

# SPECIES SURVIVAL NETWORK

## BRIEFING FOR

### THE 50<sup>TH</sup> MEETING OF

#### THE CITES STANDING COMMITTEE

15-19 MARCH 2004 GENEVA, SWITZERLAND

### ELEPHANT ISSUES

#### SC50 Doc. 21.2: Determination of Detrimental Impact

This document is seriously flawed. It does not assist the Standing Committee to elaborate on how it would determine that negative effects had resulted from the partial re-opening of international ivory trade and it does not, therefore, “*satisfy the requirements of Decision 12.34*”.

Paragraph 6 (a) states, “*the reporting and monitoring procedures already in place in MIKE and ETIS will provide the Secretariat with information on rates and levels of illegal hunting and trade in elephant specimens*”.

- Data from MIKE and ETIS should be provided to the Standing Committee and, indeed, to all Parties, rather than just to the Secretariat.
- This paragraph explains only where the data will come from. It does not explain how the Secretariat will analyze those data in order to determine the cause of any negative events. In any case, the data should be given to and analyzed by the Standing Committee so that it, and not the Secretariat, can make a determination.

Paragraph 6 (b) states, “*the Secretariat will work with the Parties that report an important increase in illegal hunting of elephants or illegal trade in elephant specimens to establish the veracity of such reports and the linkage, if any, to the commercial trade in raw ivory*”.

- The word “important” should be defined. How will the Secretariat conclude that an “important” increase in illegal killing has occurred and therefore decide to work with the Parties in analyzing the cause?

Paragraph 6 (c) states, “*if the Secretariat determines that there is reason for concern, it will report to the Chairman of the Standing Committee and to the Parties concerned and will formulate recommendations, taking a precautionary approach acting in the best interests of conservation*”. Paragraph 6(d) makes it apparent that any decision with regard to the cause of negative effects lies in the hands of the Secretariat alone: “*If the Secretariat concludes that there has been an important increase in either illegal hunting of elephants or illegal trade in elephant specimens owing to the commercial trade...*”

- The Secretariat should report to the Standing Committee and to all elephant range States, and should collaborate with them in determining whether there is reason for concern and in formulating recommendations.
- With regard to the cause of any negative events, Decision 12.34 clearly requires that the Standing Committee, not the Secretariat, should make the determination.

Paragraph 6 (d) also states, in the event that the Secretariat comes to such a conclusion, “*it will recommend to the Standing Committee that international trade in all specimens referred to in the annotation in the Appendices regarding the *Loxodonta africana* populations of Botswana, Namibia and South Africa be halted*”.

- The sale of stockpiles will already have taken place; therefore this suggestion is meaningless unless Decision 12.34 is interpreted to refer to the *decision* to approve trade in ivory, not the actual *trade* itself. If an increase in illegal killing or trade is observed in close time correlation to the CITES decision to allow trade, trade must be prevented from taking place.
- The rationale behind Decision 12.34 was that there was already considerable controversy as to whether it was possible to determine causal linkages. It is important for the Standing Committee make clear to the Parties what sort of test is going to be applied, and what standard of proof will be required, before any conclusions can be reached regarding a causal link. It is of paramount importance that this information be given to the Parties well in advance of any ivory sales.
- SSN urges the Standing Committee to take a precautionary approach by considering time correlations observed between CITES decisions and trends in illegal activity to be a serious indication of a causal link. Previous time-correlated trends should also be recognized. At CoP12, a graph produced by ETIS showed a clear upward trend in illegal trade in 1997, the year that CITES conditionally approved the previous “one-off” ivory sales.

## **SC50 Doc. 21.1: Control of Internal ivory trade**

Paragraph 33 states that seizures of ivory where attempts have been made to conceal or disguise the ivory disprove the assumption that "*some traders and consumers believe that the legal trade in ivory has resumed*".

- This is an incorrect conclusion. Firstly, it has never been implied that *all* dealers have mistakenly assumed that *all* ivory trade is now legal. Secondly, this suggestion overlooks the fact that smugglers of illicit goods make decisions based on whether or not there is a market for their goods, and even a partial re-opening of trade will give the impression that the market is opening up, thus making the smuggling of ivory, whether disguised or not, a worthwhile risk.

Paragraph 44 states that the Standing Committee has previously agreed that it is likely to be more effective to address implementation of the Convention in a holistic manner, "*rather than through the consideration of one species after another*". Paragraphs 45 and 46 recommend that the control of ivory trade be dealt with as part of this "holistic" approach and, therefore, that measures suggested earlier in the document with regard to specific Parties would not be "appropriate or necessary".

- SSN does not support this recommendation. Elephants have always been regarded by both the Standing

- Committee and the CITES Parties as a special case. No other species has a specific resolution setting out criteria for downlisting individual populations (Resolution Conf. 10.9); no other species for which downlisting proposals have been submitted requires a Panel of Experts to review its conservation status *in situ*; no other species has prompted the establishment of a multi-million dollar monitoring system (MIKE) to assess the effects of trade on individual populations and a highly complex international database (ETIS) of illegal trade in its products; and only a handful of species are the subject of specially-convened Dialogue meetings.
- To agree to the suggestion that elephants should be dealt with as part of a general approach to the implementation of the Convention would be to nullify many of the measures considered necessary by the Parties to minimize the potential problems associated with active ivory markets.
- In addition, certain Parties wishing to export ivory still have not enacted adequate legislation with regard to the implementation of CITES. It should be mandatory for all Parties wishing to export ivory to have Category 1 CITES legislation in place, as suggested by Kenya in Doc 21.3. South Africa, Botswana and Namibia currently all have Category 2 legislation (see SC50 Doc.29).

## **ROLE OF THE SECRETARIAT IN DIALOGUE MEETINGS**

SC50 Doc.13 suggests no changes at all to the document presented at CoP12. Specific concerns regarding transparency and democracy during Dialogue meetings have not been addressed. Key points are as follows:

**The Secretary:** The proposed Rules of Procedure state that "the Secretary" of the meeting (the Secretariat and IUCN) will choose the Chair. This will not help to reduce pressure on range States. Since this document suggests that range State participants should choose the Vice-Chairs, it would make sense for them also to choose the Chair.

**Participation:** For the fifth Elephant Dialogue meeting, certain range States were denied funding to attend, while funding was given to more than one representative of certain other range States. All range States should be invited—and funded—to attend.

While we agree that donors should be welcomed into such meetings, the Asian range States (excluded from such meetings in the past) have at least an equal right. Donors and selected NGOs should not be given preference over Asian—and even some African—range States.

**Technical Experts:** Permitting the Secretary to "*invite, as appropriate technical experts to attend a meeting*" will not alleviate pressure on range States. Any outside experts attending the meeting should be invited by—and approved by a two-thirds majority of—the range States.

It is unacceptable that "*participants should not communicate with the media (or non-governmental organizations outside the Dialogue) concerning the discussions taking place during meetings.*" This makes little sense if NGOs invited by the Secretary participate and it is undemocratic that the Secretary may invite certain NGOs to participate fully while range States are forbidden even to speak to uninvited NGOs.

## **COMPLIANCE WITH THE CONVENTION**

In general the revised draft Guidelines on Compliance with the Convention (SC50 Doc.7 Annex 3) are an improvement. Nevertheless, there are still flaws:

**Absence of Deadlines:** Deadlines enable predictability and prevent the process being extended indefinitely. As

recommended by the EU, deadlines should be specified, especially in paragraphs 25 and 33-37, stating that they are without prejudice to existing programmes.

**Recommended Trade Suspensions:** The revised text fails to allow for the use of recommended trade suspensions in emergencies. The penultimate sentence in paragraph 36 (i)

should read, “*It should also be made where no domestic measures exist to enforce the Convention or where such measures have broken down.*” It is further suggested that the last sentence of paragraph 36 (h) be deleted since it restricts the potential response to non-compliance.

**Enforcement:** The role of enforcement in compliance needs to be included in the Objective.

**Confidentiality:** Paragraph 7 allows too much discretion. Provision (b) on *commercial secrecy* could be used to suppress information and should be deleted or qualified. Provision (c) needs to be tightened to prevent unnecessary exclusion of NGOs from discussions.

**Conservation Impact:** Paragraph 9 implies lack of confidence in the treaty and established non-compliance measures. It should be deleted or amended to read, “*Compliance measures should take into account possible conservation impact*”.

## ANNUAL REPORTS

Regarding SC50 Doc.26.2, SSN is concerned that shortcomings in the CITES Guidelines for the Preparation and Submission of CITES Annual Reports (the Guidelines), and the failure by some Parties to properly implement the Guidelines, result in low standards for reporting data in annual reports. This, in turn, diminishes the value of the trade data upon which CITES relies.

SSN is particularly concerned about poor standards of reporting trade in the ‘parts’ of some species that have high value when carved. For example, at least one Party trading narwhal tusks reports the export of “sets of carvings”, with no details of the number of carvings in the set, or the size or weight of the individual carvings. Furthermore, it is often not clear from the trade data if the carving from an animal is of a tusk, tooth or bone.

Failure to report specific details of the item(s) traded makes it impossible to determine how many animals or plants are contributing to the trade. It also compromises CITES’ ability to assess and monitor the impact of trade on species, monitor the implementation of the Convention, and detect illegal trade.

SSN supports the EU’s decision, adopted at the 28<sup>th</sup> Meeting of the Committee on Trade in Wild Fauna and Flora in November 2003, to standardize the units of measurement used in relation to trade in ‘parts’, in particular in relation to carvings.

SSN urges the Standing Committee to revise the Guidelines and recommends that Parties record two standard units of measurement, and clearly specify the relevant body part, when reporting carvings.

## USE OF SECRET BALLOTS

Secret ballots (SC50 Doc. 9) undermine openness, transparency, public access to information, and government accountability, and are time-consuming. At CoP8, once a request for a secret ballot was seconded, then the question about whether a secret ballot should be held was voted upon and decided by the majority of votes cast. At CoP9, the

requirement for a vote on whether to hold a secret ballot was eliminated. Now, a request for a secret ballot is seconded by ten and then is held. This requires approval of only eleven Parties, instead of 83. SSN urges a return to the CoP8 language.

## ASIAN BIG CATS

Regarding SC50 Doc. 16, and in view of recent seizures of tiger and leopard skins in India, Nepal and China, SSN believes that full support and encouragement should be given to the relevant Parties to ensure the establishment of effective specialised enforcement units, consistent with the guidelines following the 1<sup>st</sup> Meeting of the CITES Tiger Enforcement

Task Force. At the 49<sup>th</sup> Meeting of the CITES Standing Committee, Thailand indicated they were creating a multi-agency unit to combat wildlife crime.

SSN encourages the relevant Parties to give a verbal report to the Standing Committee on progress made.

## BEARS

In SC50 Doc.17, the CITES Secretariat correctly concludes that “illicit trade in live bears and bear parts and derivatives continues.” In the weeks leading up to SC 50, two significant law enforcement actions took place in the United States—one in Alaska and one outside the nation’s capital, Washington, DC. SC50 Doc. 17 notes that seizures have occurred recently

in other countries including Malaysia. It is quite clear that the illegal bear trade continues across the globe, that it affects numerous species including black bears and sun bears, and that Parties should reaffirm their commitment in Resolution Conf. 10.8 and subsequent decisions to address this widespread illicit trade.

## **EXPORT QUOTAS**

SSN supports the efforts of the United States and Germany to further the discussion on the issue of export quotas. The SSN encourages the Standing Committee to use the documents submitted by Germany (SC50 Inf.1 A.1 and Inf.1 A.2) and

the United States (SC50 Inf. 2) as a framework for the development of a draft resolution on export quotas for consideration by the Parties at CoP13.

## **NATIONAL LEGISLATION PROJECT**

Regarding SC50 Doc. 29, the SSN urges the Standing Committee recommend suspensions of commercial trade in specimens of CITES-listed species with: Afghanistan, Algeria, Belize, Benin, Bolivia, Burkina Faso, Chad, Comoros, Djibouti, Dominican Republic, Equatorial

Guinea, Eritrea, Grenada, Guinea-Bissau, Kazakhstan, Liberia, Malawi, Mauritius, Morocco, Mozambique, Pakistan, Panama, Philippines, Rwanda, Seychelles and Sierra Leone.

## **WHALE MEAT TRADE**

At SC49, the Secretariat clarified that the Faroe Islands are bound to the provisions of CITES by Denmark's ratification of the Convention. Accordingly, if Norway and the Faroe Islands traded in whale meat, they would appear to be in violation of the Convention and the matter would be brought

to the attention of the Standing Committee. The Faroe Islands' Customs and Taxation Authority has confirmed that the Faroes "imported 6,451 tonnes of whale meat from Norway between March and June 2003". SSN urges the Standing Committee to address this apparent infraction.

## **CITES LISTING CRITERIA**

Please see SSN's separate report on the CITES Listing Criteria.

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