

28 February 2019

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The Secretary General
CITES Secretariat
Geneva, Switzerland

Attn.

Mr. Johannes STAHL

Enforcement Support Officer (Consultant)

Enforcement Services Team

CITES Secrétariat

Email : johannes.stahl@cites.org; johannes.stahl@un.org

Dear

Johannes,

CONSULTATION ON PARTIES TO BE CONSIDERED FOR INCLUSION IN THE NIAPS PROCESS

We have carefully read through the ETIS Report to CoP18 and are concerned with placement of Kenya in Category B Parties and the recommendation to include Kenya in the NIAP Process. We would like to comment on the report as follows:

The report recognizes Kenya as one of the countries that have successfully participated in implementation of NIAP and have made significant contribution in combatting illegal ivory trafficking. It also acknowledges that, the country has recorded high Law Enforcement (LE) Ratio; has no domestic ivory market and has deployed other measures that have led to decreased volume of ivory trade through East Africa by over 60%. The ETIS analysis has however not used the results of the NIAP process to assist in deriving its conclusion. It is therefore unrealistic not to link the ETIS report to the NIAP compliance successes.

We are therefore concerned that instead of the report positively highlighting our success in fighting illegal ivory trade through successful implementation of NIAP and as evidenced by the large seizures we made within our borders, it is recommending a return to a process we have complied with notable results. We therefore object the recommendation to place the country in Category B. This approach to interpretation of data and reports is wrong and unacceptable.

Further, Kenya is concerned that the evaluation by ETIS, of countries' performance in implementation of NIAP process leading to the recommendations in CoP18 Doc 69.3 contradicts the evaluation process of the Standing Committee on the same. From the recommendation of this ETIS report, it appears it is a problem when a country makes large seizures of ivory within its territory. When evaluating the performance of countries participating in NIAP Process, large seizures within jurisdiction of a

participating country are rated as good performance, the ETIS Report whether intentional or not, does not make reference to the evaluation of NIAPs by the Standing Committee as informed by the reports filed with the Secretariat. Instead, the ETIS report makes reference to incomplete data for 2017 which it acknowledges to be incomplete yet it uses it to deduce conclusions and make recommendations on it.

Kenya considers it has successfully implemented the NIAP and has exited the NIAP Process since October 2018 in line with Step 5 of the NIAP Guidelines following the decision of the SC70. In its 70th meeting in October 2018, the SC with respect to China, Kenya, Philippines, Thailand and Uganda as Parties that 'substantially achieved' their NIAPs at previous meetings of the Standing Committee

- i) Commended China, **Kenya**, Philippines, Thailand and Uganda for achieving' their NIAPs and for the further measures taken to address illegal trade in ivory;
- ii) agreed that China, Kenya, Philippines, Thailand and Uganda exit the NIAP process in accordance with Step 5 paragraph d) of the Guidelines; and
- iii) Requested the Secretariat to continue to monitor progress in accordance with paragraph 9 of Resolution Conf. 10.10 (Rev. CoP17), and to bring any matters of concern that may arise to the attention of the Committee.

To the best of our knowledge, since SC70, Kenya has had no issue in combating illegal ivory trade that would be of concern to warrant the attention of the Standing Committee. Kenya would therefore strongly object to the recommendation of the Secretariat in CoP18 Doc 69.3 that it re-enters the NIAP Process. It should be reconfirmed that, Kenya has delivered on all actions we promised to address in our NIAP guided by the 5 thematic areas of the Action Plan and there is nothing new or actions required of us to put in the new NIAP were Kenya to reenter the NIAP process.

We are concerned that, perhaps the only basis upon which the report recommends Kenya to re-enter the NIAP process is the low Corruption Perception Index. It is the view of Kenya that the Corruption Perception Index parameter being applied as a measure of performance evaluation on whether a country should or not join in the NIAP process is just but a perception that cannot be addressed through the NIAP process. Kenya therefore strongly recommends that, Corruption Perception Index should not be used as a parameter in determining matters NIAP process.

Kenya reaffirm its commitment to undertaking as necessary, voluntary reporting on its measures but would strongly object to being asked to re-enter the NIAP process.

Yours

A handwritten signature in blue ink that reads "Sincerely," followed by a stylized signature.

DR. PATRICK OMONDI, OGW
FOR: DIRECTOR GENERAL