

**Species Survival Network**  
**Critique of the Communiqué of the**  
**5<sup>th</sup> African Elephant Range States Dialogue Meeting**  
**29 – 31 October 2002**

**EXECUTIVE SUMMARY**

Pursuant to the African Elephant Range States Dialogue meeting, a two-page communiqué, with annexes, purporting to reflect discussions and decisions made at that meeting, was drafted by the CITES Secretariat.

**Annex 1**

- Thirteen African Elephant Range States—i.e. 33% of all African countries with wild elephant populations—were not present at the meeting. It is inaccurate to describe decisions from the meeting as representing a consensus.

**Annex 2**

- The press release issued by the CITES Secretariat on 2nd November 2002 is misleading. The Secretariat, not the range States or other Parties, has taken control of the decision-making process with regard to quotas and the “very strict conditions” referred to in the communiqué do little more than stipulate that ivory will not be re-exported.
- The Secretariat will supervise trade, with the Standing Committee intervening to suspend trade only when “non-compliance” has occurred or if “detrimental impacts” on other elephant populations are detected. Neither “non-compliance” nor “detrimental impacts” are defined.

**Annex 3**

- There are two proposed revisions of Resolution Conf. 10.10. One contains amendments drafted by Kenya and India. The other was drafted by the Secretariat but was reportedly not submitted to the range States Dialogue meeting. The existence of these two versions undermined the discussions, since it is not clear which version is being referred to in discussions on compliance with Resolution Conf. 10.10.

**Annex 4**

- Parties, donors and other organisations are urged to provide financial and technical support to strengthen implementation of Resolution Conf. 10.10 (rev) with regard to the control of domestic ivory trade in range States. No resources are guaranteed, nor is there any imperative upon the Secretariat to solicit such funds.

**Annex 5**

- Assessment of the effectiveness of control measures has been conferred on the Secretariat. There are no guaranteed measures (or funding for those measures) to address legislative control of domestic markets. Some countries with domestic ivory markets were named but the list did not include one single proponent Party with a well-documented domestic market, e.g. South Africa, nor was the main consuming market, Japan, mentioned.

**Annex 6**

- It will be the Secretariat’s decision alone, not that of the Parties, as to which technical experts are invited to attend African Elephant range States Dialogue meetings.
- It is proposed that participants at these meetings do not communicate with NGOs during the sessions, nor may they communicate with the media. Participants *may* provide a media briefing at the end of each meeting,

“reflecting the outcome”. The process of achieving this is not defined. Furthermore, concerns were raised that the participants at the 5<sup>th</sup> Dialogue meeting in Santiago did not see the press release drafted by the Secretariat prior to its release.

- “Consensus need not reflect unanimity” in decisions at Dialogue meetings.

## **Annex 7**

Divergent views and concerns among range States are clearly demonstrated. In particular, West Africa predicted that trade without guaranteed controls would be suicidal for its elephants, citing weak and fragmented elephant populations; absence of national strategic plans; insufficient enforcement capacity and the need for caution relating to sales. Furthermore, Central Africa was concerned about insufficient controls on imports and exports, illegal trade, poor law enforcement and infrastructure and lack of resources.

## Species Survival Network

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#### Annex 1

Annex I lists the 24 countries that participated in the dialogue meeting. Six of these 24 countries (25%) are proponent countries with stated positions on trade (five in favour, one against). Unfortunately, 12 Party range States were not present. Additionally the co-proponent with Kenya of the uplisting proposal, India, an Asian elephant range State, was denied permission to attend the meeting.

#### Annex 2

Annotation 604

*b) Trade in live animals for re-introduction:*

- This does not specify the destination, for example, "into protected areas formally proclaimed in terms of the legislation of the importing country" as currently exists in the annotation to South Africa's Appendix II listing.

*f) Trade in registered government-owned stocks of raw ivory:*

- As currently written, the Secretariat, in consultation with the Standing Committee, not the Conference of the Parties, has the power to determine who trading partners will be.
- The specific requirements of Resolution Conf 10.10 (Rev) concerning domestic manufacturing and trade should refer to a specific section by name in the draft in Annex 3.
- The conditions refer only to importing countries. Thus, control of domestic stocks, enforcement at borders and implementation of appropriate national legislation in exporting countries is not a condition for trade (e.g. South Africa has yet to implement CITES in its national legislation).
- Information provided by MIKE during the period after the decision taken and before the sale occurs cannot be considered baseline data, since it reflects conditions that may have been influenced by the decision itself and is highly likely to be skewed as a result.
- **A report by MIKE is not a requirement** and, furthermore, decisions taken by the Secretariat are not contingent upon any report from MIKE.
- The only real condition in the entire document is that imported ivory will not be re-exported. This does not address core issues such as illegal trade, wildlife trade law-enforcement, control of ivory stockpiles or regulation of domestic markets.

*g) Conditions for annual ivory quotas:*

- The determination of fulfilment of the conditions in 604 (f) for an annual quota to be permitted is to be taken by the Secretariat and confirmed by a simple majority of African range States present at the dialogue meeting, rather than by consensus, as has historically been the case, or by the two-thirds majority required for species Proposals at CoPs. This excludes Asian elephant range States and all other CITES Parties from the decision-making process.
- Moreover, confirmation is to be solicited at a Dialogue meeting convened by the Secretariat. As we have seen at the 5<sup>th</sup> African Elephant Range States Dialogue in Santiago, it is difficult to obtain full participation of all range States. It would also appear that only one meeting of the range states is required to authorise ongoing annual quotas.
- Neither the range States nor any other Party is permitted to determine the quantity of ivory to be sold under quota: the Secretariat alone will do that.

The stockpile sale and annual quota "*shall take place under strict supervision of the Secretariat*" although the document in no way defines what that supervision entails.

*"Proceeds of this trade are to be used primarily for activities benefiting African elephants, and for local development and conservation programmes."* The term "primarily" is so vague that it is unclear whether a majority of the proceeds will go to this purpose or whether 'primary' refers to the first use of the money.

Furthermore, the decisions relating to non-compliance with the "conditions" rests solely with the Secretariat and decisions concerning impacts on other elephant populations and the need for cessation of trade is determined by the Standing Committee. No mechanism exists for a range state or other Party to appeal directly to the Standing Committee. Moreover, the mechanism for quantifying non-compliance or detrimental impacts is not defined.

#### Annex 3

Annex 3 is the text of the draft revision of Resolution Conf 10.10 as proposed by Kenya. This resolution is an integral element in decisions relating to trade conditions and the language in Annexes 2 & 3 is contingent on the conditions imposed on trading partners and the Secretariat by Resolution Conf 10.10. However, the Secretariat has also tabled

a draft revision of this resolution that would remove many of the safeguards in the text as presented in Annex 3. The Secretariat's revision would allow quotas to be set in terms **of the number of cut pieces, with no reference to size or weight**; it would remove most of the reporting requirements to the Secretariat; and it would remove the requirement that non-range states (including importing countries) maintain an inventory of their stockpiles. Although the Secretariat has not withdrawn this document, they did not present it to the range states either at the 5<sup>th</sup> Dialogue meeting or at the September elephant Range states meeting in Kenya. Thus, the final 'African consensus' depends for a number of its key elements on a document that may be drastically weakened shortly after the amendment proposals are debated. In effect, the Range States have signed a blank cheque.

#### **Annexes 4 & 5**

The decisions in annexes 4 & 5 are apparently intended to provide the Parties with a degree of comfort that the resumption of trade will be accompanied by a series of "strict measures" relating to domestic ivory trade, law enforcement, control of illegal trade and CITES implementation. However, these measures are recommendations only. **They are not conditions for trade.** In addition, they are "contingent on the availability of funds", they are not guarantees.

The draft decision in Annex 4 does not require the Secretariat or anybody else to make any effort to obtain the funding requested. Even if funds are received:

- Annex 4 does not identify the Parties to be subject to its provisions.
- The provisions in annex 4 offer vague guidance rather than specific targets.
- All provisions in annex 4 are restricted to the control of internal ivory trade in elephant range states. They should also apply to ivory importing and/or consumer states.
- No reference is made to the obligations that must be met regarding the control of internal ivory trade in the absence of financial support.
- In Annex 4 iii) coordination and cooperation must be achieved amongst international as well as national law enforcement agencies.

In Annex 5, the Secretariat can refuse to do any of the things detailed if it considers that it does not have available funding. Furthermore there is no provision in the decision directing the Secretariat or anybody else to seek such funding. In addition, this annex:

a) misleadingly implies that only the countries listed have active ivory markets, when clearly there are some major markets missing from the list, e.g. Japan, South Africa, Senegal;

b) states that if the Parties do not comply with these conditions they may be penalised. However, it is not clear what, exactly, constitutes non-compliance.

#### **Annex 6**

Annex 6 sets out Rules of Procedure for further meetings of the African Elephant Range States. It proposes that the Secretariat may invite technical experts to participate in meetings, however Parties do not have this right.

#### **Annex 7**

Annex 7 contains the Sub Regional "Remarks" submitted in writing.

Contrary to the expression of 'consensus' referred to in the communiqué, Annex 7 clearly demonstrates a wide variety of views and concerns amongst the 4 sub regions. It is remarkable that the strong comments provided by the Central and West African regions were merely appended to, and not incorporated in, the communiqué drafted by the Secretariat. Nor were they translated into English or Spanish.

The Asian region was not represented, nor was India permitted to attend the meeting.

West and Central African countries described in detail their fears about further international trade in ivory. West Africa, in particular, predicted that trade without guaranteed controls would be "suicidal" for its elephants. Central Africa produced a long list of conditions that must be met before they would favourably consider a resumption in ivory trade. These concerns are not reflected either in the communiqué nor in the Press Release from the Dialogue meeting and are buried on pages 17, 18 and 19 of Annex 7, in French.

It is concerning that non-French speakers may not fully appreciate the depths of Francophone Africa's concerns. How the official communiqué drafted by the CITES Secretariat can describe the final outcome as an African consensus in favour of trade is, frankly, bizarre.

### ***West Africa***

Concerning Botswana, Namibia, South Africa and Zimbabwe, West Africa has the following observations:

- In terms of ivory trade, the potential buyers of the ivory are not clearly identified by the four countries
- The quotas have no time limits
- If it is not demonstrated that trade in ivory encourages poaching (sic), we need to be careful to avoid finding ourselves in the same situation as we were in before 1990
- It seems that the ivory stocks in the different countries did not disappear, despite the experimental exports carried out in 1999
- During the different dialogues it appeared that certain of those countries could support other countries in improving the management of our elephant populations.

To conclude in light of the above: the judgement of West Africa is that the opening of the ivory trade without further guarantees would be suicidal for the elephants of our region.

### ***Central Africa***

- Acknowledged that no country in the region has significant control on the import and export or illegal markets of ivory
- Concerning Proposals 12.6, 12.7, 12.8 and 12.10 by Botswana, Namibia, Zimbabwe and South Africa, the delegates recognised the importance of transactions of hunting trophies for non-commercial purposes. They recognised that a one-off sale of ivory stocks could be accepted but the option of quotas and of selling carved ivory cannot be supported at the moment.
- On Proposal 12.9 from Zambia, the participants share the opinion of the Secretariat General of CITES that they should await the report of the Panel of Experts.

### ***East Africa***

The extremely brief summary from east Africa, as reported to the meeting by Uganda, does not appear to express the concerns of Kenya, which did not accept a "one-time sale", and whose concerns were not restricted to the view that its co-proponent of Prop. 12.11, India, should have been permitted to attend.

## **Central and West African 'Sub Regional Remarks' included in Communiqué (Informal translation)**

### **Central Africa:**

- On 17th and 18th October 2002, a preparatory meeting of the Central African countries to the 12th COP of CITES took place in Douala, Cameroun. At this meeting, representatives of seven African elephant range states of the Central African region were present; i.e. Cameroun, Congo, Gabon, Equatorial Guinea, Central African Republic, Democratic Republic of Congo and Tchad.
- Before examining each amendment concerning the elephant, participants discussed general aspects of those amendments. They paid special attention to the similarities between the proposals submitted by the Southern African countries and considered separately the proposal from Kenya and India, as well as the one from Zambia. From this analysis, the following points emerged:

### *Southern Africa:*

- Good understanding of elephant populations.
- Recognition of the importance of elephant management.
- Integrated and participatory management of elephant populations.
- Similarities among the countries concerning management aspects, poaching and flow of illegal ivory.

### *Central Africa:*

- Poor understanding of elephant populations.
- Institutional weaknesses in implementation of the law.
- The financial means for long-term conservation are not guaranteed.
- The participants recognised that no country in the sub-region has sufficient controls on imports, exports and illegal ivory trade.
- Proposal 12.11 from Kenya and India reflects closely the situation in Central Africa. According to the resolutions of COP 10 and 11, there have not been any new scientific data that justify the transfer of the elephant populations of four southern African countries (Botswana, Zimbabwe, Namibia and South Africa) from Appendix II to Appendix I.
- On Proposal 12.9 from Zambia, the participants share the opinion of the Secretariat General of CITES that they should await the report of the Panel of Experts.
- Concerning Proposals 12.6, 12.7, 12.8 and 12.10 by Botswana, Namibia, Zimbabwe and South Africa, the delegates recognised the importance of transactions of hunting trophies for non-commercial purposes. They recognised that a one-off sale of ivory stocks could be accepted but the option of quotas and of selling carved ivory cannot be supported at the moment. Concerning live animals, hides and leather items the participants share the view of the Secretary-General, who notes the lack of quantitative information on the products. However, the participants expressed a wish that the Secretary-General of CITES would define the criteria for "appropriate and acceptable destinations", concerning the trade in live animals.
- The necessary condition to re-open trade in ivory is the effective implementation of a sub-regional strategy for the conservation of elephants, whose key points are:
  - Reinforcement of the capacity of all the actors, including CITES bodies (management and science), and of controls and intelligence, so as to improve the implementation of the Convention, including the adaptation of laws in a national context.
  - Better knowledge of the resource (inventories, etc.).
  - Sensitisation of decision makers.
  - Implementation of long-term mechanisms for financing the conservation of elephants.
  - Good controls.
  - Availability of MIKE data.
  - Traceability of ivory from the elephant range states.
  - Increased involvement of the donors in supporting efforts to conserve the African elephant.
- Concerning the safe-keeping and control of ivory stocks in Central African countries, the participants have recommended the following:
  - To update the stock with the support of experts from the CITES Secretariat.
  - To declare ivory stocks kept by private individuals.
  - To effectively prohibit the domestic trade in carved ivory.
  - To identify weak national mechanisms in the storage of ivory stocks.

- The strategy for the conservation of the elephant in Central Africa is acknowledged to be a major need. The countries concerned should identify their key points on that question, a wish expressed at the first meeting held in Douala in January 2001 and reiterated in the dialogue with the Directors of Fauna during the MIKE meeting in Kenya in September 2002. The African Elephant Specialist Group was asked to put everything in place in order to implement that strategy. The Directors in charge of the conservation of fauna were also reminded to address letters of intent to the Chair of the Specialist Group to signal their approbation. The participants have taken into account the interests of the NGOs in supporting this strategy.

### **West Africa**

- The West African countries, through Togo, thank the Secretariat for organising this meeting. In terms of conserving the elephant, West Africa faces numerous problems. These are:
  - Weak and fragmented populations.
  - Habitat degradation.
  - Continuing human-elephant conflict.
  - Institutional weaknesses at national level.
  - Absence of national strategic plans in certain countries. Only Togo, Burkina Faso and Ghana have strategic plans.
  - Insufficient reinforcement of capacity.
  - Weak implementation of MIKE.
- Concerning Botswana, Namibia, South Africa and Zimbabwe, West Africa has the following observations:
  - In terms of ivory trade, the potential buyers of the ivory are not clearly identified by the four countries.
  - The quotas have no time limits.
  - If it is not demonstrated that trade in ivory encourages poaching (sic), we need to be careful to avoid finding ourselves in the same situation as we were in prior to 1990.
  - It seems that the ivory stocks in the different countries did not disappear, despite the experimental exports carried out in 1999.
  - During the different dialogues it appeared that certain of those countries could support other countries in improving the management of our elephant populations.
- *To conclude, in light of the above: the judgement of West Africa is that the opening of the ivory trade without further guarantees would be suicidal for the elephants of our region.*