the Brazilian bow making industry is reportedly using illegally harvested native wood to feed the growing international market for musical instrument bows in the US, Europe, and Asia. Serious fraud recently discovered indicate that companies and independent bow makers have been deceiving environmental inspections, fraudulently entering data in the control systems, and bringing illicit material into the companies, making materials of illegal origin appear legal."

EIA considers that the proposal meets the criteria for Appendix I (RC 9.24 (Rev. CoP17)), Annex I, Paragraph A) i) and Paragraph B) iii): high levels of international trade; populations declining from overharvesting; popular in trade.

**EIA calls on CoP19 to:**

- **SUPPORT Brazil's proposal**

<sup>14</sup> EIA 2018. Moment of Truth: Promise or Peril for the Amazon as Peru Confronts its Illegal Timber Trade. Available at: <https://us.eia.org/report/momentoftruth/>

**CoP19 Prop. 50 Padauk (*Pterocarpus* spp.): Include all African populations in Appendix II with annotation #17 (logs, sawn wood, veneer sheets, plywood and transformed wood) and amend annotations of *Pterocarpus erinaceus* and *P. tinctorius*, already listed in Appendix II, to annotation #17 (Côte d'Ivoire, European Union, Liberia, Senegal and Togo)**

Evidence from various countries suggests a sharp decline in populations across *Pterocarpus* species native range as international trade has surged since 2010, stimulated by an overwhelming demand from China. Two *Pterocarpus* species (*P. erinaceus* and *P. tinctorius*) are currently included in Appendix II, and trade in *P. erinaceus* in 16 range states is currently suspended under Article XIII or based on voluntary zero export quotas due to continued pervasive illegal logging and trade. In the face of continued Chinese demand for Hongmu supplies, it is to be expected that the sharp decline in trade in *P. erinaceus* will even further accelerate pressure on other African *Pterocarpus* species and that misdeclarations in international trade will increase as species are similar in appearance and not easily distinguishable by traders and customs officials.

EIA considers that the proposal meets the criteria for Appendix II (RC 9.24 (Rev. CoP17)), Criterion B Annex 2a and Criterion A Annex 2b: high levels of international trade; populations declining from overharvesting; popular in trade: timber from all species is similar in appearance.

**EIA calls on CoP19 to:**

- **SUPPORT Côte d'Ivoire, European Union, Liberia, Senegal and Togo proposal**

**CoP19 Prop. 51 African mahoganies (*Khaya* spp.): Include all African populations in Appendix II with annotation #17 (logs, sawn wood, veneer sheets, plywood and transformed wood.) (Benin, Côte d'Ivoire, European Union, Liberia and Senegal)**

*Khaya* spp. are heavily exploited throughout the range and international trade has increased as the wood has been increasingly used as a substitute for the declining and protected American mahogany. Illegal logging has been observed throughout the range and increases the pressure on declining populations.

EIA considers that the proposal meets the criteria for Appendix II (RC 9.24 (Rev. CoP17)), Criterion B Annex 2a: high levels of international trade; populations declining from overharvesting; popular in trade; timber from all species is similar in appearance.

**EIA calls on CoP19 to:**

- **SUPPORT Benin, Côte d'Ivoire, European Union, Liberia, and Senegal proposal**



## II. CoP19 Working Documents

### STRATEGIC MATTERS

#### CoP19 Doc. 12 World Wildlife Trade Report

EIA does not support this document submitted by South Africa seeking that CITES spend \$90,000 every intersectional period to generate a World Wildlife Trade Report based on wildlife trade pricing data provided by CITES Parties. The proposal is part of an ongoing effort by some countries to promote trade in wildlife by emphasising the financial benefits to be gained from the trade.

The CITES Trade Database which compiles data on the legal wildlife trade taken from Parties' annual reports currently contains more than 23 million trade records, growing with approximately one million new trade records annually. However, the draft Decisions do not properly consider how data is collected and interpreted, particularly since price volatility and variability will make interpretation difficult. In addition, the document does not call for CITES Parties' inputs on methodologies, Terms of Reference, authors or the review process prior to publication. More importantly, the proposal fails to address negative impacts from wildlife trade, including over-exploitation that undermines indigenous peoples' and local communities' (IPLCs) livelihoods. It also fails to recognise the economic benefits to local communities from non-consumptive use of wildlife.

It is vital that the Parties assess the feasibility and utility of preparing regular wildlife trade pricing data reports based on a review of the pilot edition of World Wildlife Trade Report which will be presented to CoP19 and other relevant information.

#### EIA calls on CoP19 to:

- **OPPOSE the proposal and refer the decisions to CoP20**

#### Cop19 Doc. 17.5 International Consortium on Combating Wildlife Crime

EIA congratulates the partners of the International Consortium on Combating Wildlife Crime (ICWC) and notes the number of activities conducted recently, including since the beginning of the COVID pandemic.

EIA notes the success of Operations Thunder 2020 and Thunder 2021 and the high number of countries involved. EIA notes that further arrests and prosecutions are anticipated, but that such data appears unavailable yet. The outcome of these global operations is rarely reported, particularly the result of any prosecutions, noting that arrests and seizures are not outcomes. Countries involved should be encouraged to report on the final outcome of their participation of the operations so that capacity gaps can be addressed and successes can be acknowledged.

EIA welcomes the recent publication of the second edition of the ICCWC Toolkit and congratulates all stakeholders involved.<sup>15</sup> EIA looks forward to the publication of the updated Indicator Framework and supports the use of both tools to enhance enforcement of the Convention.

The ICCWC Indicator Framework and ICCWC Wildlife and Forest Crime Analytic Toolkit are critically important resources that, if used systematically, can assist Parties and non-state actors with identifying gaps in responses to wildlife and forest crime, ultimately supporting the conservation of species threatened by unsustainable trade. It is therefore encouraging to note that to date the ICCWC Toolkit process has been completed in 16 countries and is at different stages in eight others.

However, EIA is concerned that the ICCWC Toolkit process has not yet taken place in Nigeria, a Category 1 Party under the NIAP Process which is flagged under both ETIS and MIKE reports to CoP19 as a wildlife crime hotspot. Although it is understood that the assessment is scheduled for late 2022, Nigeria already published its National Strategy to Combat Wildlife and Forest Crime 2022-26 in April 2022. EIA maintains that it would have been impactful for the ICCWC assessment to have taken place prior, and in contribution to, the development of Nigeria's national strategy.

EIA would encourage, as standard practice, ICCWC toolkit assessments to take place *before* and in the context of Parties' development of national strategies to tackle wildlife and forest crime to assist with clear gap analyses and the development of targeted approaches. For example, in paragraph 31 of Doc. 17.5, the Secretariat notes "that in many cases, training provided responded directly to the needs identified in the Toolkit and Indicator Framework implementation reports as well as other partner reports and assessments", highlighting the value of toolkit assessments in formulating responses to wildlife and forest crime.

Furthermore, EIA recommends that Parties continue to use the ICCWC Indicator Framework as an independent self-assessment tool to monitor performance over time and to identify any changes in the effectiveness of its law enforcement responses to wildlife crime. When used correctly, ICCWC instruments can be an effective tool for Parties to take ownership of the longevity of their responses to wildlife crime, with assistance from expert stakeholders.

EIA also notes some issues arising from terminology used regarding the Toolkit (paragraphs 19-22) where the term "implemented" or "implementation" is used both for the completion of the Toolkit assessment as well as the recommendations produced as an output of the assessment. EIA notes that the completion of the Toolkit assessment invariably leads to a number of recommendations which must be "implemented" to ensure successful outcomes. It may be helpful to refer to the completion of the Toolkit assessment and only use the term "implementation" in reference to the resulting recommendations.

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<sup>15</sup> UNODC. 2022. Wildlife and Forest Crime: Analytic Toolkit. Available at : [https://www.unodc.org/documents/Wildlife/Toolkit\\_e.pdf](https://www.unodc.org/documents/Wildlife/Toolkit_e.pdf)

EIA is concerned that ICCWC tools are currently not sufficiently mainstreamed into existing CITES mechanisms so as to avoid duplication of effort and to maximise impact. There is a need to synergise ICCWC with the NIAP process. At minimum, countries which undergo ICCWC assessments and which are part of the NIAP Process, such as Vietnam, should be requested by the Secretariat to review and submit an updated NIAP to reflect relevant recommendations stemming from ICCWC assessments. Vietnam is one of the 16 countries that has completed the ICCWC Toolkit assessment process and has been receiving a number of training courses and support focused on law enforcement and anti-money laundering associated with environmental crime. However, there is limited progress in Vietnam on prosecuting large-scale cases relating to the trafficking of ivory and pangolin scales made at seaports since 2018.<sup>16</sup> Conversely, it should be explored how the ICCWC Toolkit assessments may contribute to the identification of Parties requiring attention under the NIAP Process, which is currently only done using ETIS reports. These fall short of providing the insight that ICCWC allows, for example, national law enforcement capacity or criminal justice responses *beyond* the act of seizures as well as preventive capacity across institutions.

#### **EIA calls on CoP19 to:**

- **SUPPORT the adoption of the Draft Decisions contained in Doc 17.5 Annex 1.**
- **ENCOURAGE Parties to provide feedback promoting mainstreaming ICCWC tools in other CITES mechanisms, such as the NIAP Process (see analysis below for Doc.66.7). At minimum, countries which undergo ICCWC assessments which are part of the NIAP Process should be requested by the Secretariat to review and submit an updated NIAP.**
- **SUPPORT countries to report on the final outcome of ICCWC-coordinated operations so that capacity gaps can be addressed and successes can be acknowledged.**
- **ENCOURAGE Parties to undertake ICCWC assessments prior to and in contribution to the development of national and regional strategies to tackle wildlife and forest crime.**
- **ENCOURAGE attendance by national law enforcement representatives at the 4<sup>th</sup> Global meeting of the Wildlife Enforcement Networks and encourage Parties to keep the directory of WEN focal points updated to assist with regional communications.**

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### **CoP19 Doc. 19 CITES and forests**

EIA recommends that Parties reject the proposed draft Decisions related to forests. EIA is concerned that the Plants and Animals Committees have not discussed the proposed work on CITES and Forests and that a multidisciplinary study on CITES and Forests may

<sup>16</sup> EIA UK. 2021. Vietnam's Footprint in Africa: An analysis of the role of Vietnamese criminal groups in wildlife trafficking. Available at: <https://eia-international.org/report/vietnams-footprint-in-africa-an-analysis-of-the-role-of-vietnamese-criminal-groups-in-wildlife-trafficking/>

distract from CITES' core work. Furthermore, EIA does not believe that a sufficient rationale for focusing on forests and not on other ecosystems exists, particularly as the only mention of ecosystems in the Convention relates to the role of species in the ecosystem when making a Non-detriment Finding (NDF).

#### EIA calls on CoP19 to:

- **OPPOSE proposed draft Decisions related to CITES and forests.**

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### CoP19 Doc. 21 Review of the ETIS programme

The ETIS was designed to support decision-making for elephant conservation under CITES by providing essential information and analysis on illegal ivory trafficking. Decisions 18.18-20, adopted at CoP18, directing the Secretariat to conduct a review of the ETIS programme to address issues of overlapping reporting requirements under Res. Conf. 10.10 (Rev. CoP18) and Res. Conf. 11.17 on National Reports and to address challenges of different data sharing policies. The findings of the review are set out in Doc.21.

EIA generally supports the review of the programme but calls for further discussion about ETIS's overall performance rating of 'satisfactory'. Currently the document suggests that the ETIS programme can support CITES processes and decision-making in its current form, including the NIAP Process. However, EIA is concerned that the continued use of a "law enforcement ratio" (LE ratio) as a measure of Parties' law enforcement efforts is based solely on seizure data. Seizures alone are not an indication of successful or sustainable law enforcement efforts. This view is shared by several Parties who responded to the questionnaire on ETIS data collection disseminated in Notification 2020/042.<sup>17</sup> Results indicate that "a seizure does not equal a success, it also depends on what is done with the information, how it is followed up and shared, how the legislation [is] and many other factors".<sup>18</sup>

Using seizures to measure law enforcement effort presents not only an incomplete picture but may also absolve Parties of the responsibility to conduct follow-up investigations if their effort is measured by seizure instances alone. EIA therefore recommends that the LE ratio, or a measure of law enforcement effort should draw on more suitable and comprehensive tools for this process, particularly the ICCWC Indicator

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<sup>17</sup> CITES.2020. Notification to Parties Notification No. 2020/042. Available at: <https://cites.org/sites/default/files/notif/E-Notif-2020-042.pdf>

<sup>18</sup> CITES. 2020. Elephant Trade Information System (ETIS) Report. Available at: [https://cites.org/sites/default/files/MIKE/ETIS/E-CITES%20Secretariat\\_TRAFFIC\\_ETIS%20report\\_Sept2020\\_final\\_MESubgroup.pdf](https://cites.org/sites/default/files/MIKE/ETIS/E-CITES%20Secretariat_TRAFFIC_ETIS%20report_Sept2020_final_MESubgroup.pdf)



Framework, which allows for a more rapid assessment of a national law enforcement response to wildlife crime across 50 indicators.<sup>19</sup>

EIA supports the recommendation in Doc. 21 to expedite the high and medium priority reviewers' recommendations set out in Annex 3. EIA supports reviewer recommendation no.7, which suggests full disclosure of data may ensure "understanding of the processes behind the ETIS report, and with that full transparency".

EIA also encourages prioritising reviewer recommendations no.11 and 21 to encourage Parties to report to ETIS in a timely manner. EIA supports the notion that aligning the data format for seizures relating to elephant specimens in the Annual Illegal Trade Report (AITR) with that of ETIS can facilitate data reconciliation. However, noting that there are still delays, non-reporting, or incomplete data submission by Parties both to ETIS and the AITR, EIA recommends the removal of the proposed alternative annual data submission and keeping the original requirement that Parties submit their data within 90 days of occurrence. This would also maintain a sense of urgency on the matter and prompt timely submission. Furthermore, EIA calls for reviewer recommendation no.13 to be prioritised to clarify how AITR and ETIS databases may be aligned and suggest this be considered as part of the proposed NIAP Process review in Doc. 66.7 (see page 39).

Similarly, EIA encourages urgent support to prioritise reviewer recommendation no. 31 to examine the relationship between ivory stockpiles and illegal ivory trade. As a first step, ivory stockpile data reported to the Secretariat needs to be consolidated into a database. This would align with Res Conf. 10.10 (Rev. CoP18), which urges all Parties to maintain an inventory of their raw ivory stocks and to inform the CITES Secretariat annually of stock levels and the source of the ivory. Low levels of reporting compliance continue to undermine such analysis. See section below on Doc. 66.2.1 (page 31).

EIA encourages Parties to call for the elevation of reviewer recommendation no.12, currently classified as "low priority" to "high priority" to make forensic assessment through DNA analysis and other methods integral to ETIS analyses. This would align with Res. Conf. 10.10 (Rev.CoP18) which urges Parties to ensure traceability of elephant specimens in trade by sampling seized specimens (especially relevant for large scale seizures).

This section should be read in conjunction with EIA's summary and recommendations for CoP19 Doc. 66.6 ETIS report, on pages 35-38 below.

#### **EIA calls on CoP19 to:**

- **SEEK clarity as to how proposed amendments to Annex 1 on Monitoring illegal trade in ivory and other elephant specimens to Resolution Conf. 10.10 (Rev.CoP18) can align with proposed review of the NIAP Process in CoP19 Doc. 66.7**

<sup>19</sup> CITES et al. 2016. ICCWC Indicator Framework for Combating Wildlife and Forest Crime: A self-assessment framework for national use. Available at: [https://www.unodc.org/documents/Wildlife/Indicator\\_Framework\\_e.pdf](https://www.unodc.org/documents/Wildlife/Indicator_Framework_e.pdf)

- **SUPPORT a review of the “Law Enforcement Ratio” to be replaced with more consistent use of the ICCWC Indicator Framework as a more suitable, comprehensive and robust measure of Parties’ law enforcement effort.**
- **SUPPORT proposed amendment to Res. Conf. 11.17 on *National Reports* to align AITR and ETIS data.**
- **SUPPORT Draft Decisions in Doc.21 calling for implementation of high and medium priority recommendations outlined in Annex 3 to CoP19 Doc.21**
  - **CALL for reviewer recommendation no.12 to be elevated from “low” to “high” priority to ensure inclusion in Draft Decision.**
- **ENCOURAGE, as a matter of urgency, timely reporting to ETIS and consideration of compliance proceedings for repeated late/non submission.**

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## INTERPRETATION AND IMPLEMENTATION MATTERS

### CoP19 Doc. 29.1 Implementation of Article XIII and Resolution Conf.14.3 (Rev. CoP18) on CITES compliance procedures

Resolution Conf. 11.3 (Rev. CoP18) on Compliance and Enforcement, in paragraph 22. c) instructs the Secretariat to report on the implementation of Article XIII and Resolution Conf. 14.3 (Rev. CoP18) on CITES compliance procedures to the Standing Committee and at each regular meeting of the Conference of the Parties.

At SC74, the Standing Committee considered compliance matters relating to Democratic Republic of the Congo (DRC), Laos, Nigeria and Guinea and recommended appropriate actions and compliance measures.

Regarding DRC, EIA looks forward to the publication of DRC’s progress report, due by 31 December 2022, to provide updates on the status of the repatriated pangolin scales from Republic of Congo. This was flagged as a matter of concern at SC74 and EIA shares the Secretariat’s concerns that there is a lack of information surrounding the procedure of the repatriation, including compliance with the Convention. As such, details including the parties involved, amounts seized, trade chain, prosecutions, convictions and status of the repatriated pangolin scales (including plans for destruction) must be made available to the CoP and SC to enable an assessment of compliance.

Regarding Nigeria, EIA shares the Secretariat’s concerns about continuing seizures of illegal specimens from Nigeria and the role of organised crime groups which are using Nigeria as a transit or source country. EIA also shares the Secretariat’s concern about Nigeria’s non-compliance regarding reporting, in particular its failure to report in a timely manner and to provide the detail required, including a lack of responsiveness to the Secretariat’s offers of assistance.

Despite some progress being made by Nigeria to address the 18 recommendations first directed to it at SC70 regarding improved enforcement of the Convention, including through the Compliance Assistance Programme, EIA urges Parties and other

stakeholders to continue providing assistance to Nigeria to ensure implementation of the recently introduced National Wildlife Crime Strategy, to improve reporting to ETIS and to urgently step-up identifying and tackling organised criminal networks and the corruption that facilitates them, including through legislative reform and increased prosecutions and convictions.

Regarding the issue of an expedited and range state-focused approach to future cases of pervasive illegal trade, EIA recommends that Parties support an expedited and range state-focused approach to any future cases of pervasive illegal trade. EIA has investigated illegal trade in *Pterocarpus erinaceus* for several years and has worked with Parties in the region seeking to halt the illegal logging and trade destroying the forests and funding conflict and organised crime. EIA supports the use of a coordinated and expedited Article XIII, when illegal trade is continuous and in breach of the Convention. The approach taken to suspend trade, when it has been demonstrated to be illegal and in violation of both NDF and Legal Acquisition Findings (LAF) requirements, is essential to uphold the Convention. Furthermore, Parties importing specimens should also be included in Article XIII, when trade is illegal and occurring without the Article IV, paragraph 2(a) NDF and Article IV, paragraph 2(b) LAF requirements.

#### **EIA calls on CoP19 to:**

- **ADOPT the recommendations outlined in CoP19 Doc.29.1**
- **SEEK clarity regarding duplication between Article XIII compliance measures and compliance measures under the NIAP Process, including as part of the suggested NIAP review in CoP19 Doc.66.7.**
- **URGE Parties undergoing Article XIII compliance proceedings to improve enforcement of the Convention and to seek assistance under the Compliance Assistance Programme**
- **URGE Parties undergoing Article XIII compliance proceedings to send progress reports to the Secretariat as mandated by the Standing Committee in a timely fashion.**
- **URGE continued assistance to Parties undergoing Article XIII compliance proceedings via technical or financial resources by other CITES Parties.**

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#### **CoP19 Doc. 29.2.1 Report of the Secretariat on totoaba**

The Report of the Secretariat provides revised and new draft Decisions on totoaba (*Totoaba macdonaldi*) proposed for adoption at CoP19. The Report provides compelling evidence that, despite purported investment of considerable resources to combat the illegal take and trade in totoaba, Mexico has failed to make timely progress on implementing all provisions in Decision 18.293 approved by the Parties at CoP18.

EIA is seriously concerned by Mexico's failure to prevent illegal fishing and trade in totoaba. The Secretariat expresses concerns about Mexico's effective implementation of its own regulations (the Agreement) by failing to prevent ongoing illegal fishing in the

Upper Gulf of California, including in the vaquita refuge and Zero Tolerance Area (ZTA). Illegal gillnet fishing, including for totoaba, entangles and kills vaquita porpoises, an Appendix I-listed species, which remains perilously close to extinction with fewer than 10 animals estimated to be remaining.

The Report of the Secretariat documents that Mexico is failing to:

- prevent vessels from accessing the ZTA;
- inspect all departing vessels as required by the Agreement;
- stop illegal fishing;
- “faithfully” implement a permanent prohibition of all gillnets within the gillnet exclusion area, including the vaquita refuge and ZTA;
- implement the Agreement’s ban on the manufacturing, possession, sale, or transport of gillnets in or within 10 kilometres of the gillnet exclusion zone;
- take sufficiently harsh actions against illegal fishers.

EIA supports the Secretariat’s revised and new draft Decisions on totoaba in principle, although the US proposed amendments to the Decision text contained in Doc. 29.2.2 are stronger and more measurable and are therefore preferable.

**EIA calls on CoP19 to:**

- **ADOPT the Decisions contained in CoP19 Doc. 29.2.1, with amendments to reflect stronger US language in Doc. 29.2.2, urging Mexico to:**
- **Effectively prevent fishers and vessels from accessing prohibited areas (instead of “strengthen measures to effectively prevent ...” as proposed by the Secretariat);**
- **ENSURE surveillance “on a full-time basis” as recommended by SC74; and**
- **CONTINUE to submit reports every six months**
- **SUPPORT any recommended trade sanctions against Mexico for its failure to make timely progress on implementing provisions of Decision 18.293, and thereby further endangering the vaquita’s existence.**

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### CoP19 Doc. 29.2.2 Renewed and updated decisions on totoaba

This document has been submitted by the US, recognising that urgent progress on implementation of measures is required to prevent ongoing illegal harvest and trade of Appendix-1 listed totoaba and the concurrent decline of the critically endangered vaquita.

In Doc. 29.2.2, the US further summarise Mexico’s failures to satisfy Decision 18.293, including by emphasising the Secretariat’s conclusion in SC74 Doc. 28.5 that provisions of Dec. 18.293 urging Mexico to “effectively prevent fishers and vessels from entering the vaquita refuge area *have not been implemented.*”

Despite Mexico's investment of resources and personnel to combat illegal totoaba take and trade, the US concludes that "these actions have been neither sufficient nor effective as illegal fishing and trade continues unabated while the nearly extinct vaquita continue to drown in illegal gillnets targeting totoaba."

The US also notes that effective implementation of the Agreement is required and that "Mexico must apply a zero-tolerance policy for fishers and vessels entering the ZTA; enhance monitoring of fishing vessels and the gear they employ and take strict action against any individuals engaged in unauthorised activities to effectively prevent and deter illegal harvest and trade of totoaba."

Based on these conclusions, the US has proposed strong, measurable Decision text mirroring concerns expressed by Parties at SC74. EIA fully supports the US proposal.

#### EIA calls on CoP19 to:

- **ADOPT the Decisions contained in CoP19 Doc. 29.2.2, as a stronger alternative to the Decision text submitted by the Secretariat**
- **SUPPORT any recommended trade sanctions against Mexico for its failure to make timely progress on implementing provisions of Decision 18.293 and thereby further endangering the vaquita's existence.**

### CoP19 Doc. 29.3 Malagasy ebonyes (*Diospyros* spp.) and palisanders and rosewoods (*Dalbergia* spp.)

EIA has been engaged in work related to Madagascar at CITES for many years and is concerned about the lack of progress by Madagascar in securing stockpiles and the items in the Action Plan. The lack of in-depth discussion at the 25<sup>th</sup> meeting of the Plants Committee (PC25) and SC74, due to the lack of Working Groups on these issues, has led to recommendations to delete CoP18 decisions that may not all have been addressed by SC74 recommendations or the draft Decisions for CoP19. In particular, and in order to ensure continued appropriate oversight and scrutiny of Malagasy stockpiles, EIA recommends clarifying draft Decision 19.AA, as follows:

Madagascar shall:

a) secure the stockpiles (including seized, declared, undeclared and hidden stocks) of timber of *Dalbergia* spp. and *Diospyros* spp. in Madagascar and submit regular updates on audited inventories and independent oversight mechanisms for consideration and further guidance from the Standing Committee.

The management of seized and declared stockpiles, which have repeatedly been subject to theft and timber laundering,<sup>20</sup> has direct implications for other stockpiles and

<sup>20</sup> EIA 2022. Convention Evasion: Madagascar's Plan to Pull Rosewood Stockpiles Out of CITES. Available at: <https://us.eia.org/report/20220303-convention-evasion-madagascars-plan-to-pull-rosewood/>

potentially on the species in the wild. They should therefore remain under CITES oversight and be included in all inventory, auditing and reporting requirements.

**EIA calls on CoP19 to:**

- **CLARIFY paragraph a) draft Decision 19.AA as above**
- **ESTABLISH an in-session working group to consider this document and develop appropriate recommendations and Decisions for adoption at CoP19.**

### CoP19 Doc. 30 Compliance Assistance Programme

EIA welcomes the establishment of the Compliance Assistance Programme (CAP) at CoP18. EIA is supportive of all measures that seek to strengthen the resilience of CITES Parties to illegal and unsustainable exploitation of CITES-listed species and it is anticipated that CAP will increase the capacity of Parties facing persistent compliance challenges. In particular, it is encouraging to note that the pilot phase of the CAP has included Nigeria, Laos and Guinea, all Parties currently subject to Article XIII compliance discussions. However, EIA would urge that the CAP process involve non-governmental and intergovernmental stakeholders with projects and activities already ongoing in countries seeking CAP to facilitate collaborative approaches and to avoid duplication of effort. Furthermore, clarity is necessary to synergise the CAP and compliance proceedings for repeated underperformance by Parties in the CAP process.

**EIA calls on CoP19 to:**

- **SUGGEST an amendment to Draft Decision 19.BB to include additional paragraph calling on Secretariat to seek input, where appropriate, from intergovernmental and non-governmental organisations and other stakeholders with activities ongoing in countries where compliance assistance has been requested, to support monitoring of progress and to avoid duplication of effort.**
- **SEEK clarification regarding instigation of compliance proceedings for repeated underperformance by Parties in the CAP process**
- **SUPPORT Draft Decisions 19.AA and 19.CC**
- **SUPPORT the proposed amendments to Res. Conf. 14.3**

### CoP19 Doc. 32 Review of Resolution Conf.11.3 (Rev CoP18) on Compliance and Enforcement

This document outlines proposed amendments to Res. Conf. 11.3 (Rev CoP18) on Compliance and Enforcement, as prepared by the Working Group which was established at SC72 to review the Resolution with a view to, inter alia, reorganising to improve usefulness and readability, updating and clarifying where needed, and identifying gaps and draft recommendations as appropriate to revise it and make recommendations to

address gaps identified for consideration at the 19th meeting of the Conference of the Parties.

EIA is a member of the intersessional Working Group and supports the proposed amendments outlined in this document.

**EIA calls on CoP19 to:**

- **ADOPT the proposed amendments to Res. Conf. 11.3 (Rev. CoP18) contained in Annex 1 of CoP19 Doc.32**
  - **ADOPT the draft decision contained in Annex 3 of CoP19 Doc.32**
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### CoP19 Doc. 33 Enforcement matters

This document, prepared by the Secretariat, focuses primarily on issues of corruption which facilitate violations of the Convention, money-laundering and illicit financial flows. Wildlife forensics is also discussed.

EIA notes that crime continues as a major and ongoing challenge to the implementation of the Convention, as indicated by several large interdictions of wildlife smuggling since CoP18. As indicated in CoP19 Doc 66.6, reductions in illegal wildlife trade activity should not be considered an indication of enforcement success. EIA urges Parties to continue to develop and improve enforcement and criminal justice responses to wildlife crime.

The document acknowledges that corruption continues to pose a challenge in addressing wildlife crime. EIA notes that while considerable improvements have been made around the globe in improving enforcement, corruption remains one of the most significant impediments to tackling wildlife crime. The examples of corruption referred to in the document are relevant, but largely limited to wildlife crimes being committed by officials. EIA urges Parties to recognise corruption as a complex issue on many levels, which may include institutional corruption. Corruption may also be characterised by both actions and omissions, such as the failure to ensure that wildlife crime cases are prosecuted in a just and timely manner.

Regarding forensics, EIA agrees with the finding that “forensic applications must be used to the fullest extent possible to combat wildlife crime”. EIA wishes to remind Parties of the forensic opportunities presented by wildlife crime scenes for the use of more conventional forensic methods, such as the examination of items for human fingerprints and human DNA.

**EIA calls on CoP19 to:**

- **SUPPORT the draft Decisions for Parties to adopt corruption risk mitigation policies and strategies but propose that Parties should be urged to implement these measures ‘urgently’ and ‘comprehensively’ to identify and tackle corruption in all its manifestations, including institutional corruption.**
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## CoP19 Doc. 34 Annual illegal trade reports

In accordance with Resolution Conf. 11.17 (rev. CoP18) on National reports, Annual Illegal Trade Reports (AITRs) should cover all law enforcement actions in the preceding year related to illegal trade in CITES-listed species. Further, according to Resolution Conf. 11.3 (rev. CoP18) on Compliance and Enforcement, AITRs are meant to assist the Secretariat in sharing information which could further law enforcement activities of Parties. Parties are required to report annually on seizures and law enforcement outcomes such as arrests, laws under which charges were brought, sanctions imposed and disposal of seized specimens.

Alarmingly, fewer than half of CITES Parties failed to submit AITRs as directed for 2020. As of June 2022, for 2020, the Secretariat received 101 AITRs from 83 Parties, of which 79 reports were submitted by the deadline. EIA calls for consistency in Res. Conf. 11.17 to include scope for compliance proceedings to be enforced for non-submission of *both* annual (legal) trade reports *and* annual illegal trade reports. Currently, this is the case only for annual (legal) trade reports despite both types of reports being recognised in Res. Conf. 11.17 as critical tools for monitoring both the implementation of the Convention and the level of legal and illegal international trade in specimens of species included in the Appendices.

Further, there remain serious concerns regarding a lack of transparency and accountability in relation to enforcement matters. The illegal trade reports (excluding any sensitive information) are currently only available to Parties and ICCWC organisations and are therefore not publicly accessible. This is a particular concern because analysis from the AITRs is not made available in time for relevant meetings of the CITES Standing Committee and Conference of the Parties.

EIA remains equally concerned that Res Conf. 11.17 does not mandate Parties to report on information on offences related to seizures (columns- "law under which the charges were brought"; "sanction" and "disposal of confiscated specimens"). It is critical to record post-seizure law enforcement activity to understand prosecution and conviction rates relating to wildlife crime – such information can act as a deterrent. High, low or absent prosecution rates provide insight into law enforcement and judiciary capacity and prioritisation, which in turn may be indicative of structural issues relating to enforcement of CITES.

If implemented properly, the AITR process could play a critical role in enabling CITES Parties to accurately assess the threat posed by wildlife and timber trafficking. EIA recommends that Parties call for strengthening the reporting of law enforcement actions under the AITR process, enhancing transparency related to this process and treating illegal trade and law enforcement matters as priority concerns under CITES decision-making.



**EIA calls on CoP19 to:**

- **PROPOSE an amendment to Resolution Conf. 11.17, paragraph 13(a) to include “Annual Illegal Trade Reports” so that failure to submit such reports is also subject to non-compliance proceedings. Currently, only non-submission of annual (legal) trade reports are grounds for non-compliance proceedings.**
- **SUPPORT measures to adopt compliance measures under Resolution Conf. 14.3 in relation to Parties that have consistently failed to submit Annual Illegal Trade Reports.**
- **PROPOSE an amendment to Resolution Conf. 11.17 (rev. CoP18) paragraph 4 to remove restrictions on publication of Annual Illegal Trade Reports outside of Parties and ICCWC members to improve transparency and accountability in relation to illegal trade reports.**
- **PROPOSE the deletion of the word “desirable” in the following three columns of the Annual Illegal Trade Report format – updates on prosecutions/laws under which charges were brought, sanctions/penalties and disposal of confiscated specimens. Parties must provide information against these columns and where no prosecutions have taken place, this should also be reported.**

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**CoP19 Doc. 36 Wildlife crime enforcement support in West and Central Africa**

Doc. 36.1 on ‘Wildlife crime enforcement support in West and Central Africa’ is a report of the Standing Committee. Doc. 36.2 on ‘Wildlife Crime and CITES Enforcement Support in West and Central Africa’ is submitted by Côte d’Ivoire, the Gambia, Liberia, Niger, Nigeria and Senegal.

Doc. 36.1 notes initiatives undertaken by Parties in the region, particularly the recent validation of the West Africa Strategy on Combatting Wildlife Crime (WASCWC) by all ECOWAS Environment Ministers. The development of the West Africa Network to Combat Wildlife Crime (WAN) as an implementing mechanism for the WAACWC is also noted, as is the increasing interest in this region by international stakeholders. However, there is growing recognition of West and Central Africa as a source and transit region for wildlife trafficking and further strengthened efforts are urgently needed.

EIA investigations in the region have identified how organised criminal networks are shifting their operations from Southern and Eastern to West and Central Africa in light of persistent weak enforcement, corruption and other system-level challenges that facilitate poaching and trafficking.<sup>21</sup> Since CoP18 in 2019, despite the impact of the COVID-19 pandemic, West and Central African countries such as Nigeria, the Democratic Republic of the Congo (DRC), Cameroon and Gabon have been implicated in the confiscation of at least 12 tonnes of elephant ivory and 67 tonnes of pangolin scales.<sup>22</sup>

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<sup>21</sup> EIA. 2020. Out of Africa: How West and Central Africa have become the epicentre of ivory and pangolin scale trafficking to Asia. Available at: <https://reports.eia-international.org/out-of-africa/>

<sup>22</sup> EIA Global Environmental Crime Tracker. Available at: <https://eia-international.org/global-environmental-crime-tracker/> (last accessed 16/09/2022)

At CoP18, 14 recommendations were made regarding legislation, law enforcement, international cooperation and resource mobilisation in the context of wildlife crime enforcement support in the region.

EIA has supported CoP18, Decision 18.91 by providing assistance to Parties in West and Central Africa, particularly Nigeria, through securing funding to provide technical support in the review of Nigeria's legal framework, capacity to conduct financial investigations, development of endangered species legislation, training for financial crime investigation agencies, fostering cooperation between public and private financial institutions and enhancing cooperation on, and awareness of, wildlife trafficking among investigators, prosecutors and the judiciary.

At SC74, a further five recommendations were made calling for increased enforcement and compliance with CITES, highlighting the numerous challenges in the region. The Standing Committee encouraged Parties in West and Central Africa to "further step up efforts" to strengthen CITES implementation and enforcement and encouraged Parties to actively pursue the "rapid and full" implementation of the WASCWC.

The MIKE and ETIS reports to CoP19 (Doc. 66.5 and Doc. 66.6) indicate that both West and Central Africa subregions are displaying increasing trends in poaching and ivory trafficking alongside low levels of reporting and compliance with CITES. Please refer to EIA's comments on Doc. 66.5 and Doc. 66.6 below (pages 35-38) for more detail.

In addition, at least two Parties from the region (Nigeria and DRC) have recently been subjected to compliance proceedings under NIAP and other Article XIII processes. Despite recent efforts, including the launch of a National Strategy to Combat Wildlife Crime in Nigeria, there is evidence that post-seizure investigations are lacking and, despite the arrest and charge of identified suspects, a lack of expedient prosecutions indicates a failing criminal justice system.

In Doc. 36.2, the six reporting Parties express extreme concern about the ongoing high levels of wildlife crime in the region, list a number of species threatened by illegal trade and notes that illegal logging is threatening the region's ability to adapt to the effects of climate change. The report highlights a number of seizures of wildlife contraband but falls short of reporting on outcomes, particularly the result of investigations or prosecutions.

EIA notes the concerns from Parties that they have not received a level of support commensurate with the need and that more significant effort is required by the global community. EIA recognises the efforts of Parties in the region but notes that the WASCWC is still pending adoption by the ECOWAS Parliament and the first meeting of the West Africa Network to Combat Wildlife Crime (WAN) is projected to take place in 2023. A number of Parties in the region are yet to develop National Wildlife Crime Strategies and Wildlife Law Enforcement Task Forces.

EIA calls on CoP19 to take note of the content in Doc. 36.2, especially the urgency with which wildlife crime needs to be addressed in the region and the scale of the resources required to address this challenge. EIA believes there is an urgent need to ensure greater

coordination among source, transit and destination countries to tackle wildlife crime, particularly in the exchange of intelligence and collaboration on transnational trafficking incidents. In addition, there is a need for improved streamlining of efforts between stakeholders involved in technical support and capacity building to ensure sustainable reforms; these focus areas should be included in discussions by Working Groups.

#### EIA calls on CoP19 to:

- **URGE Parties in West and Central Africa to expedite the development of measures to address wildlife trafficking, including the adoption of the WASCWC by the ECOWAS Parliament, the formal establishment of the West Africa Network to Combat Wildlife Crime (WAN) and the development of National Wildlife Crime Strategies and Wildlife Law Enforcement Task Forces.**
- **SUPPORT the recommendations in Doc. 36.1 Annex 2, directed to the Standing Committee to establish an intersessional Working Group and directed to the Secretariat particularly related to the provision of expertise.**
- **REQUEST to join any intersessional or in-session Working Group.**
- **SUPPORT the proposed recommendations in 36.2. including the draft amendments to Decision 18.90 outlined in Doc. 36.2.**

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#### CoP19 Doc. 43.1 Non-detriment findings

EIA welcomes the progress in developing NDF guidance in accordance with Decisions 18.132-18.134 adopted at CoP18. This includes the methodology and results of the inventory and review of the materials and guidance for making of NDFs that are available to Parties and identified gaps; a proposal of 10 workstreams from the intersessional consultations; as well as the establishment of the Technical Working Group (TAG) to support the project.

The draft Decisions in this document continue to direct the Secretariat to address priorities in capacity building in relation to NDFs and develop strategy and feedback mechanism for Parties and wider CITES community to share experiences in using NDFs guidance materials.

The Animal and Plant Committees should review the functioning of the TAG and the outcomes of the international expert workshop in support of the making of NDFs by Scientific Authorities and report on these activities to CoP20.

This supports the implementation of Resolution Conf. 16.7 (Rev. CoP17) containing non-binding guidance in considering whether trade would be detrimental to the survival of a species. However, EIA is still concerned that many Parties fail to abide by key components of Resolution Conf. 16.7 (Rev. CoP17), namely the provisions in paragraphs 2 d) and e), which encourage Parties to maintain written records of the science-based rationale included in the Scientific Authorities' NDF assessments and to provide these written records to the Secretariat for publication on the CITES website. It is impossible

to ensure Parties are abiding by Articles III and IV of the Convention without improved transparency and accountability with respect to NDFs, critical to the successful implementation of CITES.

**EIA calls on CoP19 to:**

- **ADOPT the decisions contained in CoP19 Doc. 43.1 and calls on Parties to maintain written records of the science-based rationale used in NDF assessments and to provide these records to the Secretariat for publication on the CITES website in accordance with Resolution Conf. 16.7 (Rev.CoP17).**

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## **EXEMPTIONS AND SPECIAL TRADE PROVISIONS**

### **CoP19 Doc. 55 Registration of operations that breed Appendix I animal species in captivity for commercial purposes**

EIA strongly supports the proposed revisions to Resolution Conf. 12.10 (Rev. CoP15) on *Registration of operations that breed Appendix-I animal species in captivity for commercial purposes* and the draft Decision 19.AA submitted by the US.

The proposed revisions will provide greater clarity to the nature of registered captive breeding operations by requiring the listing of the type of product(s) approved for export in the registry on the CITES website and will increase CITES oversight of registered breeding operations by detailing a mechanism for how the registration of the operation is maintained in the CITES register to ensure that these facilities comply with CITES requirements and do not undermine efforts to prevent, or contribute to, illegal trade.

Among the most important revisions to the Resolution is a requirement for a Management Authority (MA) to submit an amended registration application for any “major change” to the nature of a registered facility, including but not limited to products being produced for export and changes to the parental or breeding stock.

**EIA calls on CoP19 to:**

- **SUPPORT the proposed amendments to Resolution Conf. 12.10 (Rev. CoP15) and the accompanying Decision 19.AA**



## SPECIES SPECIFIC MATTERS

### CoP19 Doc. 66.1 Implementation of Resolution Conf.10.10 (Rev. CoP18) on trade in elephant specimens

This document, prepared by the Secretariat on behalf of the Standing Committee. Resolution Conf. 10.10 (Rev. CoP18), directs the Standing Committee to, firstly, review the actions taken by Parties to implement Resolution Conf. 10.10 (Rev. CoP18) and, secondly, to make targeted recommendations as appropriate and report thereon to the Conference of the Parties.

In addition to the above, Doc. 66.1 covers a substantial number of issues, including elements of Resolution Conf. 10.10 (Rev. CoP18) and related elephant Decisions that the Committee addressed at SC74 in March 2022. So as to provide a more coherent approach to work on the regulation of trade in specimens of elephants and related species, this report also covers implementation of Decisions 18.117 to 18.119 on Closure of Domestic Ivory Markets, Decision 18.120 on Trade in Mammoth Ivory, Decisions 18.226 and 18.227 on Trade in Asian elephants (*Elephas maximus*) and Decisions 18.184 and 18.185 on Stocks and Stockpiles (Elephant Ivory). As a result, the report is divided into five parts, with recommendations developed accordingly.

In relation to **Part 1** and the implementation of Decisions 18.117 to 18.119 on Closure of Domestic Ivory Markets and proposals on the renewal of the Decisions, EIA calls attention to the fact that ivory trafficking is still ongoing and that reporting by Parties on measures to ensure that domestic ivory markets are not contributing to poaching or illegal trade remains relatively inconsistent.

#### EIA calls on CoP19 to:

- **DEFER discussion on this issue to Agenda Item 66.3;**
- **SUPPORT the renewal of Decisions 18.117 to 18.119 as outlined further below under Doc. 66.3**

**Part 2** addresses the implementation of Decision 18.120 and 18.121 on trade in mammoth ivory and proposes a report on the potential contribution of mammoth ivory trade to illegal trade in elephant ivory and elephant poaching for consideration by the Standing Committee.

#### EIA calls on CoP19 to:

- **SUPPORT the recommendations directed to the Secretariat and the Standing Committee.**

**Part 3** addresses implementation of Decisions 18.226 and 18.227 on trade in Asian elephants and proposes new Decisions on illegal trade in Asian elephants, as well as reporting by range states and development of a system for registering, marking and tracing live Asian elephants. EIA calls attention to the fact that the Asian elephant has

been globally assessed by the IUCN Red List in 2019 as Endangered<sup>23</sup> with decreasing populations across its range that continue to be increasingly fragmented, rendering them vulnerable to numerous threats, not least trade in their parts and derivatives.

EIA notes that the proposed revisions to Decision 18.226 (Rev. CoP19) and in 19.AA a) are directed only at range states rather than those Parties involved in trade in Asian elephants, which may or may not be range states. Clearly, the implementation of the actions described in this Decision must be conducted primarily by Parties involved in trade in Asian elephants. The language proposed risks excluding non-range state Parties that are involved in trade. EIA is also concerned by 19.AA b) which should ensure the development not of “minimal requirements” for registration, marking and tracing, but of the most effective and reliable systems.

#### **EIA calls on CoP19 to:**

- **AMEND Decisions 18.226 and 19.AA a) to direct all Parties involved in illegal trade in Asian elephants to take the described actions;**
- **AMEND 19.AA b) to develop effective and reliable systems for registration, marking and tracing, not ‘minimal’ requirements.**

**Part 4** describes implementation of Decisions 18.182 to 18.185 on elephant ivory stocks and stockpiles. It proposes the deletion of Decisions 18.182 and 183, directs the Secretariat to issue a Notification requesting that Parties submit information about management of their stockpiles and proposes renewal of Decisions 18.184 and 18.185.

#### **EIA calls on CoP19 to:**

- **DEFER discussion on this issue to Agenda Item 66.2;**
- **SUPPORT the renewal of Decisions 18.184 to 18.185 as outlined further below under Doc. 66.2.1**

**Part 5** describes the implementation of the National Ivory Action Plan process and recommendations adopted at SC74. It states that the Secretariat will initiate the process of identifying new Parties to participate in the NIAP process once the ETIS report to CoP19 is finalised, prepare recommendations for SC75 and provide an oral update at CoP19. The ETIS Report to CoP19 is captured in CoP19 Doc. 66.6 (*see the proposed recommendations further below*).

#### **EIA calls on CoP19 to:**

- **DEFER discussion to Agenda items 66.6 and 66.7.**
- **TAKE NOTE of the suggested recommendations set out further in this document relating to the ETIS Report (Doc. 66.6.) and the Review of the NIAP Process (Doc. 66.7).**

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<sup>23</sup> IUCN Red List of Threatened Species. 2022. Available at: <https://www.iucnredlist.org/species/7140/45818198> [last accessed 16/09/2022]

### CoP19 Doc. 66.2.1 Ivory stockpiles: implementation of Res Conf 10.10 (Rev CoP18)

Resolution Conf. 10.10 (Rev. CoP18), which has been in place since 1997, urges all Parties to maintain an inventory of their raw ivory stocks and inform the CITES Secretariat annually of stock levels and the source of the ivory. Inventories are due 28 February each year.

However, there are low levels of compliance with this reporting obligation. Only 17 Parties declared stocks in 2019 and only 21 Parties in 2020. The Secretariat's report to SC74 identified at least 44 CITES Parties that likely have stockpiled ivory but which did not submit inventories and reports, including Parties currently in the NIAP process. Stockpile reporting is key to providing transparency around the management of seized goods and for the prevention of corruption and leakage into the illegal trade.

Doc. 66.2.1 supports the recommendation of the SC74 and proposes decisions to further strengthen the reporting, marking and inventorying provisions of Resolution Conf. 10.10 (Rev. CoP18), directing the Secretariat to issue a Notification reminding all Parties to declare their stockpiles and proposes a new updated Declaration Form for Parties to use when reporting their ivory stockpile inventory. It also urges Parties to consider destruction of their stockpiles and make available adequate resources, capacity building and training to ensure ivory stockpiles are inventoried, secured and, when appropriate, properly disposed of for non-commercial purposes.

#### EIA calls on CoP19 to:

- **SUPPORT proposed decisions in Doc. 66.2.1 which aims to increase reporting on ivory stocks and stockpiles, improve security and encourage stockpile destruction.**
- **ENCOURAGE Parties, in particular those in the NIAP process, to report stockpile levels in a timely and accurate manner and address potential duplication of reporting obligations as part of review of NIAP process (CoP19 Doc. 66.7)**

### CoP19 Doc. 66.2.2 Establishing a fund accessible to range states upon non-commercial disposal of ivory stockpiles

The current economic recession and the COVID-19 pandemic have placed negative consequences on environmental and conservation funding, including for elephants. This has prompted recent calls for ivory sales and buy-outs.

There is well-documented evidence that one-off sales of elephant ivory, particularly in 2008, have fuelled the escalation of poaching and illegal trade.<sup>24</sup> In addition, according to CITES Resolution Conf. 17.8, confiscated specimens of Appendix I species, including ivory, are not to be used commercially. Meanwhile, continued stockpiling of ivory is

<sup>24</sup> Hsiang, S. and Sekar, N., 2016. Does legalization reduce black market activity? Evidence from a global ivory experiment and elephant poaching data (No. w22314). National Bureau of Economic Research; CITES. 2016. CoP17 Inf. Doc 96: Evidence Should be Used in Global Management of Endangered Species: A Reply to the CITES Technical Advisory Group. Available at: <https://cites.org/sites/default/files/eng/cop/17/InfDocs/E-CoP17-Inf-96.pdf>



costly and risks ivory leaking onto the illegal market. Ivory stockpile disposal significantly reduces storage costs and security risks while also removing incentives for the commercial value and acquisition of ivory.

Doc. 66.2.2 proposes the establishment of a Working Group to explore setting up a fund accessible to elephant range states on the non-commercial disposal of ivory stockpiles as an alternative to sales or buy-outs that commercialise ivory and act as drivers for both legal and illegal trade and illegal killing. Critically, the Working Group will need to clarify how the funds received by range states for non-commercial disposal will not inadvertently commodify the ivory. This could possibly be achieved by allocating the amount of funds received by each range state according to their respective elephant conservation and management needs.

#### **EIA calls on CoP19 to:**

- **SUPPORT the proposal of establishment of a Working Group to explore setting up a fund accessible to elephant range states upon the non-commercial disposal of ivory stockpiles.**

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### **CoP19 Doc. 66.3 Implementing aspects of Resolution Conf. 10.10 (Rev. CoP18) on the closure of domestic ivory markets**

In 2016, at CoP17, a recommendation, adopted by consensus, was included in Resolution Conf. 10.10 (Rev. CoP18) to urge the closure of domestic ivory markets that contribute to poaching or illegal trade.

While many Parties have taken steps to close their domestic ivory markets, legal domestic ivory markets continue to challenge the conservation of elephants by undermining the international ban on commercial ivory trade, stimulating demand and complicating enforcement efforts. At CoP18, Decisions 18.117–18.119 were adopted directing those Parties with open domestic ivory markets to report on the measures taken to ensure their markets were not contributing to poaching or illegal trade. Urging Parties with open ivory markets to close them in effect supports securing the legitimacy of CITES resolutions adopted by consensus and thus the credibility of the CITES compliance system.

At SC74, it was suggested that the ETIS report to CoP19 include an analysis of ivory seizures connected to each Party with a legal domestic ivory market. It was therefore disappointing that the request was not taken up by the CITES Secretariat and TRAFFIC and that no such analysis was included in the report contained in CoP19. Doc. 66.6. CoP19 Doc. 66.3 describes how such an analysis would assist the CoP and Standing Committee in decision-making concerning the closure of domestic ivory markets and the implementation of Resolution Conf. 10.10 (Rev. CoP18).

Doc 66.3 also highlights Japan as a non-range state ivory market with a large stockpile and porous controls, which continues to be a source of illegal ivory exports. Japan's reported stockpile consists of 244 tonnes of raw ivory in addition to millions of worked

ivory products and accounts for 89 per cent of all ivory stockpiled in Asia and 31 per cent of the world's ivory stockpiles.<sup>25</sup> Between 2018-20, EIA documented 76 seizures of ivory sourced from Japan made in other jurisdictions, mostly in China.<sup>26</sup>

EIA has repeatedly highlighted over the years how Japan's domestic market controls are unable to prevent the trade in illegal ivory or illegal export, thus undermining the efforts of recently closed ivory markets.<sup>27</sup>

#### **EIA calls on CoP19 to:**

- **SUPPORT urging Parties with open ivory markets, such as Japan, to implement closure of their markets in accordance with Resolution Conf. 10.10 (Rev. CoP18) paragraph 3.**
- **SUPPORT all subsequent draft Decisions, in particular draft Decision 19.DD directing the Secretariat to engage with MIKE and ETIS Technical Advisory Group and TRAFFIC to conduct an analysis of ivory seizures connected to each Party with a legal domestic ivory market and to include the analysis in the ETIS reports to SC77, SC78 and CoP20.**

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#### **CoP19 Doc. 66.4.1 International trade in live African elephant specimens: Proposed revision to Resolution Conf. 10.10 (Rev. CoP18) on Trade in elephant specimens**

EIA supports Doc. 66.4.1 submitted by Benin and eight other African Elephant Coalition members which proposes the addition of a provision to Resolution Conf. 10.10 (Rev.CoP18) on trade in elephant specimens, to limit trade in live African elephants taken from the wild to *in situ* conservation programmes or to secure areas in the wild, within the species' natural and historical range in Africa.

Efforts have been made at recent CoPs to tighten CITES rules on trade in live, wild-caught African elephants. However, the split-listing of African elephants between Appendix I and II, with the Appendix II populations subject to an annotation that confers different restrictions on different populations, has created a situation where there are three different sets of rules concerning trade in live elephants, depending on the animal's country of origin. This has resulted in controversial interpretations of the rules by some Parties to facilitate continued trade to *ex situ* locations, undermining the conservation of African elephants.

#### **EIA calls on CoP19 to:**

- **SUPPORT the proposed amendment to Res. Conf. 10.10 (Rev.CoP18) providing Parties with a clear and unequivocal recommendation that would apply to the**

<sup>25</sup> Japan Tiger and Elephant Fund. 2022. Japan's Tireless Ivory Market: A Trader's Haven Free of Strict Controls. Available at: [https://www.jtef.jp/en/wp-content/uploads/2022/02/IvoryReport2022\\_E\\_m.pdf](https://www.jtef.jp/en/wp-content/uploads/2022/02/IvoryReport2022_E_m.pdf)

<sup>26</sup> EIA. 2021. Data available upon request, summary available at: <https://us.eia.org/campaigns/wildlife/elephants/japan-ivory/> (last accessed 16/09/2022)

<sup>27</sup> EIA. 2022. Last But Not Least: Japan's Domestic Ivory Market. Available at: <https://us.eia.org/report/0220303-last-but-not-least-japans-domestic-ivory-market/>

**trade in all live, wild-caught African elephants, regardless of where they are located or of the CITES Appendix in which they are listed.**

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#### CoP19 Doc. 66.4.2 Clarifying the framework: Proposal of the European Union

EIA opposes Doc. 66.4.2, submitted by the EU and its Member States, proposing to extend discussion on the legal framework in relation to trade in live, wild-caught African elephants to CoP20. It also proposes to amend Res. Conf. 11.21 (Rev. CoP18) to avoid including any references to Resolutions in an annotation to the Appendices and directs the Standing Committee to provide guidance to address the legal effect of Reservations made when an annotation is amended.

We agree with the need to clarify and agree on the rules relating to the trade in live, wild-caught elephants and the effects of reservations to the annotations. However, we disagree with the proposal to extend discussion on the issue beyond CoP19 in paragraph c) of draft Decision 19.AA, which would delay resolution of this controversial and longstanding issue until at least CoP20 in 2025 and could result in significant numbers of additional elephants being taken from the wild and exported to *ex situ* locations, something the EU opposed at CoP18 in Geneva in 2019. Meanwhile, the reservations issue should be addressed separately from live trade in elephants since it has implications beyond elephants for the broader implementation of the Convention.

#### EIA calls on CoP19 to:

- **OPPOSE paragraph c) of draft Decision 19.AA on extending discussion on the rules relating to the trade in live wild-caught elephants to CoP20 and accelerate discussions on this topic at CoP19.**
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#### CoP19 Doc. 66.5 Report on Monitoring the Illegal Killing of Elephants (MIKE)

The MIKE report to CoP19 presents trends in the proportion of illegally killed elephants (PIKE). The report's findings from 2021 align with IUCN's conclusion that poaching continues to be a major threat to African elephants, with PIKE estimates for 2021 across Africa higher than the 2020 estimate, indicating a recent increase in poaching. As such, EIA urges Parties to adopt a precautionary approach in decision-making regarding issues linked to the trade in elephant parts and products.

In Asia, the number of carcasses of illegally killed elephants is reported to have decreased from 52 in 2020 to 21 in 2021, indicating a significant reduction in comparison to recent years. But this may be explained in part by the number of reporting MIKE sites in Asia, which decreased from 26 in 2020 to 22 in 2021. EIA notes that while the killing of elephants in Asia is sometimes linked to human-elephant conflict, recent reports have indicated a concerning trend of poaching, particularly in Myanmar, for elephant skin. We note that the MIKE programme will continue to work with Asian elephant range states to ensure accurate reporting.

The report highlights that poaching seriously threatens elephants in West and Central Africa, which is cause for alarm given IUCN's recent conclusion that forest elephants are now *critically endangered*. PIKE levels for Southern and Eastern Africa are currently low, reflecting the stable elephant populations present in the region, though EIA remains concerned that the report does not factor in how COVID may have impacted data collection, so a precautionary interpretation of this observational data is encouraged.

Crucially, the report suggests that poaching may be higher in countries with lower governance quality, lower law enforcement capacity and lower levels of rural development. This aligns with the conclusion that the West and Central African region is facing high levels of poaching, given the system-level challenges faced by the region as evidenced by indexes such as the Organised Crime Index and Corruption Perceptions Index. It is important to note that system-level challenges continue to exist in Southern and Eastern Africa where PIKE levels are currently low. For example, there has been a marked decline in the 2021 Corruptions Perceptions Index for Botswana.<sup>28</sup>

Decisions regarding trade in elephants or their parts and products made based on PIKE trends in Southern and Eastern Africa may impact West and Central Africa's PIKE trend, especially given the lower levels of governance, law enforcement and rural development in this region, which may increase poaching. It is critical to focus efforts on continent-wide measures to tackle system-level challenges to address elephant poaching.

The report also finds a strong association between the illegal killing of elephants and the global annual trend in the price of ivory. This supports the hypothesis that increased demand for ivory results in a price increase that may incentivise poaching. Therefore, CITES should avoid any decisions that may further stimulate markets leading to increased demand for ivory.

#### EIA calls on CoP19 to:

- **ADOPT a precautionary approach in using CoP19 Doc. 66.5 to inform decision-making about trade in elephant parts and products.**
- **CONTINUE providing support to the MIKE programme and encourage continued reporting by MIKE sites.**
- **SUPPORT decisions and recommendations encouraging Parties to address system-level challenges (corruption, law enforcement capacity), in particular in areas with high PIKE levels.**

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#### CoP19 Doc. 66.6 Report on the Elephant Trade Information System (ETIS)

At SC74, it was suggested that the ETIS report to CoP19 include an analysis of ivory seizures connected to each Party with a legal domestic ivory market. EIA is disappointed

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<sup>28</sup> CPI 2021 for Sub-Saharan Africa: Amid democratic turbulence, deep-seated corruption exacerbates threats to freedoms. Available at: <https://www.transparency.org/en/news/cpi-2021-sub-saharan-africa-amid-democratic-turbulence-deep-seated-corruption> (last accessed 16/09/2022).

that this request was not taken up by the CITES Secretariat and TRAFFIC and that no such analysis was included in CoP19. Doc. 66.6. CoP19 Doc. 66.3 describes how such an analysis would assist the CoP and Standing Committee in decision-making concerning the closure of domestic ivory markets and the implementation of Resolution Conf. 10.10 (Rev. CoP18) (see pages 32-33 for more detail).

The ETIS report to CoP19 indicates that ivory trafficking continues to pose a threat to elephant populations. The third highest weight of ivory seizures for the period 2008-20 was reported to ETIS in 2019, including three record-setting large scale seizures recorded in 2019, each totalling 7.5 tonnes or more. Although the report suggests there is an overall incremental decline in ivory trafficking since the 2014-15 peak, it urges caution in drawing conclusions about the longevity of this decrease given the uncertainty surrounding COVID-19's impacts on reporting and trafficking in 2020. Additionally, the report flags a continued lack of timely reporting by Parties after seizure occurrence, which potentially undermines trend analyses.

The ETIS findings align with MIKE findings in CoP19 Doc. 66.5 that West and Central Africa as a region is a hotspot for poaching and trafficking, which is cause for concern given the critically endangered status of the region's forest elephants.

Nigeria, which has been a Category A country since CoP18, continues to be exploited by ivory traffickers. From 2018-20, Nigeria ranked second largest in terms of total weight-out in the illegal ivory trade, accounting for 29 per cent of the implicated illegal trade volume and included a seizure consisting of the third largest seized amount ever reported to ETIS. Worryingly, although Nigeria made a number of large-scale seizures from 2018-20, these were not reported to ETIS; in fact, Nigeria last reported to ETIS in 2016.

According to the report, Nigeria continues to display poor law enforcement performance rates and there is little evidence of any significant investigations or completed prosecutions taking place. Nigeria has been flagged for non-compliance under both Article XIII and the NIAP process, indicating ongoing challenges within the country to tackle ivory trafficking. EIA supports the continued inclusion of Nigeria as Category A in the NIAP process and encourages the Party to rapidly implement its new National Strategy to tackle its role in ivory trafficking, including increasing its compliance with reporting to ETIS. Failure to report should result in compliance proceedings.

DR Congo (DRC), also subject to compliance proceedings under Article XIII, has been listed as Category B since CoP16, although the report notes a recent deterioration in the country's ability to tackle trafficking warrants the country being upgraded to Category A.

We encourage Parties to support this categorisation, given DRC's ongoing role as a country of export to Asia. DRC has been implicated in the highest volume of illegal ivory trade that was not detected in-country from 2018-20, showcasing that enforcement levels in-country are low. The two largest seizures ever recorded in ETIS were exported from DRC in 2019 and constituted more than 83 per cent of the 21.5 tonnes of reported

seized ivory implicating the country, which sits in stark comparison to the mere 329kg ivory seized within DRC's borders in 2019.

Given the findings in the MIKE report to CoP19 that poaching may be higher in areas facing system-level challenges (corruption, low law enforcement capacity, low rural development), and in light of DRC's and Nigeria's low ranking on indexes such the Organised Crime Index and Corruption Perception Index, urgent remedial action is needed to bolster the region's resilience to ivory trafficking and organised crime broadly. In particular, EIA urges that follow-up investigations and prosecutions be conducted by Parties implicated in ivory poaching and trafficking.

Vietnam has similarly been flagged in Doc. 66.6 for continued large-scale involvement in the illegal ivory trade as "perhaps the most important South-East Asian country".

Despite being a Category A Party since 2014, there is evidence that Vietnam continues to play a complex role in the illegal trade and functions as a processing hub where large-scale shipments of raw ivory are arriving from Africa and large-scale worked ivory shipments are destined for other Asian markets, mainly China. Of note, despite closing its domestic ivory market in 2018 and making strides in tackling trafficking which led to China exiting the NIAP Process at SC70, the ETIS CoP19 report indicates that China remains a primary destination for illegal ivory, suggesting inclusion in the NIAP Process under Category B is not unwarranted.

Since CoP18 in 2019, Vietnam continues to be implicated in many seizures amounting to at least seven tonnes of elephant ivory.<sup>29</sup> Additionally, Vietnamese criminal networks have been operating in Africa for nearly two decades, accelerating the decline in African wildlife populations.<sup>30</sup>

Despite recent enforcement efforts by the Government to address the country's involvement in wildlife crime, further action is necessary to ensure a proportionate response, including tightening international law enforcement cooperation, targeting and investigating wildlife criminal networks and tackling corruption which currently facilitates the illegal trade.

This section should be read in conjunction with the EIA summary and recommendations for the Review of the ETIS Programme CoP19 Doc. 21, on pages 15-17.

#### **EIA calls on CoP19 to:**

- **CONTINUE supporting NIAP Parties and those affected by illegal ivory trade.**
- **SUPPORT at SC75 the revision of DRC from Category B to Category A and the revision of Gabon from Category C to Category B.**
- **SUPPORT at SC75 to the continued inclusion of Nigeria and Vietnam as Category A.**

<sup>29</sup> EIA Global Environmental Crime Tracker. Available at: <https://eia-international.org/global-environmental-crime-tracker/> (last accessed 16/09/2022)

<sup>30</sup> EIA .2021. Vietnam's Footprint in Africa: An analysis of the role of Vietnamese criminal groups in wildlife trafficking. Available at: <https://eia-international.org/report/vietnams-footprint-in-africa-an-analysis-of-the-role-of-vietnamese-criminal-groups-in-wildlife-trafficking/>

- **CONSIDER at SC75 the renewed inclusion of China in the NIAP Process as Category B.**
- **At SC75, SUPPORT time-bound, country-specific decisions and recommendations for Category A countries to curb trafficking and ivory, in particular regarding their enforcement efforts.**
- **ENCOURAGE Parties to improve timely reporting of seizures to ETIS.**
- **RECOGNISE that enforcement effort extends significantly beyond the seizure of wildlife products and the arrest of suspects and includes robust investigations, cooperation with other Parties involved and prosecution of suspects.**
- **SUPPORT the consistent use of the ICCWC Indicator Framework to measure enforcement effort and effectiveness.**
- **ENCOURAGE Parties to direct the Secretariat to include an analysis of ivory seizures connected to Parties with legal domestic ivory markets in future ETIS reports, as raised by the EU at SC74.**
- **SUPPORT draft Decisions in CoP19 Doc. 66.7 regarding the review of the NIAP process.**

### CoP19 Doc. 66.7 Review of the National Ivory Action Plan process

EIA encourages CoP19 to support the draft decisions in CoP19 Doc. 66.7 calling for a review of the National Ivory Action Plan (NIAP) process and its associated Guidelines.

In the 10 years since it began, the NIAP process has not been comprehensively assessed to ensure it effectively and efficiently improves national and international responses to elephant poaching and trafficking. EIA shares the concerns raised at SC67 that without improvements, the process risks becoming a paperwork exercise. EIA believes a review would provide scope for an amendment to the Guidelines to include measures for a systematic review mechanism.

The NIAP process is currently undermined by increasingly low levels of compliance, both in terms of reporting and of progress being made to address NIAP activities. For example, since 2016, a total of 24 progress reports were not submitted in time by NIAP Parties for consideration at regular Standing Committee meetings and, at the most recent SC74 meeting, six of the 14 NIAP Parties were issued with warnings for failure to submit their progress reports in time for consideration at the meeting.

As a result, the Secretariat has begun requesting oral updates from Parties which do not report in time, although this is in contravention of the NIAP Guidelines and deprives the Standing Committee, observer Parties and civil society of an opportunity to review and assess progress ahead of the meeting. In addition, the ETIS report to CoP19 highlights that incomplete reporting by some countries in the NIAP process continues to be a concern.

Furthermore, a review is necessary to address duplication between the NIAP process and other CITES mechanisms. For example, compliance proceedings under NIAP (Resolution Conf. 14.3) and Article XIII currently operate as two parallel processes and, confusingly,

some NIAP Parties have been subject to compliance proceedings under both mechanisms.

Similarly, there is a need for better alignment and integration between the reporting requirements for Parties in the NIAP process with, for example, the annual illegal trade report, the Elephant Trade Information System and stockpile reporting requirements. A review is necessary to streamline this and avoid duplication.

Importantly, the NIAP process in its current form relies heavily on NIAP Parties producing self-assessments of their progress, which is not a transparent, accountable or effective means to ensure that poaching and trafficking are tackled. Furthermore, since the process began, of the current 14 NIAP Parties, five have never been requested to update their NIAPs and are years out of date. A review would address this disparity and ensure more equity between NIAP Parties.

#### **EIA calls on CoP19 to:**

- **SUPPORT the adoption of draft Decisions in CoP19 Doc. 66.7 calling for a review of the NIAP process.**

#### **CoP19 Doc. 67 Big Cats Task Force (Felidae spp.)**

EIA supports the revised Terms of Reference (ToR) adopted at CITES SC74 and supports the Secretariat's document, but with the following proposed amendments: in draft Decisions 19.AA (b) the Secretariat should be directed to "provide support to the Task Force allowing it, inter alia, to fulfil the activities as stated in the terms of reference", given that the full list of activities in the ToR are more extensive than as listed in the draft Decision; and in draft Decision 19.BB new (a) replace "big cat Range States" with "source, transit and destination countries", so that the Task Force findings and recommendations apply to all relevant Parties along the trade chain.

#### **EIA calls on CoP19 to:**

- **SUPPORT the adoption of draft Decisions in CoP19 Doc. 67 with the amends described above.**

#### **CoP19 Doc. 68 Asian big cats (Felidae spp.)**

Tigers and other Asian big cats continue to be subject to population declines, with poaching and trafficking for international illegal trade a primary threat. The wild tiger population is estimated at 4,485, with local extinctions in Cambodia, Laos and Vietnam in the past 12 years.<sup>31</sup>

<sup>31</sup> IUCN Red List 2022. Available at: <https://www.iucnredlist.org/species/15955/214862019> (last accessed 16/09/2022)



Leopards have disappeared from 85 per cent of their Asian range<sup>32</sup> and continue to decline.<sup>33</sup> Since 2000, a minimum of 3,005 tigers have been seized, 738 of which were suspected to have come from captive sources, while more than 6,675 leopards have been seized in the same period.<sup>34</sup>

It is extremely disappointing that only five of the 31 Asian big cat range states have provided reports to the CITES Secretariat in response to Notification 2020/039. It is precisely because of historical lack of reporting that the Parties to CITES have twice Directed the Secretariat to conduct a review of implementation of Res. Conf. 12.5 (Rev CoP18) and associated Decisions. These substantive reviews are available in SC65 Doc. 38 Annex 1<sup>35</sup> and CoP18 Doc. 71.1 Annex 4<sup>36</sup> and the Decisions adopted at CoP18 provided specificity and focus to where progress was urgently required.

EIA supports the Secretariat's recommendations in CoP19 Doc. 68, para 28 a) to c), (which includes retention of Decision 14.69), with some amendments. EIA recommends minor additions to the proposed amendments to Res. Conf. 12.5 (Rev CoP18): in paragraph 1 (h) EIA recommends adding language to ensure that records are centrally maintained by the government to ensure the system is robust, consistent and facilitates reporting to CITES; and in paragraph 5 (d), EIA recommends adding language to specify the intent of Dec 18.106 towards ending demand for tiger and other big cat parts and derivatives.

Regarding CoP19 Doc. 68, para 28 (d), EIA recommends minor amendments to Decision 18.108 (Rev. CoP19) b) and Decision 18.109 (Rev. CoP19) to specify reporting to SC77 and subsequent SCs, reflecting the urgency required to fulfil Decisions that were originally adopted at CoP17, and to address the continued growth of tiger farms since then. EIA also notes that in addition to funding from the UK towards the CITES missions (Decision 18.108), the NGO 4PAWS International has also offered the CITES Secretariat funding to ensure all relevant Parties can be visited.

Regarding CoP19 Doc. 68, para 28 (e), while EIA agrees that implementation of Res. Conf. 12.5 (Rev CoP18) should result in actions that would address the threats outlined in Decisions 18.100, 18.101 and 18.105, it is because of a lack of implementation of the Resolution that these Decisions were adopted at CoP18 and, as the Secretariat notes, more still needs to be done. For example, as per Decision 18.100, Vietnam and Laos should be urged to collaborate more effectively to investigate and disrupt transboundary

<sup>32</sup> Dasgupta, S. 2016. 'Nobody was expecting this': range loss puts leopards in big trouble. Mongabay, 6 May. Available at: <https://news.mongabay.com/2016/05/leopards-serioustrouble-lost-75-historical-range/> (last accessed 16/09/2022)

<sup>33</sup> IUCN Red List 2015. Available at: <https://www.iucnredlist.org/species/15954/163991139> (last accessed 16/09/2022)

<sup>34</sup> EIA Global Environmental Crime Tracker. Available at: (excluding India, statistics from India used from the Wildlife Protection Society of India. Available at: <http://www.wpsi-india.org/wpsi/index.php>) (last accessed 16/09/2022)

<sup>35</sup> CITES. 2014. SC65 Doc. 38. Available at: <https://cites.org/sites/default/files/eng/com/sc/65/E-SC65-38.pdf>

<sup>36</sup> CITES. 2019. CoP18 Doc. 71.1 Annex 4. Available at: <https://cites.org/sites/default/files/eng/cop/18/doc/E-CoP18-071-01.pdf>

networks, given significant seizures of tigers in Vietnam, known and suspected by authorities to have originated from Laos.<sup>37</sup>

Regarding Decision 18.101 and wildlife trade tourism destinations, while COVID travel restrictions may have temporarily reduced the footprint of tourists in Parties where physical retail markets cater to wildlife consumers, established retailers with parallel online retail platforms (e.g. via WeChat) have continued to offer tiger and other illegal wildlife parts and derivatives for sale to be delivered by courier. This includes retail outlets in Laos that have previously been reported to national authorities,<sup>38</sup> catering largely to customers from China. Laos should be urged to demonstrate action it has taken to stop the manufacture and trade of tiger bone wine and sale of tiger teeth from known persistent trade outlets.

Leopards are the most traded of Asian big cats, with China being the primary destination country. Leopard, clouded leopard and snow leopard are still used in the licensed production of “leopard” bone medicine in China,<sup>39 40</sup> despite a lack of verification of legal acquisition.<sup>41</sup> As per Decision 18.105 and para 1) (c) of Res Conf 12.5 (Rev CoP18), more efforts are required to improve enforcement cooperation and eliminate demand, including time-bound action by China to close its domestic market.

EIA urges Parties to oppose deletion of these Decisions and recommend they be renewed at CoP19 and, accordingly, renew Decision 18.107 requiring the relevant Parties to report on progress to the CITES Secretariat in time for the Secretariat to prepare reports for SC77.

EIA is disappointed to hear that the Decision 18.108 missions to countries with captive big cat facilities of concern (Thailand, Laos, China, Vietnam, South Africa, the US and the Czech Republic) will not take place before SC75 and CoP19.

The recommendation to run these missions was first adopted six years ago at CoP17 in 2016 and the continued delay reflects a worrying lack of urgency to address a growing problem. Appreciating that the Secretariat intends to provide a verbal report at SC75 on responses from relevant Parties to an interim questionnaire, EIA urges Parties to CoP19

<sup>37</sup> Vietnam Investment Review 2020. Man receives six-year jail term for transnational wildlife trading. Available at: <https://vir.com.vn/man-receives-six-year-jail-term-for-transnational-wildlife-trading-73268.html> (last accessed 16/09/2022); Viet Nam News. 2021. Tigers saved from illegal wildlife traffickers. Available at: <https://vietnamnews.vn/environment/1005062/tigers-saved-from-illegal-wildlife-traffickers.html> (last accessed 16/09/2022); and Education for Nature Vietnam. 2021 A major breakthrough in combatting illegal tiger trafficking in Nghe An. Available at: <https://env4wildlife.org/2021/08/17/a-major-breakthrough-in-combatting-illegal-tiger-trafficking-in-nghe-an/> (last accessed 16/09/2022)

<sup>38</sup> EIA. 2020. On The Butchers Block: The Mekong Tiger Trade Trail. Available at: <https://reports.eia-international.org/tiger-trade-trail/> (last accessed 16/09/2022)

<sup>39</sup> EIA. 2020. Bitter Pill to Swallow: China’s flagrant trade in leopard bone products. Available at: <https://eia-international.org/report/bitter-pill-to-swallow-chinas-flagrant-trade-in-leopard-bone-products/>

<sup>40</sup> CITES. 2019. CoP18 Doc 71.1 Annex 4. Available at: <https://cites.org/sites/default/files/eng/cop/18/doc/E-CoP18-071-01.pdf>

<sup>41</sup> Norges Bank Investment Management. 2021. Decisions on exclusion and revoking of exclusion. Available at: <https://www.nbim.no/en/the-fund/news-list/2021/decisions-on-exclusion-and-revoking-of-exclusion/> (last accessed 16/09/2022)

to call for a demonstration of commitment to implementation of Decision 14.69 by Laos in particular, through the following actions by SC77:

- a. establish the stripe pattern database from the tigers audited to date
- b. convene an advisory group that includes experts in running non-commercial big cat sanctuaries, including in Asia, to advise on tiger farm phase-out plans (e.g. Wildlife Friends Foundation Thailand, 4PAWS International, Big Cat Rescue)
- c. suspend the breeding of tigers in all captive facilities (by separating the sexes at least), as evidence of intention to implement the phase-out of tiger farms.

Finally, EIA urges Parties to ask the Chair of Committee II to bring Agenda Item 68 forward in the Working Programme and to call for an in-session Working Group at CoP19 to consider further time-bound, country-specific recommendations, drawing on the findings of the previous reviews and the limited response from Parties.

#### EIA calls on CoP19 to:

- **CALL for Agenda Item 68 to be brought forward within the Working Programme and for the establishment of an in-session Working Group to consider further time-bound country-specific recommendations**
- **SUPPORT the adoption of recommendations in CoP19 Doc. 68 para 28 (a) – (c) with minor additions to the proposed amendments to Res Conf. 12.5 (Rev CoP18)**
- **SUPPORT the adoption of recommendations in CoP19 Doc. 68 para 28 (d) with the amendments described above.**
- **OPPOSE the recommendations in CoP19 Doc. 68 para 28 (e) for the reasons described above and RENEW Decisions 18.100, 18.101 and 18.105 with reporting requirements to SC77**

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#### CoP19 Doc. 71.1 Pangolins: report of the Standing Committee and of the Animals Committee and CoP19 Doc. 71.2 Pangolins: proposed amendments to Res Conf 17.10

Docs. CoP19 71.1 and 71.2 should be considered together. EIA encourages Parties to adopt all the recommendations in CoP19 Doc 71.2 (which incorporates the recommendations in CoP19 Doc 71.1) as they more appropriately address urgent threats to pangolins. In particular, Doc. 71.2, submitted by the UK, proposes amendments to Resolution Conf. 17.10 on *Conservation of and trade in pangolins* and related Decisions that encourage those Parties with domestic markets to take all measures to close those markets and to destroy their pangolin stockpiles.

The proposed amendments highlight the urgency for range, transit and consumer states to strengthen law enforcement controls, investigative measures, prosecutorial capacity, pangolin conservation, stockpile management and demand-reduction efforts to combat this trade more effectively.

At CoP17 in 2016, all eight pangolin species were uplisted to Appendix I, making international commercial trade illegal. Despite this, pangolins and their derivatives continue to be illegally traded at industrial levels. Between 2017-21, there has been a minimum of 1,240 seizures involving pangolins and their derivatives, amounting to at least 289 tonnes of pangolin scales plus 10,000 whole pangolins.<sup>42</sup> Pangolin scales are largely trafficked to China, often via Vietnam, and primarily sourced from West, Central and East Africa. This is driven by consumer demand for traditional Chinese medicine (TCM) products containing pangolin scales.<sup>43</sup>

In China, despite the removal of raw pangolin scales from the pharmacopeia in 2020, medicines containing pangolin scales continue to be manufactured and sold.<sup>44</sup> EIA research in 2022 documented a total of 47 pharmaceutical companies in China advertising a minimum of 57 commercially available products containing pangolin scales online. Further, in 2021, EIA found raw pangolin scales for sale in Bozhou and Anguo, home to some of the largest traditional Chinese medicine ingredient wholesale markets in China.<sup>45</sup>

There are currently no signs that China intends to end the use of pangolin scales; the latest draft revised version of the Chinese Wildlife Protection Law, issued in September 2022, maintains existing exemptions allowing for the commercial use of species subject to special State protection, such as pangolins (in Article 28 & 30). This exemption gives provincial forestry departments the authority to permit pharmaceutical companies and hospitals to use pangolin scales from Government-verified but privately held stockpiles in the manufacture of TCM products.

Given the high levels of ongoing illegal trade in scales destined for China and the lack of verification of legal acquisition, EIA remains concerned that domestic markets such as China's contribute to poaching and illegal trade by stimulating demand. The regulated but unverified stockpile system used by China to supply pangolin scales for medicinal manufacture also encourages demand while creating loopholes for the potential laundering of illegally obtained specimens.

#### **EIA calls on CoP19 to:**

- **SUPPORT the proposed amendments to Resolution Conf. 17.10 for Parties and consumer states to close legal domestic markets which perpetuate demand and drive the illegal trade in pangolins.**
- **SUPPORT the proposed amendments to urge Parties to secure and monitor domestic stockpiles of pangolin derivatives and report annually to the Secretariat.**

<sup>42</sup> EIA Global Environmental Crime Tracker. Available at: <https://eia-international.org/global-environmental-crime-tracker/> (last accessed 16/09/2022)

<sup>43</sup> UNODC. 2020. World Wildlife Report 2020. Available at: <https://www.unodc.org/unodc/en/data-and-analysis/wildlife.html>

<sup>44</sup> EIA. 2020. Smoke and Mirrors: China's complicity in the global illegal pangolin trade. Available at: <https://eia-international.org/report/chinas-complicity-in-the-global-illegal-pangolin-trade-smoke-and-mirrors/>

<sup>45</sup> EIA. 2022. Untitled research for publication in 2022.

- **SUPPORT the proposed amendments for Parties and range states to strengthen measures for pangolin conservation, illegal trade investigation, prosecution and demand-reduction.**

### CoP19 Doc. 75 Rhinoceroses (Rhinocerotidae spp.)

The increase in black rhino numbers and decline in Asian rhino poaching incidents reported in the CoP19 Doc. 75 and the report in Annex 3 on African and Asian rhinoceroses produced by the IUCN Species Survival Commission African Rhino Specialist Group (IUCN AfRSG), Asian Rhino Specialist Group (IUCN AsRSG) and TRAFFIC (hereafter referred to as the IUCN/TRAFFIC report) are welcome indications that progress is being made to protect and restore rhino populations in parts of their range.

However, the ongoing dramatic decline of white rhinos driven by poaching to meet consumer demand in Asia demonstrates that the poaching crisis is far from over. From the end of 2017 through the end of 2021, the continental white rhino population has plummeted by 11.8 per cent to an estimated 15,942 individuals and, when comparing today's population estimate to the white rhino population high watermark of 21,316 in 2012, it represents a sobering 25.2 per cent decline.<sup>46</sup>

Most of this poaching has been concentrated in South Africa, which has lost 17 per cent of its white rhinos since 2017.<sup>47</sup> According to the IUCN/TRAFFIC report, the estimated 12,968 white rhinos surviving in South Africa is the lowest on record since before 2005. The vast majority of the killing has occurred in Kruger National Park, which has experienced a devastating 77 per cent depletion of its white rhinos since 2011, with only an estimated 2,458 surviving in the park today.<sup>48</sup>

In neighbouring Botswana, the poaching situation can only be described as catastrophic. Since the last CITES CoP, Botswana's white rhino population has plunged by 46 per cent and more than half of its black rhinos, 54 per cent, have been killed, leaving an estimated 242 white and 23 black rhinos surviving in the country.<sup>49</sup> These population approximations are likely overestimated due to the fact that Botswana failed to make its 2021 poaching data available to the IUCN AfRSG.<sup>50</sup>

EIA is particularly concerned by the lack of transparency from Botswana, given the magnitude of the rhino poaching the Party has experienced since CoP18. Not only was Botswana the only rhino range state for which 2021 poaching figures were unavailable, it has also failed to provide information on law enforcement outputs and population estimates to the IUCN AfRSG.<sup>51</sup>

<sup>46</sup> CITES CoP19 Doc. 75 Annex 4. Available at: <https://cites.org/sites/default/files/documents/E-CoP19-75.pdf>

<sup>47</sup> Id.

<sup>48</sup> The Witness. 2022. DA concerned over decline in rhino numbers at Kruger National Park. *The Witness*. Available at: <https://www.citizen.co.za/witness/news/da-concerned-over-decline-in-rhino-numbers-at-kruger-national-park/>

<sup>49</sup> CITES CoP19 Doc. 75 Annex 4. Available at: <https://cites.org/sites/default/files/documents/E-CoP19-75.pdf>

<sup>50</sup> Id.

<sup>51</sup> Id.

EIA is pleased that draft decision 19.CC directs Botswana and South Africa to review the measures they are taking to address rhino poaching and illegal trade; however, given that at least 200 rhino horns have been trafficked out of Botswana from poached rhinos since 2018, and considering that Botswana made only two reported seizures of three total horns from 2018-20 according to Table 7 in the IUCN/TRAFFIC report, EIA strongly recommends that CoP19 adopts an additional decision directing Botswana to improve information sharing and strengthen law enforcement collaboration with neighbouring countries linked to rhino poaching in, and the trafficking of horns out of, Botswana.

It has been widely reported that many rhino poachers in Botswana are Zambian nationals who cross the Zambezi region of Namibia to access Botswana's rhinos.<sup>52</sup> Indeed, Zambian nationals have been apprehended in the Zambezi region in possession of rhino horns.<sup>53</sup> The apparent near-absence of seizures made by Botswana and Zambia, together with the dearth of available information on any intelligence-led investigations Botswana may have conducted that could shed light on the *modus operandi* of the organised networks trafficking rhino horn out of Botswana, has precluded important connections among these Parties from receiving adequate attention in the IUCN/TRAFFIC report. This should not, however, prevent CoP19 from ensuring it provides appropriate oversight to the rhino poaching and trafficking emergency in Botswana.

EIA further recommends that Namibia be included in draft decision 19.DD. Namibia is home to significant populations of white and black rhinos, which are both affected by poaching and illegal trade. Rhino poaching has increased in 2022, with 48 poached as of 31 August (32 black rhinos and 16 white) according to the Ministry of Environment, Forestry and Tourism.<sup>54</sup> This already exceeds the 44 rhinos poached in 2021 and 42 rhinos poached in 2020.<sup>55</sup> Moreover, Namibia was among the top five Parties for seizures made within its borders from 2010-20 and in the period 2018-20 was ranked third with 32 seizures.<sup>56</sup> At SC74, Namibia was encouraged to actively pursue further strengthening and expanding of its engagements with other Parties in the Secretariat's report on rhinoceroses.<sup>57</sup>

The IUCN/TRAFFIC report identified "apparent low conviction rates" among seven range states, including Namibia, as a concern. Low conviction rates and case backlogs were

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<sup>52</sup> Kooper, L. 2021. Suspected poaching syndicate member denied bail. *The Namibian*. Available at: <https://www.namibian.com.na/209272/archive-read/Suspected-poaching-syndicate-member-denied-bail> [last accessed 16/09/2022]; Espley, S. 2021. Rhino poaching in Botswana – why the smoke and mirrors?. *Africa Geographic*. Available at: <https://africageographic.com/stories/rhino-poaching-in-botswana-why-the-smoke-and-mirrors/> [last accessed 16/09/2022]; The Botswana Gazette. 2021. Namibian rhino poaching suspect is a fugitive from justice in Botswana. *The Botswana Gazette*. Available at: <https://www.thegazette.news/news/namibian-rhino-poaching-suspect-is-a-fugitive-from-justice-in-botswana/> [last accessed 16/09/2022]

<sup>53</sup> Kooper, L. 2019. Man nabbed for possession of elephant tusk, rhino horn. *The Namibian*. Available at: <https://www.namibian.com.na/191972/archive-read/Zambian-nabbed-for-possession-of-elephant-tusk-rhino-horn> [last accessed 16/09/2022]

<sup>54</sup> Xinhua. 2022. Rhinoceros poaching surges in Namibia. *Xinhua*. Available at: <https://english.news.cn/20220901/52829492356549b1b3b882682c1150db/c.html> [last accessed 16/09/2022]

<sup>55</sup> Id.

<sup>56</sup> CITES CoP19. Doc. 75 Annex 4. Available at: <https://cites.org/sites/default/files/documents/E-CoP19-75.pdf>

<sup>57</sup> CITES SC74 Doc. 37. Available at: <https://cites.org/sites/default/files/eng/com/sc/74/E-SC74-37.pdf>

also identified in Namibia in the IUCN/TRAFFIC report to CoP18<sup>58</sup> and it is unclear whether Namibia has sufficiently addressed these issues. EIA recognises the law enforcement progress Namibia has made to address rhino poaching and trafficking and appreciates the information-rich Operation Blue Rhino report provided to SC74; however, available details on convictions remain scarce.<sup>59</sup>

DNA analysis of seized rhino horn can be a powerful enforcement tool for investigating and prosecuting rhino horn trafficking crimes.<sup>60</sup> The IUCN/TRAFFIC report repeatedly emphasises this point while highlighting the underutilisation of DNA analysis despite the availability of existing mechanisms such as the Rhino DNA Indexing System (RhODIS) to trace the source of seized rhino horns.

Rhino horn DNA samples can provide valuable data on the provenance of seized horns (e.g., state-run protected areas or private land, poached or stockpiled horn, government stockpiles or private stockpiles, etc.) to allow governments, law enforcement and other relevant stakeholders to better understand the dynamic nature of international rhino horn trafficking.<sup>61</sup>

While there have been chronic issues associated with obtaining useable rhino horn samples and timely sharing of such samples among Parties, samples of seized rhino horn have been shared with South Africa for analysis from Parties in Asia, Africa and Europe in recent years.<sup>62</sup> However, it is unclear how these samples have been used to inform and advance collaborative intelligence-led investigations into organised rhino horn trafficking networks. Should draft decision 19.FF be adopted, EIA encourages the CITES Rhinoceros Enforcement Task Force to address this issue at its upcoming meeting.

The Secretariat recommends no further follow-up with Myanmar is necessary despite its failure to report on its implementation of Decision 18.111 because there is an absence of data in the IUCN/TRAFFIC report indicating that Myanmar plays a significant role in the illegal rhino horn trade. However, Myanmar is a known trafficking route for greater one-horned rhinoceros horn making its way from India into China<sup>63</sup> and recent reports by WWF and TRAFFIC in the years since CoP18 have revealed online traders based in Myanmar advertising rhino horns to Chinese clientele<sup>64</sup> and highlighted the prevalence of traders openly offering rhino horn for sale in Myanmar.<sup>65</sup>

<sup>58</sup> CITES CoP18 Doc. 83.1 Annex 2. Available at: <https://cites.org/sites/default/files/eng/cop/18/doc/E-CoP18-083-01.pdf>

<sup>59</sup> SC74 Doc. 37 Annex 3. Available at: <https://cites.org/sites/default/files/eng/com/sc/74/E-SC74-37.pdf>

<sup>60</sup> EIA. 2022. Closure of Domestic Rhino Horn Markets that Contribute to Poaching or Illegal Trade and Rhino Horn DNA Forensic Analysis. Available at: <https://us.eia.org/report/20220303-closure-of-domestic-rhino-horn-markets-briefing-for-sc74/>

<sup>61</sup> Id.

<sup>62</sup> SC70 Doc. 56 Annex 14. Available at: <https://cites.org/sites/default/files/eng/com/sc/70/E-SC70-56.pdf>; Vietnam+. 2021. Vietnam hands over rhino horn DNA samples to South Africa. *Vietnam+*. Available at: <https://en.vietnamplus.vn/vietnam-hands-over-rhino-horn-dna-samples-to-south-africa/202395.vnp> [last accessed 16/09/2022]

<sup>63</sup> CITES CoP18 Doc. 83.1 Annex 2. Available at: <https://cites.org/sites/default/files/eng/cop/18/doc/E-CoP18-083-01.pdf>

<sup>64</sup> WWF. 2021. Going Viral: Myanmar's wildlife trade escalates online. Available at: [https://wwfasia.awsassets.panda.org/downloads/wwf\\_online\\_trade\\_ij\\_v2\\_2.pdf](https://wwfasia.awsassets.panda.org/downloads/wwf_online_trade_ij_v2_2.pdf)

<sup>65</sup> Krishnasamy, K. and Zavagli, M. 2020. Southeast Asia at the Heart of Wildlife Trade. *TRAFFIC*. Available at: <https://www.traffic.org/site/assets/files/12648/sea-traps-february-2020.pdf>

EIA is extremely concerned that, following the February 2021 coup, Myanmar has failed to take action to address illegal trade and, under the current circumstances, urges Parties to adopt an immediate CITES trade suspension.

EIA is disappointed that none of the draft decisions contained in Annex 3 of Doc. 75 contained time-bound reporting requirements. With white rhino levels at their lowest in almost two decades and significant amounts of rhino horn continually trafficked to consumers in Asia, this is no time for complacency. All rhino-related decisions adopted by CoP19 should incorporate time-bound reporting requirements to the Standing Committee.

Given the substantial amount of information contained in Doc. 75 and its annexes, we encourage CoP19 to establish an in-session working group in order to provide Parties with adequate opportunity to consider this information, amend the draft decisions and consider proposing new decisions.

#### **EIA calls on CoP19 to:**

- **ESTABLISH an in-session Working Group on CoP19 Doc. 75**
- **SUPPORT the draft decisions contained in Annex 3 with the following amendments:**
  - **include time-bound reporting requirements for Decisions 19.CC-EE and renewed decision 18.116 in advance of SC77 and SC78**
  - **add Namibia to draft decision 19.DD**
  - **add a new subparagraph d) to draft Decision 19.AA: “provide information to the Secretariat demonstrating how rhino horn forensic DNA analysis has been utilised to contribute to the successful prosecution of domestic and international rhino horn trafficking cases, and any challenges experienced by Parties in this regard, in advance of SC77”**
  - **amend paragraph a) of draft Decision 19.FF to read: “... responses to address rhinoceros poaching and rhinoceros specimen trafficking, including the use of forensic DNA analysis, taking into consideration...”**
- **PROPOSE a new decision directed at Botswana: “Botswana is encouraged to strengthen engagement with Namibia, Zambia and any other Parties as appropriate, undertaking joint operations and strengthening information sharing and intelligence exchange to build upon shared efforts to expand collaboration to address illegal rhinoceros horn trade and report to the Secretariat on any activities conducted in this regard for consideration by SC77 and SC78.**
- **PROPOSE an immediate CITES trade suspension on Myanmar**
- **PROPOSE a new Decision directing SC77 and SC78 to consider information supplied by Parties pursuant to the Decisions and make recommendations to CoP20 as appropriate**
- **SUPPORT the draft amendments to Resolution Conf. 9.14 (Rev. CoP17) in Annex 2 of Doc. 75**



## CoP19 Doc. 76 Saiga antelope (*Saiga* spp.)

EIA supports the draft decisions contained in Annex 1 of Doc. 76; however, it notes that as written paragraph b) of draft decision 19.AA is *not* consistent with the measures contained in the Medium-Term International Work Programme for the Saiga Antelope for 2021-2025 (MTIWP 2021-2025). The paragraph only directs saiga range states to report on stockpile management and monitoring measures to the Secretariat when the MTIWP 2021-25 calls on all “countries trading in saiga parts and derivatives to establish internal market controls” for saiga parts and derivatives.<sup>66</sup>

EIA therefore recommends that paragraph b) be amended to also encourage important saiga consumer and trading states, which should be named in the decision, to implement draft decision 19.AA b) and report to the Secretariat on activities conducted in this regard. The important consumer and trading States should include, at a minimum, China/Hong Kong SAR, Malaysia, Japan, Singapore and Thailand which, according to a 2022 study, was found to have a widespread, unregulated use of saiga horn, including illegal trade, despite a lack of any recently reported imports.<sup>67</sup>

EIA is concerned by the continued high demand for saiga horn coupled with the lack of monitoring and transparency of saiga stockpiles in consumer states, which is contributing to poaching and illegal trade in saiga horn. Range and consumer states continue to seize saiga horn, often in large quantities, underscoring the continued risk that illegal saiga horn trade presents to the survival wild saiga populations. For example, in 2019 China made what was reportedly its largest saiga horn seizure ever when it recovered 5,041 saiga horns weighing a total of 1,005.76kg in a warehouse belonging to a pharmaceutical company in Jilin province.<sup>68</sup>

The fourth meeting of the signatories of the Memorandum of Understanding concerning Conservation, Restoration and Sustainable Use of the Saiga Antelope (MOS4) recognised that “stockpiles appear largely unmonitored and limited action is taken to curb illegal trade outside the Range States.”<sup>69</sup> The lack of transparency on the size, management and consumption (including domestic consumption and export/re-export) of saiga stockpiles significantly constrains efforts to determine the degree to which these stockpiles contribute to the illegal trade of saiga specimens.

EIA is therefore disappointed by the poor response to the Secretariat’s request for information on implementation of Decisions 18.270 and 18.271 paragraph d) by saiga range states, none of which provided any information, and by important consumer and trading states of saiga parts and derivatives.

<sup>66</sup> CMS. 2021. Medium-Term International Work Programme for the Saiga Antelope for 2021-2025. Available at: [https://www.cms.int/saiga/sites/default/files/document/unep-cms\\_saiga\\_mos4\\_outcome1\\_mtiwp-2021-2025\\_e\\_0.pdf](https://www.cms.int/saiga/sites/default/files/document/unep-cms_saiga_mos4_outcome1_mtiwp-2021-2025_e_0.pdf)

<sup>67</sup> Gomez, L., Siriwat, P. and Shepherd, C.R. (2022). The trade of Saiga Antelope horn for traditional medicine in Thailand. *Journal of Threatened Taxa*, 14(6), pp.21140-21148

<sup>68</sup> Qyj.365jilin.com. 2020. 羚羊角5041根！涉案价值4.03亿元。 Available at: [http://qyj.365jilin.com/pad/paper/c/202011/26/content\\_21337.html](http://qyj.365jilin.com/pad/paper/c/202011/26/content_21337.html)

<sup>69</sup> CoP19 Doc. 76. Available at: <https://cites.org/sites/default/files/documents/COP/19/agenda/E-CoP19-76.pdf>

According to the Secretariat's summaries of the responses received from China, Hong Kong SAR and Japan, none provided any information on the size of government and/or significant privately held saiga stockpiles. EIA is particularly concerned that Hong Kong SAR is unable to provide any information on the size and nature of its saiga stockpiles because licenses are not required to possess saiga parts and derivatives.

#### EIA calls on CoP19 to:

- **AMEND draft decision 19.AA paragraph b) to refer to important Transit and Consumer States consistent with MTWIP 2021-2025, specifically China/Hong Kong SAR, Malaysia, Japan, Singapore and Thailand**
- **SUPPORT the draft Decisions**

## MAINTENANCE OF THE APPENDICES

### CoP19 Doc. 84.1 Report of the Animals and Plants Committees on standard nomenclature

Res. Conf. 12.11 (Rev. CoP18) paragraph 3 clarifies that updates to standard nomenclatural references and adoption of new ones shall be initiated directly by the Animals or Plants Committee on their own initiative or by the submission of a proposal to the Committee by Parties, Secretariat or in response to recognised taxonomic publications.

EIA wholly supports the Animals Committee conclusion at AC31 that it is necessary to take adequate time to consider the implications for CITES of nomenclatural changes linked to the recent IUCN recognition of African savannah and forest elephants as two distinct species. EIA supports the draft decision 19.AN4 calling on Secretariat to seek the perspectives of Parties and other stakeholders on the potential effects of recognising the separate species for CITES purposes and supports the call to develop a list of all current Resolutions and Decisions that would be impacted by any changes of nomenclature.

EIA also supports draft Decision 19.AN5 calling on the Animals Committee to review the issue at AC32. EIA endorses Draft Decision 19.AN6 directed to the Standing Committee to review the outcomes of the previous draft decisions and to make recommendations for consideration at CoP20. Until this level of clarity and detail is reached, all proposals to downlist elephant populations or to restart ivory trade or otherwise reduce the protection of African elephants must be rejected.

In early 2021, IUCN officially categorised the forest elephants (*Loxodonta cyclotis*) and savannah elephants (*Loxodonta Africana*) as two distinct species, and in the latest revision of its Red List, IUCN made the unprecedented move of highlighting that both species are closer to extinction than previously assessed due to unrelenting pressures from poaching and habitat loss. Previously, the conservation status of African elephants was "vulnerable". Now, savannah elephants have been classified as "endangered" (facing a very high risk of extinction in the wild) and forest elephants as "critically endangered" (facing an extremely high risk of extinction in the wild).

Although they are recognised as two separate species, both are *migratory* and *transboundary* species. Furthermore, the threat of poaching and ivory trafficking has been recognised as a serious *transboundary* criminal matter. As such, EIA urges discussions by the Animals Committee, the Secretariat, the Standing Committee, the Conference of the Parties and other stakeholders to consider and clarify how any nomenclatural change to the listing of both species in the CITES Appendices will ensure protection of *both* species across international borders. This is extremely important to ensure comprehensive law enforcement responses to ivory poaching and trafficking across the continent, without which opportunities to launder “legal” ivory into the illegal market and organised criminality can flourish.

As such, EIA urges all stakeholders to adopt a precautionary approach in discussions surrounding nomenclature. The precautionary principle is already recognised under the CITES framework – for example, Resolution Conf. 9.24 (Rev. CoP17) on Criteria for amendment of Appendices I and II recognises “the importance of the application of Rio Principle 15, the Precautionary Approach, in cases of uncertainty” and “resolves that, by virtue of the precautionary approach and in case of uncertainty regarding the status of a species or the impact of trade on the conservation of a species, the Parties shall act in the best interest of the conservation of the species concerned.”

#### **EIA calls on CoP19 to:**

- **SUPPORT the Draft Decisions 19.AN4, 19.AN5 and 19.AN6 in Doc 84.1 in paragraph 41, relating to Taxonomy and Nomenclature of African Elephants (Loxodonta spp.)**
  - **URGES all Parties and stakeholders to adopt precautionary approach in discussions about nomenclature and to clarify how any nomenclatural changes will ensure protection for a *transboundary* species facing *transboundary* threats.**
  - **REJECT the CoP proposal 4 submitted by Zimbabwe to amend annotation 2 pertaining to the elephant populations of Botswana, Namibia, South Africa and Zimbabwe.**
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