Proposals on the African Elephant at CITES CoP16

This fact sheet presents comments on two proposed amendments and one consultants' report pertaining to the African elephant that have been presented for consideration to the 16th meeting of the Conference of Parties to CITES, 3-14 March 2010, Bangkok, Thailand. It provides rebuttals to the Secretariat's arguments for rejection of one proposal, as well as views from the African Elephant Coalition on reasons for accepting the second proposal and rejecting the report.

1. The Kenya Elephant Forum in support of the African Elephant Coalition offers the following comments and guidance concerning the CITES Secretariat's recommendations on two proposed amendments to the Annotations to the Appendices, namely:

   - Cop16 Prop. 12. A proposed amendment by Burkina Faso and Kenya with regard to the wording of Annotation 5 to the Appendices on the African elephant; and
   - CoP16 Doc 53.3 (Rev. 1). A Proposed new resolution by Nigeria and Rwanda concerning the African Elephant Action Plan and African Elephant Fund.

A. Support the Burkina Faso and Kenya Proposal

CoP16 Prop. 12. Amend the annotation for *Loxodonta africana* as follows (additional text underlined, deleted text struck through):

h) no further proposals to allow trade in elephant ivory from any populations ~~already~~ in Appendix II shall be submitted to the Conference of the Parties for the period from CoP14 and ending nine years from the date of the single sale of ivory that is to take place in accordance with provisions in paragraphs g) i), g) ii), g) iii), g) vi) and g) vii). In addition, such further proposals shall be dealt with in accordance with Decisions 14.77 and 14.78 (Rev. CoP15).

CITES Secretariat Recommendations	KEF Comments
1. The proposed wording in the annotation refers to "the date of the single sale of ivory that is to take place", but this 'single sale' actually occurred four years ago, in 2008 and the two Decisions referenced are scheduled to expire after CoP16.	1. An irrelevant observation, since the point of the proposed amendment to the annotation is not to alter the timing of the annotation from the original.
2. As regards the main purpose of the proposal, the proponents claim that the suggested language would better reflect "the intention" of what the Parties meant at CoP14, but this is questionable given that the current annotation was collectively agreed and proposed there by all African Parties, and adopted by consensus.	2. It is the Parties' prerogative to judge the original intent. The amendment provides an opportunity to revisit the language in order to provide precision and clarity in interpreting the annotation. If wording is found to be wanting given the unfolding of events subsequent to the original drafting, Parties may amend it.
3. More generally, the Secretariat is of the view that the annotations related to the listing of *L. africana* in the Appendices are no longer solely governed by the listing criteria or the existing guidance on annotations. They are the result of protracted, difficult negotiations and compromises, and consequently have become particularly lengthy and detailed.	3. The Secretariat appears to be unilaterally changing the ground rules governing annotations as they pertain to the African elephant. Only the CoP can sanction such changes, The listing criteria and guidance on annotations applies to all listed species. It is not tenable to apply and interpret them selectively.
4. The existing annotation was agreed and proposed by all African Parties at CoP14, and is widely understood and adhered to. It would be preferable if amendments to it were agreed in a similar spirit of continent-wide consent and agreement.	4. See comment (2) above.
5. A debate on this matter - at a time when all African elephant range States are uniting to face the common challenge of increased levels of illegal killing of elephants in Africa and illegal trade in ivory - could take valuable time and attention away from the focus on agreeing to more concerted and coordinated enforcement responses thereto.	5. The proponents do not deny the need for Parties to unite to face a common challenge with regard to elephants, including enforcement and, more importantly, reducing demand. They clearly consider a vital part of meeting this challenge is to have the language of annotations to the Appendices worded as precisely as possible to avoid potential loopholes in the control of the flow of ivory. Hence taking time to ensure the language is clear is valuable and well spent.
6. Based on the information available at the time of writing (late January 2013), the Secretariat recommends that this proposal be rejected.	6. *The amendment should be supported.* Numbering added for clarity.

B. Support Nigeria and Rwanda Resolution to the Conference of the Parties

2. The African Elephant Action Plan requires resources as envisaged in the establishment of the African Elephant Fund. The greatest gap in information for decision-making with regard to elephants is the status of populations. Rates of attrition can be inferred to some extent indirectly from sources such as ETIS seizure data and MIKE/PIKE metrics (the results of which argue strongly for the precautionary principle in any considerations of a trade in ivory), but any rational planning for the elephants' future requires that numbers are known. That in turn requires investments in surveys.
3. There must be realistic investment in capacity at the local and national level to meet the seven substantive objectives of the Action Plan, namely, reduce illegal killing of elephants and illegal trade in elephant products; maintain elephant habitats and restore connectivity between populations; reduce human-elephant conflict; increase awareness on elephant conservation and management of key stakeholders that include policy makers, local communities and other interest groups; strengthen range states' knowledge on African elephant management; strengthen cooperation and understanding among range states; improve local communities' cooperation and collaboration on African elephant conservation.

CoP16 Doc 53.3 (Rev. 1)
Proposed new resolution concerning the *African Elephant Action Plan* and *African Elephant Fund* (Nigeria and Rwanda)

African Elephant Action Plan and African Elephant Fund

CONCERNED that African elephants face numerous, serious and ongoing threats including illegal ivory trade, human-elephant conflict and habitat loss;

AWARE that these threats are affecting African elephants across their range;

DETERMINED to take effective and timely action to reduce illegal killing of elephants;

RECOGNISING that, at CoP14, the CITES Parties directed the African Elephant Range States to create an African Elephant Action Plan;

AWARE that the African Elephant Action Plan was finalised and approved as a consensus document by all 37 African Elephant range States at CoP15;

AWARE that the African Elephant Action Plan contains related and prioritised Objectives designed to reduce the level of threat facing African elephants and ensure their continued survival across their range;

RECOGNISING that an African Elephant Fund has been established as a multi-donor technical trust fund under the auspices of UNEP, to attract funding and direct resources for effective implementation of the African Elephant Action Plan;

COMMENDING all donors that have so far contributed to the African Elephant Fund;

AWARE that disbursement of funds for implementation of the African Elephant Action Plan has commenced;

THE CONFERENCE OF THE PARTIES TO THE CONVENTION

URGES all Parties, donors, intergovernmental organizations, non-governmental organizations and other stakeholders, as a matter of priority, to provide financial contributions to the African Elephant Fund to support implementation of the African Elephant Action Plan.

DIRECTS the CITES Secretariat to integrate the need to fundraise for the implementation of the African Elephant Action Plan into its overall CITES fundraising strategy and to submit a report at each meeting of the Standing Committee on its efforts to raise funds for the African Elephant Fund.

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African Elephant Action Plan and African Elephant Fund

Directed to the Standing Committee

16.XX DIRECTS the Standing Committee to request that UNEP provide the necessary secretarial support to the Steering Committee of the African Elephant Fund to ensure it is able to meet its obligations concerning the implementation of the African Elephant Action Plan.

C. Reject the report on and the concept of a 'Decision-Making Mechanism'

4. CoP14 in Decision 14.77 Directed the Standing Committee as follows:

   The Standing Committee, assisted by the Secretariat, shall propose for approval at the latest at the 16th meeting of the Conference of the Parties a decision-making mechanism for a process of trade in ivory under the auspices of the Conference of the Parties.

5. The resultant consultants' report, 'Decision Making-Mechanisms and Necessary Conditions for a Future Trade in African Elephant Ivory' is seriously flawed on procedural, economic, biological, political and operational grounds. **See KEF Fact Sheet No. 7 for a critique of the report.**

6. KEF therefore strongly recommends that the entire document be rejected and that Decision 14.77 be repealed. With poaching and illegal ivory trade at the highest levels since the 1980s, this is not the time to be considering a special process for a legal trade in ivory, which in any case is inappropriate since CITES already has clear procedures for decision-making.