

CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES
OF WILD FAUNA AND FLORA



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ELEPHANTS

1. The attached document is submitted by Kenya.
2. The geographical designations employed in this document do not imply the expression of any opinion whatsoever on the part of the CITES Secretariat concerning the legal status of any country, territory, or area, or concerning the delimitation of its frontiers or boundaries.

Elephants

This information document has been submitted by Kenya and Mali. It provides reasons behind Kenya/Mali submissions of Proposal CoP14 Prop.6 and working document (CoP14 Doc 53.4 on African Elephant in support of a 20 year moratorium on ivory trade.

Reasons to support a 20-year moratorium on ivory trade

Kenya and Mali, strongly supported by Ghana, Chad, Democratic Republic of Congo, Niger and Togo have submitted a proposal (CoP14 Prop. 6) and working document (CoP14 Doc. 53.4) to CITES proposing a 20 year moratorium on ivory trade and urging range States not to submit down-listing proposals during this period. The moratorium would start after CoP14, and for its duration all trade in ivory would be prohibited except for the conditional one-off sale of a limited quantity of registered government-owned ivory from Botswana, Namibia and South Africa agreed at CoP12 and the export of hunting trophies.

A strong case exists for supporting a 20-year moratorium on ivory trade. This document outlines the reasons for such a moratorium and why a period of 20 years has been proposed.

1 Allow elephant populations the chance to recover

Estimates placed African elephant populations at between 3 and 5 million elephants in the 1930's and 1940's. During the 1970s and 1980s, the population declined precipitously, mostly due to illegal and unsustainable trade in ivory, combined with the increasing loss of habitat from expanding human settlements.¹ While some southern African range States claim to have "too many" elephants, estimates in 2002² put the continental elephant population at between 402,067 and 660,211 animals - approximately 10-20% what it was in the 1930s and 40s.

Almost two decades have passed since experts' highlighted a correlation between the international ivory trade and population declines, and inferred such trade as the major cause of these declines.³ At the same time, Poole and Thomsen stated that slow growth and reproductive rates of the species meant that *"if ivory trade was stopped today it would take heavily poached populations 20-30 years to recover socially and to population carrying capacities"*.⁴ In other words, a minimum of 20 years is necessary to accommodate at least one elephant generation and allow endangered populations to recover with sufficient genetic diversity.

2 Take action against escalating illegal ivory trade

Illegal ivory trade has recently escalated to levels that are being compared to those that occurred before the 1989 decision to ban trade.⁵ Wasser et al report that between August 2005 and August 2006, there were 12 major seizures of African elephant ivory being shipped to the Far East, totaling 23,461 kg, plus 91 unweighed tusks; most of this ivory was deemed to be from freshly killed elephants. They estimate that, assuming customs seizes 10% of all contraband; the seizures correspond to 234,610 kg of smuggled ivory from approximately 23,000 elephants killed in a year.⁶ In our document submitted to CoP14, we detail more recent seizures and estimate that 41,043 kg of ivory has been reported seized between CoP13 (October 2004) and December 2006, representing the highest amount during any period

¹ WWF Factsheet on *Loxodonta Africana*, presented at the 13th CITES CoP, Bangkok, Oct 2004.

² Blanc, J.J., Thouless, C.R., Hart, J.A., Dublin, H.T., Douglas-Hamilton, I. Craig, C.J. and Barnes, A.F.W. "African Elephant Status Report 2002. An Update from the African Elephant Database". IUCN/SSC African Elephant Specialist Group, IUCN 2003.

³ Poole J and Thomsen J (1989) "Elephants are not beetles: implications of the ivory trade for the survival of the African elephant" *Oryx* Vol 23 No.4 Oct 1989.

⁴ *Ibid*

⁵ Wasser, S., Mailand, C., Booth, R., Mutayoba, B., Kisamo, E., Clark, B. and Stephens, M. "Using DNA to Track the Origin of the Largest Ivory Seizure since the 1989 Trade Ban", Proceedings of the National Academy of Sciences of the USA, vol. 104 no 10, 6 March 2007, pp 2228-4233.

⁶ *Ibid*.

between CITES Conferences since 1989.⁷ Using a more conservative assumption that customs authorities seize 15% of illegal ivory shipments, we estimate that this figure corresponds to nearly 274 tonnes of smuggled ivory from almost 40,000 elephants killed in little over a 2 year period, similar conclusions to the Wasser et.al study.⁸

A resolute response is needed by the international community to stem the escalating illegal trade. Wasser et al recommend a major infusion of law enforcement aid on a scale similar to the effort mounted in 1989. However, to avoid the subsequent decline in law enforcement and increase in poaching that followed the withdrawal of western aid by 1993, they advocate an approach, which combines, enhanced law enforcement with DNA technology (see below), education, and improved management. Political will and substantial resources will need to be mobilized. Such an effort cannot succeed amid discussions to re-open trade, which fuel demand and bring additional enforcement challenges. Instead it needs to be underpinned by a moratorium of sufficient length to send a clear message that international ivory trade is banned.

3 Develop and implement new methodologies and cooperative mechanisms to support enforcement

Increased demand for ivory places great pressure on law enforcement authorities, particularly in range States. The infusion of law enforcement aid advocated by Wasser et al needs to include support for mechanisms to improve international cooperation among these authorities and with agencies such as ICPO-Interpol and the World Customs Organization (WCO).

It was recognized in the early 1990s that a regional mechanism to enable cooperative enforcement operations was needed in Africa to combat wildlife crime that was becoming increasingly organized. In 1994, the Lusaka Agreement on Cooperative Operations Directed at Illegal Trade in Wild Fauna and Flora was concluded, and in 1999 the Lusaka Agreement Task Force (LATF) was established. Nearly 13 years after it was concluded, however, the Lusaka Agreement has only 6 Parties. To become a fully effective force to combat organized illegal ivory trade a sustained drive is needed over several years to recruit more member countries. Similarly, it will likely take some years before the recently established ASEAN Wildlife Enforcement Network develops its full potential, even assuming political will can be maintained. Meanwhile, other countries experiencing illegal trade, including those wanting to conduct legal trade, need to engage with these initiatives. CITES Parties also need to improve communication with ICPO-Interpol and the WCO and make more use of Ecomessage to communicate significant cases of illegal trade.⁹ Even if a major injection of resources was to occur, it would still take years – up to 20 or more is a realistic estimate - to build the political will and break down barriers required to develop effective cooperative enforcement.

Considerable progress is being made with developing DNA profiling, which has enormous potential through its ability to identify poaching hotspots and enable focused enforcement efforts to prevent the poaching.¹⁰ However, even assuming resources can be found to support its use, it will be years before such forensics capability is affordable and available to all range State enforcement authorities. A 20 year moratorium will allow time to develop and implement the use of DNA profiling and other new methodologies, and most importantly make them accessible for African and Asian elephant range States.

A 20 year moratorium would also allow time to design and develop a universal computerized system capable of monitoring the flow of ivory and tracing worked ivory back to the tusk or original raw ivory piece and its country of origin in the event trade were to resume in the future. This is currently not possible. To re-open trade before such a system is in place would be premature.

⁷ CoP14 Doc. 53.4 "Illegal ivory trade and control of internal markets", Annex 1 and paragraph 10.

⁸ *This figure is calculated using an average tusk weight of 3.68kg (Hunter N., Martin, E. and Milliken, T. 2004) and 1.88 tusks per elephant (Parker I., and Martin, E. 1982) in CoP14 Doc. 53.4 submitted by Kenya and Mali.*

⁹ CoP14 Doc. 25 "Enforcement matters".

¹⁰ Wasser et al (supra) trace most of the ivory from the 2002 Singapore seizure of 6.5 tonnes of ivory to Zambia.

4 Suppress demand and address factors driving expanding illegal markets

It is notoriously difficult to determine with certainty the factors driving the expanding illegal markets. Moreover, this is a controversial issue. We believe that discussions by CITES on re-opening the trade stimulate the market. For example, some countries, including Kenya, saw a rise in poaching following the one-off sale in 1999 but the CITES Secretariat contested the assertion that the rise was due to the sale. It is believed that the recent increase in illegal trade is being driven mostly by wholesale prices of ivory in China and Japan, which have risen from US\$100 per kilogram in the late 1990s (when discussions were taking place on the first one-off stockpile sale) to US\$200 per kilogram by 2004 to US\$750 per kilogram in 2006.¹¹ According to Wasser et al, "This disproportionately large 3.5-fold rise in the past 2 years has raised concern that commodity speculators may be buying up much of the ivory. Certainly, these trends suggest that the market is being heavily stimulated, adding to current fears that China's growing demand for illegal ivory could jeopardize elephants throughout Africa and Asia." Prices still appear to be rising; a March 2007 news report quotes Japanese enforcers as saying the price for a kilogram of ivory (presumably wholesale) has reached 100,000 Japanese yen (US\$850).¹²

Ivory prices in Sudan and Egypt have also risen by two to fourfold in recent years.¹³ Such steep rises provide greater incentives for those involved in poaching and illegal sale of ivory. Poachers and traders at the bottom of the supply chain are often from low-income families in Africa and Asia. Unless the price of ivory on the black market is reduced it will be difficult to provide sufficient incentive for those engaged in poaching to seek alternative livelihoods. In addition to improving law enforcement efforts and trade controls, it is equally important that the ivory market be suppressed for sufficient time to lose its customer base and lower its value, thereby removing the incentive for illegal criminal elements. A moratorium on trade in both raw and worked ivory is the only way to achieve this. If, as Wasser et al suggest, commodity speculators may be buying up much of the ivory, a short moratorium period will be inadequate to suppress the market. Buyers will simply hold onto their stocks knowing that legal trade is likely to resume in the near future. But if a 20-year moratorium is agreed this will send a clear signal to the markets that international trade is banned, lower the prices (as happened after the 1989 ban) and remove the incentive for buying and stockpiling ivory. A 20 year moratorium will also provide an opportunity to determine with a greater degree of certainty the various factors that have been driving illegal markets and price increases and formulate workable long-term mechanisms to address them.

5 Support and expand the Action Plan to control domestic markets and allow time to enact and enforce new legislation

Several surveys conducted since 1999 have revealed the existence of many illegal or unregulated domestic ivory markets in Africa, Asia and Europe.¹⁴ The Action Plan for the control of trade in African elephant ivory adopted at CoP13 represents the first concerted effort within CITES to clamp down on these markets.¹⁵ It recommends the urgent prohibition of unregulated domestic sale of ivory in all elephant range States¹⁶ and calls on such States to issue instructions to all law enforcement and border control agencies to enforce existing or new legislation rigorously and to engage in awareness campaigns to publicize the prohibition on sales. It further provides for action by the Secretariat to publicize the plan, work with other international organizations, provide technical assistance to range States and conduct verification missions.

¹¹ Wasser et al, *supra*; "Ivory market in China: China ivory trade survey report", IFAW 2006.

¹² "Customs and police show off 3 tons of ivory confiscated from smuggler", *Mainichi Daily News*, 1 Mar 2007.

¹³ Martin, E., "Large Quantities of Illegal Ivory for Sale in Sudan", *Care for the Wild International*, 2005; Martin, E. and Milliken, T., "No Oasis: the Egyptian Ivory Trade in 2005", *TRAFFIC International*, 2005.

¹⁴ Martin, E. and Stiles, D., "The ivory markets of Africa", *Save the Elephants*, 2000; Martin, E. and Stiles, D., "The South and Southeast Asian Ivory Markets", *Save the Elephants*, 2002; Martin, E. and Stiles, D., "The Ivory Markets of East Asia", *Save the Elephants*, 2003; "Elephants on the High Street: An investigation into ivory trade in the UK", IFAW, UK, Mar 2004; Martin, E., "Large Quantities of Illegal Ivory for Sale in Sudan", *Care for the Wild International*, 2005; Martin, E. and Milliken, T., "No Oasis: the Egyptian Ivory Trade in 2005", *TRAFFIC International*, 2005; Martin, E. and Stiles, D., "Ivory Markets of Europe", *Care for the wild International and Save the Elephants*, 2005; Milliken, T., Pole, A. and Huongo, A., "No Peace for Elephants: Unregulated Domestic Ivory Markets in Angola and Mozambique", *TRAFFIC International*, 2006.

¹⁵ Incorporated in Annex 2 of the Decisions of the Conference of the Parties to CITES in effect after CoP13 (*CITES Decisions*, p.49).

¹⁶ Except any Party for which an annotation in the Appendices authorizes trade in worked ivory.

Disappointment has been widely expressed with the progress made with the plan's implementation. There has not been widespread engagement by African elephant range States.¹⁷ Moreover, the Secretariat lacks capacity and resources to fulfill its mandate; verification missions have not been possible, for example. In a joint briefing to SC54, TRAFFIC and WWF recommended that further resources and time need to be directed towards implementation.¹⁸ Moreover, many countries with uncontrolled markets fall outside the plan, including some of those wanting to trade in ivory. A series of investigations carried out in 2006 in countries wanting to re-open legal trade revealed loopholes in ivory trade controls and problems in most cases with controlling domestic markets.¹⁹ These short-comings need to be addressed within the plan.

In the 2005 West African elephant MOU negotiated under the Convention on Migratory Species,²⁰ signatories indicate that they are conscious that domestic trade in ivory within some West African range States significantly contributes to the illegal international trade in ivory and recognize that in some cases it is necessary to review and update national legislation to protect elephant populations.

Reviewing and up-dating legislation is a lengthy process that can take years. The CITES national legislation project has been running since 1992 yet 14 years later, as of SC54 in October 2006, 53% of Parties still did not have legislation that met all the requirements of CITES implementation.²¹ Given the lack of engagement to date in implementing the Action Plan, and the reluctance on the part of the Secretariat to recommend measures for non-compliance, progress by range States in reviewing and if necessary up-dating legislation concerning ivory trade controls is expected to be even slower than under the national legislation project (which has an active mechanism to address non-compliance). Furthermore, other countries with unregulated domestic markets also need to review and up-date their legislation to prohibit such markets – but these countries are not currently part of the Action Plan.

It will take many years to ensure that legislation is in place to prohibit unregulated domestic markets, and even longer to build capacity in range States to enable the rigorous enforcement essential for a prohibition to succeed. The plan requires considerably more resources and time to implement than have been available to date. Furthermore, it needs to be extended to other countries with unregulated markets, including those who wish to trade in ivory. Recurrent discussions about re-opening international ivory trade would not only complicate enforcement and confuse consumers they would jeopardize the success of the plan. A 20 year moratorium, on the other hand, would send a clear message to consumers that buying ivory is unacceptable and make it easier to legislate for and enforce a prohibition, supporting and complementing the plan.

6 Refine MIKE into a more effective tool

A key objective of MIKE – the programme for Monitoring Illegal Killing of Elephants – is “assessing whether and to what extent observed trends [in illegal killing] are related to changes in the listing of elephant populations in the CITES Appendices and/or the resumption of legal international trade in ivory” (Resolution Conf. 10.10 (Rev. CoP12)). Nearly ten years after the idea was conceived, MIKE has not delivered the baseline data required to allow approved sale of the second one-off stockpile approved at COP 13 in 2002.. Since the programme's inception in 1997, there has not been a period of time free from either trade or from an environment discussing re-opening trade at COPs – which can potentially influence levels of illegal killing. Without such data, it is not possible for MIKE to fulfill the directive given to it by Resolution Conf 10.10 (Rev CoP12).

¹⁷ As acknowledged by the Secretariat in CoP14 Doc. 53.1 “Trade in Elephant Specimens”.

¹⁸ TRAFFIC and WWF, *Joint Briefing for the 54th Meeting of the CITES Standing Committee*, 29 Sep 2006

¹⁹ Investigations were carried out in Zimbabwe, Namibia, South Africa, Botswana, China and Japan: Anon, “Elephant Conservation and Management and the Ivory Trade in Botswana and South Africa”, unpublished report, Nov 2006; Anon “Elephant Management and Ivory Trade in Zimbabwe”, unpublished report, Nov 2006; IFAW, “Ivory Market in China: China Ivory Trade Survey report”, June 2006; IFAW, “Business as Usual: A review of the regulatory systems in Japan to control domestic trade in elephant ivory”, Sep 2006; Sakamoto, M., “Control of internal ivory trade in Japan - Compliance with Resolution Conf. 10.10 (Rev. CoP12)”, JWCS, 2006; Reeve, R. and Pope, S. “Elephants and Ivory Trade in Namibia”, unpublished report, Nov 2006.

²⁰ The “Memorandum of Understanding concerning Conservation Measures for the West African Populations of the African Elephant (*Loxodonta africana*)” (West African elephant MOU) signed Nov 2005 by 11 West African range States.

²¹ This figure is derived from SC54 Doc. 36 Annex “Status of legislative progress for implementing CITES (updated on 2 October 2006)”.

Despite the resources and time spent on MIKE in the last 10 years, flaws in the programme persist. These include, among other things, the significant bias towards protected areas in site selection particularly in Southern Region MIKE sites; a lack of field verification of methodologies used in data collection across sites; questions about how data would be analyzed and a mechanism for peer review is lacking; and on-going problems with MIKE staffing and institutional structures within the programme has led to resignation of key staff bringing into question the long-term viability of the programme. MIKE is an ambitious programme. Its flaws need to be ironed out to the satisfaction of all range States. To be a more useful tool, however, MIKE should have the capacity to function as an early warning mechanism for elephant poaching – the original aim with which it was conceived. But to achieve this it would need to be substantially developed and refined. Given that 10 years have already passed but the baseline is not yet complete and flaws in the programme still exist, 20 years is a conservative estimate of the time needed to refine methodology, fix the flaws and to collect data in an environment free from further discussions and decisions on ivory trade.

7 Determine the effects of the one-off stockpile sale

The first one-off stockpile sale was called “experimental”. An experiment is a learning tool, which takes place under controlled conditions, but the sale was conducted before MIKE was functioning and without any baseline data. Without a baseline in place nothing could be learned from the sale; thus, no effects could be determined.

The second stockpile sale was given conditional approval in 2002 just three years after the first took place. This time, establishment of a baseline was one of the conditions for it to go ahead, a condition that nearly five years later remains unfulfilled. But requests to down-list African elephant populations to Appendix II and additional proposals to further open up trade in ivory continue to be presented for approval at meetings of the Conference of the Parties.²² Not only do these have the potential to “contaminate” the data being collected, they influence the ability to determine the effects of the one-off sale.

An impact assessment must be undertaken in an environment free from debate about re-opening the trade; constant discussions send mixed messages to poachers and illegal traders. A moratorium on trade for *at least 20 years* will send a clear signal to poachers – and the public - that international ivory trade will be banned. Nothing would send as clear a signal and provide the controlled conditions needed to determine the impacts of the sale in Africa and Asia - other than an up-listing of all elephant populations to Appendix I. Many range States would prefer this option - delegates from 19 countries, mostly from Central, West and East Africa, signed a Declaration in Accra in August 2006 advocating a ban on trade in ivory and a return to an Appendix I listing for all populations.²³ But if the second stockpile sale is to be allowed as already agreed at CoP12, up-listing to Appendix I is not possible, dictating instead the need for a “moratorium”.

8 Develop a long-term, holistic approach to decision-making regarding ivory trade and elephant management across the species range

Elephants are highly migratory. Many populations cross national borders and are shared between more than one range State. Yet in most cases management decisions are made on a national basis and policies may vary considerably from country to country. Detrimental impacts of differing national policies, legislation and enforcement effort on the continental population of African elephants are yet to be fully appreciated. For example, an uncontrolled domestic market in one country will put pressure on elephant populations in neighbouring countries unable to control poaching. Many elephant populations may be fragmented as a result of heavy poaching, but they do not exist in isolation. Ivory trade and the market forces driving it are international. Decisions in one range State, for example to reopen trade, inevitably affect populations in other range States. This is inescapable. A cooperative, regional approach to management taking into account the needs of the continental population as a whole is imperative. To

²² Namibia presented a proposal to CoP13 for annual export quotas for raw ivory. Proposals to re-open ivory trade have also been submitted for approval at CoP14 by Botswana and Namibia, while Tanzania has submitted a proposal to down list its population of African elephants to Appendix II. See www.cites.org

²³ ‘Déclaration pour la Conservation des Elephants Africains, Accra-Ghana, 22 – 24 Aout 2006’ was signed by delegates from Benin, Burkina Faso, Cameroon, Central Africa Republic, Chad, Cote d’Ivoire, Democratic Republic of Congo, Ethiopia, Kenya, Ghana, Liberia, Malawi, Mali, Niger, Republic of Congo (Brazzaville), Senegal, Sudan, Togo and Uganda.

date, however, decision-making has been as fragmented as some of the remaining populations. And CITES has been equally guilty of this when it comes to the African elephant.

CITES Resolution Conf. 9.24 (Rev. CoP13) states that *"Listing of a species in more than one Appendix should be avoided in general in view of the enforcement problems it creates"*. Nevertheless, four national populations of African elephants have now been transferred to Appendix II while the rest remain in Appendix I. Furthermore, the provisions concerning ivory trade from the four countries whose elephants are in Appendix II are different. Thus, worked ivory is allowed to be exported non-commercially from Zimbabwe but not from South Africa and Botswana, while worked ivory exports from Namibia are restricted to *"trade in individually marked and certified ekipas incorporated in finished jewellery for non-commercial purposes"*.²⁴ This creates considerable enforcement problems when it comes to determining the legality of worked ivory products. Moreover, by taking a national approach to decision-making and allowing trade in ivory from selected populations, CITES has failed to account for the potential impacts of such trade on more threatened populations. Furthermore, since 1997 its decisions have favoured the perceived needs of four countries to the detriment of other countries struggling to protect their populations from poaching.

Range States in West and Central Africa, whose populations have been most severely hit by poaching leaving them fragmented and depleted, have recognized the need for a cooperative approach to elephant conservation. West African States have agreed to work cooperatively to implement a joint conservation strategy through the 2005 West African elephant MOU, while seven Central African range States are currently developing a conservation strategy that may evolve into a similar MOU. Meanwhile, the 2006 Accra Declaration advocates a number of actions in addition to a ban on trade in ivory including community-based participatory management; establishing and safeguarding migratory routes; developing institutional capacities; ensuring effective national policies and laws and their enforcement; identifying an officer to liaise with Interpol in wildlife-related offences; encouraging countries to join the Lusaka Agreement; promoting communication, education and public awareness and the role of development partners and NGOs.

Building alliances to achieve cooperative decision-making and action, which accounts for the needs of all elephant populations, takes considerable time. Even assuming political will and financial support will be forthcoming, it will take many years for countries to achieve the aims of the West African elephant MOU and the actions in the Accra Declaration, while Central African countries are only just beginning to negotiate a joint conservation strategy. The obstacles that the countries trying to build these cooperative mechanisms need to overcome are substantial. Coping with the ramifications of re-opening legal ivory trade - the added strain it will put on wildlife authorities - will divert resources and jeopardize efforts to build cooperative decision-making. A moratorium on ivory trade for at least 20 years is needed to enable the development and realization of long-term, "holistic" approaches to management and decision-making (including through CITES) and support the action needed at national, regional and international levels to address the serious threats facing the species.

9 Provide time to develop solutions which benefit communities and protect elephants

Over the years much of the debate about re-opening the trade in ivory has hinged on the need to alleviate poverty by allowing the utilization of natural resources. What is urgently needed is the development of locally appropriate, ecologically and economically sustainable projects from which local communities can benefit, whilst at the same time protecting elephant populations.

One of the conditions attached to the second one-off stockpile sale is that proceeds of the trade are to be used *"exclusively for elephant conservation and community conservation and development programs within or adjacent to the elephant range"*. But such proceeds mean short-term benefit for a few populations, and potentially long-term detrimental impacts for many populations. A 20 year moratorium on ivory trade, on the other hand, would provide time for the development of viable solutions that will provide lasting benefits to both elephant populations and local communities, as well as the identification of funding sources and exploration of mechanisms for implementation.

10 Apply a precautionary approach

²⁴ *Annotations to Appendix II listings for African elephant populations of Botswana, Namibia, South Africa and Zimbabwe.*

Considerable uncertainty concerning population numbers exists, particularly in West and Central Africa where forest elephants have been hit hard by poaching. The MIKE report presented at CoP13 stated that “the MIKE survey suggests forest elephant range is shrinking due to human pressure, and that poaching of elephants for ivory and bushmeat is occurring widely”.²⁵ It goes on to state that “Unless poaching and the factors that promote it are reduced, the future of central Africa’s remaining elephants remains under real and imminent threat”.

Blake and Hedges also sounded an alarm for forest elephants, both in Africa and Asia, at CoP13. They argue that for Asia, the “oft-repeated global population ‘estimate’ of about 35,000-50,000 Asian elephants is no more than a very vague guess” and that “much of the current published knowledge of the forest elephants of West and Central Africa is based on 15-year old data and guesses, and as such is inadequate for effective conservation planning”.²⁶ They called for a “precautionary approach, which treats all threats as valid without clear linkage of cause and effect. This translates into a strong emphasis on protection of remaining populations and a reduction of threats faced by these elephants, including threats from the trade in ivory”.

There are many uncertainties and controversies associated with elephant populations and ivory trade: uncertainty over numbers, controversy over the “signal effect”,²⁷ uncertainty over the factors driving illegal trade and controversy over the effects of re-opening legal trade. Such uncertainty demands utilization of the precautionary principle, or precautionary approach. Decisions should err in favour of recovery of the most threatened populations in Africa and Asia, not populations in the few range States that want to export ivory. As the minimum length of time required for the most threatened populations to regain their viability, a 20-year moratorium on ivory trade applies a precautionary approach.

²⁵ CoP13 Doc. 29.3 Annex 9.

²⁶ Blake, S., Hedges, S., “Sinking the Flagship: The case of forest elephants in Asia and Africa”, *Conservation Biology* 18:1-12, Oct 2004; see also “Sinking Flagships: The case of forest elephants in Asia and Africa”, Wildlife Conservation Society, 2004 (distributed at CoP13).

²⁷ *Whether discussions on re-opening legal trade and one-off stockpile sales send a signal to poachers and traffickers and stimulate the market.*