The CITES "Decision-Making Mechanism"

This paper summarises the strong arguments from governments and independent scientific experts criticising the consultants' report and opposing the concept of a 'decision-making mechanism' (DMM) for a process in international trade in ivory. Both the report and the underlying concept of a sustainable trade in ivory should be rejected as being seriously flawed in terms of procedures, economics, biology, geo-politics and operations.

Background

1. At its 14th meeting (The Hague, 2007), the CITES Conference of the Parties (CoP), adopted Decision 14.77: "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".

2. The resulting consultants' report, *Decision-Making Mechanisms and Necessary Conditions for a Future Trade in African Elephant Ivory* (SC62 Doc. 46.4 Annex) is the subject of this Fact Sheet, which presents the views and considered opinions of nearly seventy elephant conservation and research experts of the KEF as well as many of the recorded objections of CoP members.

3. The African Elephant Coalition (AEC; see KEF Fact Sheet No. 1) firmly believes that harvesting living elephants for ivory is both *unethical and unsustainable*. 'Harvesting' creatures with a lifespan of 70 years, a large 'thinking' brain, extensive ability to communicate, and a complex social system (see KEF Fact Sheet No. 5) cannot be justified on any ethical or humanist grounds.

4. The consultants' report should be rejected in its totality.

Procedural issues

1. **The consultants' report does not match the terms of reference; it is founded on a basis contrary to the terms.** The Terms of Reference for the consultants' report (Notification 2011/031) clearly stated that the study was "not to determine whether there should or should not be international trade in ivory". Yet the draft report takes the existence of a trade as given: "...this discourse assumes that a decision to trade internationally in African ivory has been taken." The report then addresses how best to service and maintain that trade, which negates the objectivity of the report

2. **The process of awarding the tender appeared biased towards those supporting a trade in ivory.** The language of the Terms of Reference and the well known and documented pro-ivory trade interests of the winning bidders appear to conspire to favour a future trade in ivory, benefiting pro-trade southern African nations. There was a second call for proposals for no apparent reason; there was lack of consultation with relevant parties (AfESG or Range State NGOs) until well after the process started; and there was only hasty "consultation" with the IUCN Sustainable Use Specialist Group.

3. **CITES should maintain an unbiased perspective, not serve as a trade advocacy agent.** Trade in animal products has economic, social and ethical dimensions as well as conservation implications. Reports to the standing committees must be produced by disinterested, objective and neutral parties rather than acknowledged advocates for a particular outcome. Serious flaws in internal and external processes bring CITES into disrepute, and the distorted focus on the ivory trade undermines conservation and anti-poaching efforts.

Economic considerations

1. **The report does not acknowledge excessive demand as the main driver of illegal killing of elephants**, and does not address the decision-making required to manage the drivers of the illegal trade that pose an immediate and critical threat to the future of elephants.

2. **The report's reliance on market forces to ensure a sustainable trade appears naïve at best** given the general inability of the market to regulate trade in any wild species and the repeated failure of market controls for ivory. It is apparent that belief in the benefits of trade for conservation was a premise of the consultants - and the CITES Secretariat - rather than a conclusion.

3. The report was to evaluate the international trade regimes and controls. However, **the consultants undertook no economic analysis of the drivers pertinent to the particular situation of the ivory trade**, either past or future, nor did they examine the validity of existing external analyses.

4. **The report focuses on generalities of wildlife trade using as examples non-lethal harvesting (vicuña) and captive breeding (crocodile)**. Neither of those 'success stories' is pertinent to unmanaged common goods, cross-border populations, and a slowly reproducing species whose generation time is 25-35 years.

5. **There is no discussion of the economic modelling that has clearly demonstrated illegal trade would drive elephants to local extinction** in the absence of compliance and monitoring across borders.

6. **The report does not adequately confront the significant role of accelerating demand in the East and does not recognise that the demand can never be met naturally**, even with the (over-estimated) assumption that all elephant populations can grow continuously at ca. 5%.

7. **The report does not take into account the 9-10% annual growth of the economy of the major consumer nation, China. Moreover, it assumes that Japan and China** will continue as approved trading partners without question. It also fails to address the very significant role played by Thailand as a major consumer market and source of demand for illegal ivory.

8. **The report ignores the fact that domestic controls of ivory sales in China have failed.** The majority of ivory currently on sale in China comes from illegal sources. Demand is accelerating, and most Chinese buyers are unaware of the negative effect of their purchases on elephants. Adequate domestic controls that premised the one-off sales have failed.

9. **The principle recommendation of the report to set up an international Central Ivory Selling Organization (CISO) is fundamentally flawed.** The CISO draws its inspiration from the trade in diamonds, in which the seller has been in complete control of the price and volume of trade. There are fundamental differences between diamonds and ivory as raw materials. The wide distribution of ivory-bearing elephants, the complexity of tenure over them, the difficulty to control access and the number of interested and competing parties in governmental and private sectors all differ significantly from the diamond model. A CISO would work only if all elephants could be completely protected from exploitation by those outside the system, which is patently unrealistic.

10. **The De Beers diamond cartel -- the model for the CISO – is an anomaly in the world of commodity cartels and a poor model for a renewable resource that is diminishing in supply.** DeBeers only worked well as long as there was a virtual monopoly on diamond marketing and no independent diamond producing countries. De Beers control unravelled when countries like Sierra Leone entered the market in an uncontrolled manner (which led to the 'blood diamond' human rights abuses). The report fails to recognise that the De Beers system has not successfully controlled the supply of diamonds and prevented illegal trade.

11. **The CISO is styled as a highly centralised, top-down hierarchal system** in stark contrast to the wealth of experience in Community-based Natural Resource Management (CBNRM) that points to the essential requirement for revenue generation and sharing at local levels.

12. **The supposed benefits to local communities of an ivory marketing system are illusory and counter to best practices of CBNRM.** The net benefits accruing from ivory sales are likely to be very small, after the costs of administration, ivory stockpile storage and particularly protection of elephants from poachers are discounted from gross revenue.

13. **The assumptions on which the report's CISO mechanism is based are patently false, namely, that legal, enforced and evidence-based quotas will replace poaching, and that the quotas established by the inadequate modelling will have no effect on sustainability of elephants throughout Africa.** As long as there is a market-driven trade system with a demand level that is higher than the intrinsic growth rates of elephant populations, eliminating illegal harvesting to meet this high demand would be difficult, if not impossible. The proposed mechanisms are wholly inadequate.

Geo-Political imbalance

1. **The report's focus on the conditions applying to southern African Range States undermines its applicability to other elephant Range States.** It concentrates disproportionately on Appendix II elephant populations, avoiding a critical examination of how any legal ivory trade could be conducted without facilitating a parallel illegal trade in the rest of Africa.

2. **The basic assumptions and the data on which the report is based are not applicable to elephants continent-wide.** Adequate and comprehensive population monitoring is urgently needed to determine the security and stability of all populations – not just those in Botswana. A particularly serious omission is that the report does not address the high probability of extinction of central and western African elephant populations or the alarmingly intensifying pressure on elephants throughout eastern Africa. The last continent-wide population estimates are half a decade old and have enormous uncertainties for all but a handful of countries.

3. **The report's review of the historical trade ignores the recent DNA sourcing of illegal ivory providing evidence that central and southern Africa are both experiencing illegal trade.** The report instead relies on carcass encounter modelling data based on very small annual samples that exclude Central African forested regions in DRC not covered by MIKE and thus lack general applicability across the continent.

4. **The proposed CISO process does not include a shared role for non-trading Range States** and does not provide any information on the impact of the proposed system on the many States that oppose ivory trade.

5. **The report does not consider the likely scenario that once illegal killing has exhausted the ivory supplies of West, Central, Eastern Africa, and the vulnerable parts of Southern Africa, the excessive demand will then move down to the remaining Southern African states of Namibia, Botswana and South Africa** that so far have enjoyed relative immunity to the high levels of poaching.

6. **The report makes several questionable and often offensive statements about the inability or unwillingness of Range States to invest sufficiently to protect their elephants.** This is clearly untrue, as evidenced by the development of the African Elephant Action Plan. These statements also disrespect the memory of many dedicated rangers throughout Africa who have given their lives to protect elephants.

7. **Finally, the closed structure and restricted membership of the proposed CISO is contrary to Guiding Principle 8 of the African Elephant Action Plan**, which is to provide 'a mechanism for channelling available funds into elephant conservation through a process which has been developed, owned, approved and managed by all the African elephant Range States…'

Scientific issues

1. **The report does not consider the latest data from MIKE, ETIS or the perhaps more relevant individual research programmes, showing the current dire poaching losses elephant populations are suffering across their range** (see KEF Fact Sheet, *The Ivory Trade and Elephant Poaching*). The MIKE system has established monitoring sites in a number of locations around the continent, and it has begun to detect significant elephant mortality. Yet reliable data collection remains a challenge in many countries, and funding for sustaining the system is by no means secure. It is not clear that MIKE records alone have been able to track the true levels of illegal killing of elephants that are being revealed by other surveys across the continent, while its ability to attribute killing levels to causal factors, notably ivory sales, is open to question.

2. Despite relatively good data from localised MIKE sites, **there are no comprehensive data on total population size on which to base international policy leave alone against which to run offtake models (see para. 6, below).** As of mid-February 2013, the IUCN African Elephant Specialist Group had not produced a status report of elephant population counts and estimates from the African Elephant Database since 2007.

3. **The report makes misleading statements about the effects of the 1989 CITES ban on international trade, and sweeps aside any notion that one-off sales of stockpiled ivory have an impact on illegal killing of elephants**. The 'evidence' for the lack of a relationship between the ban and poaching or between one-off sales and increases in illegal killing comes not from peer-reviewed sources, but from an opinion statement by the former CITES Secretary-General and an unpublished expert report. It is likely that both the requests for sales as well as the sales themselves drive an increase in illegal trade, and in a way that is not a simple time-bounded correlation. The association must be tested.

4. **Any legal offtake of ivory (as proposed in the report) as well as the illegal killing attendant to a trade would result in biologically unsustainable and socially dysfunctional elephant populations.** Skewing the age structure of elephants (by reducing older male numbers) and disrupting social structure by killing old females is now known to have negative impacts on population dynamics because of the role played by sociality in the demography of elephants. There are also recorded negative impacts on demographic structure, life history and reproduction, genetic and phenotypic diversity, the loss of ecological knowledge following the death of matriarchs, and the breakdown of typical social behaviour, for example, rhino attacks by young males in the absence of older bulls.

5. **The report fails to undertake or recommend an Africa-wide risk analysis – an absolute necessity for decision-making systems pertaining to threatened species.** Given the systemic uncertainties arising from lack of appropriate analysis of the effects one-off sales, the lack of effective and comprehensive monitoring of populations, and the lack of enforcement capacity to tackle trafficking linked to criminal networks across Africa and Asia, it is clear that any trade in ivory presents enormous risks to elephants and elephant conservation. Accordingly, it would be logical to follow the precautionary principle.

6. **The population model in Annex 2 of the report forms an inadequate basis of justification for sustainable offtakes.** The model provides no validation for its key assumptions and is based on Botswana thereby ignoring long-term data from other study sites. The assumptions used – low age at first birth, short inter-birth intervals, unrealistically low age-specific mortality rates (by comparison with known populations), equal mortality risk for males and females, and a stable age distribution – are all contrary to the evidence from known individuals in long-term monitored populations. That populations can end up 'skewed towards males (1.2:1)' with their larger tusks is biologically unlikely for any mammal species, and especially for those under intensive hunting pressure.

7. **The invoked population parameters are most likely not relevant to forest elephants** that have potentially slower reproductive rates and discrete social units, and which make up a large proportion of the remaining populations in Central Africa (e.g. in Gabon).

8. **The population models in the draft report assume stable age distributions, but real populations in the process of recovery from episodes of disturbance (through poaching or natural hazards) have different underlying demographic parameters from those seen in stable populations.** This level of variance in disturbed populations will affect life histories and future vulnerabilities in the face of trade quotas, reducing population resilience as well as the reliability of a harvest regime.

9. **The report does not take into account the historical effects of uncontrolled ivory poaching on the variability of population processes**, in order to improve modelling of the potentially catastrophic effects of the more efficient armed and mobile poachers of the 21st Century. The probabilistic and unpredictable nature of illegal killing (coupled with the highly variable ecological drivers of non-equilibrium ecosystems) is clearly prone to disrupt age distributions and demographic rates and thus the sustainability of any harvest regime. Population size itself is a critical factor affecting population vulnerability to stochastic events, particularly in the forest blocks of Central Africa where only six of the forest regions are left with more than 500 elephants.

10. **Finally, the report is silent on the elasticity and sensitivity analyses that would be necessary to validate such population models in order to predict the sustainability of market-driven high levels of offtake for ivory** (in contrast to the tiny number removed through hunting licences) and to determine which model parameters have the greatest effect on population size and which can alter within predicted bounds without major impacts on the harvest regime.

Operational issues

1. **The report assumes a near-perfect command-and-control world and significantly underestimates the difficulty of achieving comprehensive enforcement capability in many elephant range and ivory-consuming States.** The study naively assumes that it is possible to establish a trade in ivory "*that minimises corrupt practices and the laundering of illegal ivory by creating conditions that are advantageous for a legal trade*" and that introducing such conditions would be enough to reduce the illegal killing of elephants. The report does not provide any explanation of how any cartel would be able to control all supply of and demand for ivory in Africa; yet, if the cartel did not totally control supply and prices, it could not function.

2. **There is no consideration in the report for the necessary resource-intensive enforcement across highly permeable boundaries, along with continuous (and costly) monitoring of ports and points of international transit that would be essential to ensure that only 'legal' ivory were traded.** The evidence that such enforcement can be sufficiently funded, operate without corruption, and function in the face of well-armed poachers and organised criminal gangs of exporters is limited and unconvincing.

3. **The report dismisses problems with compliance monitoring and enforcement in Range States other than the four southern African proposers of trade.** The report gives no explanation of how controlling a legal ivory output from a handful of states in Southern Africa would diminish the flow of illegal ivory and illegal killing from elsewhere. There are some thirty-seven elephant Range States in Africa whose elephants produce ivory. If illegal killing and trading continue, as seems overwhelmingly likely, the proposed CISO would not – contrary to the claims in the report – be able to control or influence demand in any real way.