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THIRD SESSION

SENATE STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL
RESOURCES

REPORT ON THE EIGHTEENTH MEETING OF THE CONVENTION ON
INTERNATIONAL TRADE IN ENDANGERED SPECIES OF WILD FAUNA AND
FLORA (CITES) COP18

GENEVA, SWITZERLAND 17TH TO 28TH AUGUST, 2019

Clerk's Chambers,
Parliament Buildings,
P. O. Box 41842-00100,
NAIROBI.

OCTOBER, 2019

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ACRONYMS/ ABBREVIATIONS

- AEC African Elephant Coalition
- CITES Convention on International Trade in Endangered Species
- COP Conference of Parties serving as the meeting of the Parties to the Parties
- EU European Union
- IUCN The World Conservation Union
- Sen. Senator

EXECUTIVE SUMMARY

The 18th meeting of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) Conference of the Parties (CoP 18) that was held in **Geneva, Switzerland** from **17th – 28th August, 2019**

CITES is an international agreement to which States (countries) adhere voluntarily. States that have agreed to be bound by the Convention ('joined' CITES) are known as Parties. This provides a framework to be respected by each Party, which has to adopt its own domestic legislation to ensure that CITES is implemented at the national level. CITES membership currently stands at 183 parties.

Kenya's participation at CITES COP 18 was coordinated by the Ministry of Tourism and Wildlife – State Department of Wildlife. The Country's delegation was led by the Chief Administrative Secretary, Mr. Joseph Boinnet, and had prepared eight (8) proposals were agreed to for submission by 24th December 2018 for the consideration of CoP18; and had submitted proposals in favour of protection of various species of wild animals and plants; chief among them being the proposals as listed below:

1. Proposal to list the African Elephant (*Loxodonta africana*) in Appendix I. This proposal is a joint submission with Benin, Burkina Faso, Liberia, Niger and Togo on behalf of a consortium of 30 African States that are members of the African Elephant Coalition.
2. Implementing aspects of Resolution Conf. 10.10 (Rev CoP17) on the Closure of Domestic Ivory Markets. This is a *joint submission with Benin, Burkina Faso, Ethiopia, Niger and Nigeria as members of the African elephant Coalition.*
3. Ivory Stockpiles: Implementation of Resolution Conf. 10.10 (Rev CoP17) on trade in elephant specimens and Decision 17.171. This is a *joint submission with Benin, Burkina Faso, Niger and Nigeria as members of the African Elephant Coalition.*
4. Proposal for Inclusion of *Giraffa spp* in Appendix II. This is a *joint submission with Chad.*
5. Proposal to transfer Pancake tortoise, *Malacochers sustornieri* from Appendix II to Appendix I.

6. Revision of Resolution Conf. 9.14 (Rev CoP17) on conservation of and trade in African and Asian Rhinoceroses and associated Decisions.
7. Proposal for Inclusion of White-spotted Wedge fish *Rhynchobatus australiae* and *Rhynchobatus djiddensis* in Appendix II. This is a *joint submission with Sri Lanka*.
8. Proposal for inclusion of Sea Cucumber *Holothuria spp*, in Appendix II. This is a *joint submission with European Union (EU)*.

Kenya was successful in all the five proposals except the first one on re-establishing a complete ban on the international ivory trade by placing all African elephants on Appendix 1. However, Namibia and Zimbabwe who were seeking to remove elephants from Appendix 1 and allow international trade in ivory were also unsuccessful.

The Committee observed that Kenya had a very good reputation internationally in terms of lobbying for the protection of wild species of animals and plants; but these efforts were hampered by their domestic reputations especially the Ministry's relationship with communities that are living next to or inside the wildlife parks and game reserves. This was essentially due to the human wildlife conflict.

The Committee recommends that the Ministry of Environment and Natural Resources should intensify lobbying for more funds with the Treasury and Budget and Appropriations Committee of the National Assembly to allocate more funds for compensation to victims of human wildlife conflict; and also revive the Compensation Committees.

The Committee further recommends that County Governments, through their Committee Executive Members in-charge of Environment and Natural Resources should implement the 10% forest cover policy and encourage the conservation of this endangered species wild animals.

PREFACE

The Standing Committee on Lands, Environment and Natural Resources is established pursuant to Standing Order No. 218(3). As set out in the Second Schedule, the Committee's assigned subject matter is to consider all matters relating to lands and settlement, housing, environment, forestry, wildlife, mining, water resource management and development.

The Committee comprises the following Members:

1. Sen. Mwangi Paul Githiomi, M.P. - Chairperson
2. Sen. Prengei Victor, M.P. - Vice Chairperson
3. Sen. George Khaniri, MGH, M.P. - Member
4. Sen. Godana Hargura, M.P. - Member
5. Sen. Mwaruma Johnes, M.P. - Member
6. Sen. Sylvia Kasanga, M.P. - Member
7. Sen. Ndwiga Peter Njeru, M.P, EGH. - Member
8. Sen. Halake Abshiro, M.P. - Member
9. Sen. Boy Issa Juma, M.P. - Member

The following Senators attended the 18th meeting of the CITES Conference of the Parties (CoP 18) that was held in **Geneva, Switzerland** from **17th – 28th August, 2019**: -

1. Sen. Mwangi Paul Githiomi, M.P.
2. Sen. Johnes Mwaruma, M.P.

The Secretary to the delegation was Mr. Victor Bett, the Clerk to the Committee.

ACKNOWLEDGEMENT

Mr. Speaker Sir,

The Standing Committee on Land, Environment and Natural Resources wishes to thank the office of the Speaker and the Clerk of the Senate for facilitating the Committee delegation to travel and attend the 18th meeting of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) Conference of the Parties (CoP 18) that was held in **Geneva, Switzerland** from **17th – 28th August, 2019**

The Committee appreciates the Ministry of Tourism and Wildlife for coordinating the visit.

The Committee further commends the State Department of Wildlife, the Kenya Wildlife Service and Civil Society Organizations for their efforts in lobbying for Kenya's proposals.

Mr. Speaker Sir,

It is my pleasant duty to present the report of the Standing Committee on Lands, Environment and Natural Resources on the CITES COP 18 Conference, 2019.

I thank you all.

SIGNED.......... DATE 23-10-2019.....

**SEN. MWANGI GITHIOMI, M.P.
CHAIRPERSON, LEADER OF DELEGATION,
SENATE STANDING COMMITTEE ON LAND, ENVIRONMENT & NATURAL
RESOURCES**

CHAPTER I

INTRODUCTION

1. BACKGROUND

The Convention on International Trade in Endangered Species of Wildlife Fauna and Flora (CITES) is one of the several Multilateral Environmental Agreements (MEA) Kenya is signatory to. The Convention was adopted on 3rd March 1973 in Washington DC and entered into force on 1st July, 1975. The objective of CITES is to regulate through permitting restrictions, international trade in endangered species to ensure that such trade is not detrimental to the survival of the species in the wild and does not drive the species into extinction. Kenya ratified the Convention on 13th December 1978 and it entered into force on 13th March, 1979. In line with Article 2(6) of the Constitution, this Convention forms part of the laws of Kenya.

Kenya is obligated to co-operate with other parties and regulate international trade in the CITES listed species of wild fauna and flora. The Convention being a wildlife related MEA, Kenya Wildlife Service (KWS), an agency under the Ministry of Tourism and Wildlife is responsible for coordination of its implementation.

The highest decision-making organ of the Convention is the Conference of the Parties, a meeting of all the signatory States to the Convention. The meetings of the Conference of the Parties to the CITES Convention are held every three (3) years. During these meetings, Parties review progress in implementation of the provisions of the Convention and make decisions and resolutions that are binding to all signatory States. Parties submit proposals for consideration and adoption. The proposals form the agenda of the meeting of the Parties. These proposals are submitted at least 150 days in advance of the meeting of the Conference of the Parties. Once adopted, the proposals become decisions and resolutions and therefore provisions of the Convention. The last meeting of the Conference of the Parties, the seventeenth meeting was held on 24th September to 2nd October, 2016 in Johannesburg, South Africa.

2. ABOUT CITES

CITES (the Convention on International Trade in Endangered Species of Wild Fauna and Flora) is an international agreement between governments. Its aim is to ensure that international trade in specimens of wild animals and plants does not threaten their survival.

Annually, international wildlife trade is estimated to be worth billions of dollars and to include hundreds of millions of plant and animal specimens. The trade is diverse, ranging from live animals and plants to a vast array of wildlife products derived from them, including

food products, exotic leather goods, wooden musical instruments, timber, tourist curios and medicines. Levels of exploitation of some animal and plant species are high and the trade in them, together with other factors, such as habitat loss, are capable of heavily depleting their populations and even bringing some species close to extinction.

Many wildlife species in trade are not endangered, but the existence of an agreement to ensure the sustainability of the trade is important in order to safeguard these resources for the future.

Because the trade in wild animals and plants often involves crossing of borders between countries, the effort to regulate it requires international cooperation to safeguard certain species from over-exploitation. CITES was conceived in the spirit of such cooperation. Today, it accords varying degrees of protection to more than 35,000 species of animals and plants, whether they are traded as live specimens, fur coats or dried herbs.

CITES was drafted as a result of a resolution adopted in 1963 at a meeting of members of IUCN (The World Conservation Union). The text of the Convention was finally agreed at a meeting of representatives of 80 countries in Washington, D.C., the United States of America, on 3rd March 1973, and on 1 July 1975 CITES entered in force. The original of the Convention was deposited with the Depository Government in the Chinese, English, French, Russian and Spanish languages, each version being equally authentic.

CITES is an international agreement to which States (countries) adhere voluntarily. States that have agreed to be bound by the Convention ('joined' CITES) are known as Parties. Although CITES is legally binding on the Parties – in other words they have to implement the Convention – it does not take the place of national laws. Rather it provides a framework to be respected by each Party, which has to adopt its own domestic legislation to ensure that CITES is implemented at the national level.

For many years CITES has been among the conservation agreements with the largest membership, with now 183 Parties.

3. CITES COP 18

The 18th Meeting of the CITES Conference of the Parties (CoP18) had been scheduled to be held in Colombo, Sri Lanka on 22nd May to 3rd June 2019

Following terrorist attacks in Sri Lanka on the Easter Sunday, it became difficult for the CoP18 meeting to be held as scheduled because of security threats. Following consultations with members of the Standing Committee of CITES, the government of Sri Lanka and the United Nations Department of Security, the CITES Secretariat has advised on Geneva, Switzerland and 17-28 August 2019 as alternative venue and dates respectively for the CoP18 Meeting

4. KENYA IN CITES COP 18

A carefully selected, fully prepared and well-informed Government delegation to CITES CoP18 was constituted to prepare for country participation and to ensure delivery of positive outcomes of the country proposals and positions at CoP18.

The delegation had representation from the Ministry of Tourism and Wildlife, Kenya Wildlife Service, National Museums of Kenya, State Department for Fisheries and Blue Economy, Kenya Fisheries Service and Directorate of Public Prosecutions. Community and Non- Government delegates drawn from key wildlife conservation organizations in the country have also been approved to participate in the CoP18 to support the country positions. The Cabinet Secretary Hon. Balala was to be the head the delegation but due to unavoidable circumstances was represented by the Chief Administrative Secretary, Ministry of Tourism and Wildlife, Mr. Joseph Boinett.

a) COUNTRY PREPARATION OF PROPOSALS TO CITES CoP18

In 2018, the State Department for Wildlife together with KWS coordinated three (3) meetings of stakeholders in May and November to discuss and formulate proposals for country submission to CITES CoP18. All key stakeholders participated in the proposal preparation process. In total, eight (8) proposals were agreed to for submission by 24th December 2018 for the consideration of CoP18.

b) COUNTRY SUBMISSION OF PROPOSALS TO CoP18

The following is a summary of the proposals that the country had submitted and was now part of the agenda for CITES CoP18:

1. Proposal to list the African Elephant (*Loxodonta africana*) in Appendix I. This proposal is a joint submission with Benin, Burkina Faso, Liberia, Niger and Togo on behalf of a consortium of 30 African States that are members of the African Elephant Coalition. The proposal seeks to transfer the populations of elephants of Botswana, Namibia, South Africa and Zimbabwe currently in Appendix II, to Appendix I to prohibit any trade in elephant ivory across the species range. There are 38 countries

with African elephant populations. All these populations except populations of Botswana, Namibia, South Africa and Zimbabwe are listed in Appendix I of CITES, the highest level of protection of a species under the CITES Convention. If the proposal will be adopted, all African elephant populations including the four in Appendix II will be placed under Appendix I of CITES thus banning all trade in elephant specimens especially the ivory.

It is confirmed that Botswana, Namibia and Zimbabwe have submitted a proposal for consideration of the CoP18 to approve unrestricted trade in elephant ivory from the elephant populations from the four States whose population is currently in Appendix II. Further, Zambia has submitted a proposal for the consideration of CoP18 seeking to have their population (currently in Appendix I) transferred to Appendix II to allow trade in ivory and other elephant specimens.

All efforts should be made to ensure that our proposal to have all elephants protected in Appendix I is adopted. This will help Kenya and other elephant range States whose populations are threatened by illegal ivory trade, to secure and recover their elephant populations. The Wildlife Conservation and Management Act in Section 99 also criminalizes trade in wildlife species in Kenya.

2. Implementing aspects of Resolution Conf. 10.10 (Rev CoP17) on the Closure of Domestic Ivory Markets. This is a *joint submission with Benin, Burkina Faso, Ethiopia, Niger and Nigeria as members of the African elephant Coalition*. The proposal aims at strengthening the language in an already existing Resolution to restrict any ivory trade by ensuring all domestic ivory markets across the globe are closed.
3. Ivory Stockpiles: Implementation of Resolution Conf. 10.10 (Rev CoP17) on trade in elephant specimens and Decision 17.171. This is a *joint submission with Benin, Burkina Faso, Niger and Nigeria as members of the African Elephant Coalition*. The proposal seeks to make implementation of the provisions of the Resolution more effective by providing for compliance measures for those States that do not effectively implement and regularly report on measures for management of ivory stockpiles as provided for in the Resolution of the Convention.
4. Proposal for Inclusion of *Giraffa spp* in Appendix II. This is a *joint submission with Chad*. The proposal aims at bringing under CITES regulation, international trade in specimens of all the four species of Giraffe. Currently, trade in Giraffe specimens is not regulated as the species are non-CITES listed.
5. Proposal to transfer Pancake tortoise, *Malacochersustornieri* from Appendix II to Appendix I. The proposal seeks to prohibit trade in specimens of Pancake tortoise collected from the wild. This species is only found in Kenya, United Republic of Tanzania and Zambia. The trade in wild caught specimens of the species is threatening the survival of the species across its range. Much of the trade in the species is taking

place from non-range States, a clear indication that the trade is illegal. When placed in Appendix I, international trade will be possible but only with specimens from known sources and more so those bred in captivity in and from which facilities registration has been made with the National Wildlife Authorities and the CITES Secretariat or annual trade quotas are allocated to the range State and authorized by the meeting of the Conference of the Parties. Currently most of the trade in the species is recorded from non-range States such as DR Congo or Zambia as range State with very small population known to occur in the country.

6. Revision of Resolution Conf. 9.14 (Rev CoP17) on conservation of and trade in African and Asian Rhinoceroses and associated Decisions. The Proposal was prepared in anticipation of possible trade proposals from Southern Africa region and so it is aimed at countering such proposals. The Royal Kingdom of Eswatini (formerly Swaziland) was believed to be considering a proposal that would seek to be allowed to trade in rhino horns harvested from the wild population in the country.
7. Eswatini has submitted a proposal for the consideration of CoP18 to be allowed to trade in 300kg of Rhino horns held as stockpile and every year they be allowed to trade in 20kg of rhino horns harvested from their population currently estimated to be 66 animals in the country. Currently the southern white rhinoceros population of Eswatini is in CITES Appendix II but with restrictions on trade in rhino horns. Namibia too has submitted a proposal for CITES CoP18 to consider and approve transfer of the Namibia's population on Southern white rhino from Appendix I to Appendix II to allow trade in Rhino horns and other specimens of the species.

Like it is the case with the elephant proposals, all efforts need to be put in place to ensure the Rhino horn pro-trade proposals are NOT adopted.

8. Proposal for Inclusion of White-spotted Wedge fish *Rhynchobatus australiae* and *Rhynchobatus djiddensis* in Appendix II. This is a *joint submission with Sri Lanka*. Kenya is a range State for a range of Sharks among them the White-spotted Wedge fish. Sri Lanka as one of the other range States initiated the proposal to list the species in CITES Appendix II and requested Kenya to be a Co-Proponent. Considering Sri Lanka is host for the CoP18, the joint submission of the proposal on Wedge fish is an opportunity for Kenya to engage with Sri Lanka and help in lobbying for our country proposals especially the elephant and rhino proposals that we have submitted.
9. Proposal for inclusion of Sea Cucumber *Holothuria spp*, in Appendix II. This is a *joint submission with European Union (EU)*. The proposal seeks to regulate international trade in the Species. Currently the species is not CITES listed. Kenya is one of the range States for the *Holothuria spp*. A joint submission with EU member States, of the proposal is strategic with regard to lobbying for support for the Kenya's proposal especially proposal on African elephants and the Rhinoceroses.

For each of the eight (8) proposals Kenya had submitted to be passed by the Conference of the Parties, a two-thirds majority vote of the Parties present in the Conference of the Parties is a requirement. The Kenya delegation held very successful bilaterals with the help of the Ministry of Foreign Affairs to lobby with other Parties and especially the 28 European Union member States, Asia region and the Americas to support the proposals.

In preparing for the submission of the elephant proposals, the country hosted on 11th to 13th February 2019, the technical representatives from the 30-member States of the African Elephant Coalition. The three elephant related proposals are therefore supported by all the 30 members of the Coalition.

5. COP18 SUMMARY OUTCOMES OF KENYA'S PROPOSALS

The 18th Meeting of the Conference of the Parties (CoP18) to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES Convention) was held in Palexpo Centre, in Geneva, Switzerland from 17-28 August, 2019.

The 71st Meeting of the Standing Committee of the Convention preceded the Meeting of the Conference of the Parties on 16th August 2019. Initially, the CoP18 and its related meetings of the Standing Committee (SC71 & SC72) meeting was scheduled to be held in Colombo, Sri Lanka but due to the April 21 terror attacks in the capital Colombo, this was changed to take place in Geneva.

Kenya was represented by a delegation of forty –three (43) constituted of government officers (32 Government delegates) and 11 delegates from Non-State organizations with the technical capacity to represent the country on matters wildlife conservation and management and ensure that the country's position to CITES CoP18 were projected and influenced in favor of the country, decision-making at the CoP.

The Chief Administrative Secretary, Ministry of Tourism and Wildlife, IG (Rtd) Joseph Boinnet was the Head of the Delegation provided the delegation leadership. The full list of the Government delegation is annexed to this report and the Government agencies represented in the country delegation included:

1. Ministry of Tourism and Wildlife
2. Ministry of Foreign Affairs
3. Kenya Wildlife Service
4. National Museums of Kenya
5. Office of the Director of Public Prosecutions
6. State Department for Fisheries and Blue Economy
7. Ministry of Interior and National Government Coordination

8. Kenya Airports Authority
9. The National Assembly and
10. The Senate.

The Non-State Actors (NGOs) included from Kenya and supporting the Kenyan positions were:

1. Kenya Wildlife Conservancies Association
2. Conservation Alliance of Kenya and its membership
3. Save the Elephants
4. Stop Ivory
5. African Wildlife Foundation
6. African Conservation Centre
7. World Leaders of Today/ Stand Up Shout Out
8. Amboseli Ecosystem Trust
9. The Standard Group

2.2 COP 18 Meeting Agenda

The 18th Meeting of the Conference of the Parties aimed to consider fifty-seven (57) species listing proposals and over 100 working documents which when adopted would translate into Resolutions and Decisions of the CoP.

In the past, CITES decisions about levels of protection for species have been based principally on science - knowledge accumulated by biologists and ecologists and legal international trade data reported by Parties leading to use of Biological and Trade Criteria to determine listing a species in the CITES Appendices as an indicator of needed level of protection of that species. However, at CITES CoP18 several agenda items as introduced in the working Documents sought interpretations on how much weight CITES should give to other factors, including the needs and desires of rural communities that live alongside wildlife and the economic and social benefits as integral to the criteria for species listing.

The 57 species - listing proposals presented over 500 species to be considered for protection through regulation of international trade in their specimens. Among the proposals, included proposals to offer 9 species of animal protection from international trade through listing in Appendix I. Other proposals sought to list for the first time under CITES Appendices over 130 species bringing their international trade under regulation to prevent them from becoming extinct.

More than a third (20 out of the 57) of the proposals to CoP18 related to Reptiles and Amphibians that are now threatened by international trade and other factors and majorly because of their popularity as exotic pets globally but with major markets in the United States, the EU, and Asia.

For a species-listing proposal to be adopted by the Conference of the Parties, that proposal must achieve at least two-thirds majority vote of the Parties present and voting.

Prior to the meeting of the Conference of the Parties, the country through the Ministry of Tourism and Wildlife and the Kenya Wildlife Service coordinated the preparations of the country positions to the CoP and sensitized the public of the positions and the significance of the Convention to the conservation and management of the country's wildlife heritage.

As part of the CITES and CITES CoP18 country awareness raising strategy, the Ministry of Tourism and Wildlife in collaboration with Kenya Wildlife Service, Kenya Airports Authority, Kenya Airways and partners in wildlife conservation carried out an awareness raising campaign on Stop Ivory Trade prior to and during the CITES CoP18 meeting in August. This Campaign raised unprecedented awareness in the country and beyond about CITES and the plight of the African elephant.

During the CoP18 Meeting, the country delegation engaged in multiple bilateral consultations and lobbying for the country position and support and successfully lobbied support from the USA, China, European Union and its 28 Member States, Parties from the Latin America and the Caribbean, Asia and many other CITES Parties.

The impacts of the awareness raising campaigns and the engagements through bilateral or lobbying with delegations of other CITES Parties can be seen in the outcomes of the CoP18 meeting with respect to Kenya's proposals to the CoP.

CHAPTER TWO: SPECIES LISTINGS PROPOSALS

Kenya presented eight (8) agenda items to the 18th Meeting of the Conference of the Parties; five (5) on species listing and three (3) on revision of resolutions and draft decisions for better implementation of the provisions of the Convention. The proposed species included the African Elephant, The Pancake tortoise, the Giraffe the White – spotted Wedge fish (*Rhinidae spp*) and Teat fish (*Holothuria spp*). The resolutions targeted for revision were Resolution Conf. 10.10 on conservation of and trade in Elephants, Resolution Conf. 11.20 on definition of appropriate and acceptable destination in relation to trade in live elephants and Resolution Conf. 9.14 on conservation of and trade in African and Asian Rhinoceroses. The objective and outcome of the CoP on each proposal is presented below:

A. Elephant Proposals

Cop 18 Prop. 12: Proposal to list the African Elephant (*Loxodonta africana*) in Appendix I. Proposal submitted together with *Benin, Burkina Faso, Liberia, Niger & Togo on behalf of the African Elephant Coalition*. The proposal sought to bring under Appendix I of CITES, all the populations of the African elephant by transferring the populations of Botswana, Namibia, South Africa and Zimbabwe that are currently in Appendix II to Appendix I and offer the species the highest level of protection by banning all trade in elephants.

Counter proposals CoP18 Prop. 11 by Botswana, Namibia and Zimbabwe sought unrestricted trade in elephant ivory from the elephant populations from the four States whose population is currently in Appendix II and proposal CoP18 Prop. 10 by Zambia sought to transfer the Zambia population from Appendix I to II to allow unrestricted trade.

As in previous CoPs, debate on all the elephant proposals was contentious—proposals about opening up ivory trade, banning ivory trade by listing all elephants in Appendix I and closing down domestic ivory markets, and loosening the restrictions limiting trade in Zambia’s elephants by down listing the population from Appendix I to Appendix II. All the three proposals were rejected leaving the status of elephants with respect to the listing largely unchanged.

The following are details of the outcome of the voting on the proposals

When subjected to voting the proposal by Kenya and members of the African Elephant Coalition (CoP18 Prop. 12), 31 Parties voted in support, 67 opposed and 44 Abstained.

When subjected to voting the proposal by Botswana, Namibia and Zimbabwe (CoP18 Prop. 11), 23 Parties voted in support, 101 opposed and 18 Abstained.

When subjected to voting the proposal by Zambia (CoP18 Prop. 10), 22 Parties supported, 102 opposed and 13 Abstained.

None of the three proposals could achieve the required two-thirds majority vote and were therefore rejected.

Although the proposal to transfer the four southern African Elephant populations of Botswana, Namibia, South Africa and Zimbabwe to Appendix I to prohibit all international commercial trade in elephant ivory was not adopted, Kenya and the African Elephant Coalition members and Syrian Arab Republic as co-proponents of the proposal sent a strong message to the world on their uncompromising stance against ivory trade.

In addition to the African elephant-listing proposal, Kenya together with the other members of the African elephant Coalition presented for the consideration of the CoP, proposals to revise existing resolutions on elephants and rhinoceroses as follows:

- a) **CoP18 Doc .69.3** on Implementing aspects of Resolution Conf. 10.10 (Rev CoP17) on the **Closure of Domestic Ivory Markets** and
- b) **CoP18 Doc. 69.5** on Ivory Stockpiles: Implementation of Resolution Conf. 10.10 (Rev CoP17) on trade in elephant specimens and Decision 17.171
- c) CoP18 Doc 44.2 on international trade in live elephants , Revision to Res. Conf. 11.20 on definition of the term appropriate and acceptable destination and
- d) CoP18 Doc 83.2 on revision to Resolution Conf. 9.14 on conservation of and trade in African and Asian Rhinoceroses

The proposed revisions aimed at strengthening the language in the Resolution 10.10 on elephants and Resolution 9.14 on rhinoceroses to restrict any ivory and rhino horn trade by ensuring all domestic ivory markets across the globe are closed , enhanced management by Parties of ivory and rhino horn stockpiles to ensure such stocks do not leak from Government stores into the illegal markets and in Resolution 11.20 to restrict trade in live elephants to only apply for purposes of promoting conservation of the species only in-situ respectively .

B. Rhinoceroses Proposals

The proposed amendments to Resolution Conf. 9.14 (Rev CoP17) on conservation of and trade in African and Asian Rhinoceroses further aimed at countering proposals by Eswatini and Namibia, CoP18 Prop. 8 and CoP18 Prop. 9 respectively to trade in Rhino and rhino horns.

CoP18 approved the proposed changes. In adopting the changes to Resolution 11.20, the CoP approved a near-complete ban on capturing and sending African elephants from their natural habitats to zoos and other captive facilities abroad.

While the proposed revisions to the Resolution 9.14 on Rhinoceros were approved, the proposals by Eswatini and Namibia to trade in rhino horns were REJECTED through a Secret Ballot. Proposal by Eswatini was supported by 25 Parties, Opposed by 102 Parties and 7 Parties Abstained while Proposal by Namibia was supported by 39 Parties, Opposed by 82 Parties and 11 Parties Abstained.

C. Reptiles and Amphibians Species listing Proposals

CoP 18 Prop. 37: Proposal to transfer Pancake tortoise, *Malacochersus tornieri* from Appendix II to Appendix I to prohibit trade in specimens of Pancake tortoise collected from the wild and control illegal trade in specimens of the species.

All the 20 proposals to CoP18 on Reptiles and Amphibians (including Kenya's proposal on Pancake tortoise) except 1 by Costa Rica on Glass frogs were adopted.

The Pancake tortoise is only found in Kenya, Tanzania and Zambia. Despite opposition from Tanzania and other few countries to have, the species transferred from Appendix II to I to allow regulated trade of specimens of the species through registration with the CITES Secretariat, Captive breeding facilities, the proposal was overwhelmingly approved through a Vote. 105 Parties voted in support, 10 opposed while 10 Abstained. The proposal by Costa Rica on Glass Frogs (CoP18 Prop. 38) was rejected through a vote.

D. Marine species listing Proposals

Kenya jointly with other African countries, European Union and Asian Countries submitted proposals CoP18 **Prop. 44** for Inclusion of White –spotted Wedge fish; *Rhynchobatus australiae* and *R. djiddensis* in Appendix II and CoP18 **Prop.45** for inclusion of Teatfish/ *Holothuria spp*, in Appendix II to regulate trade through CITES permits and certificates

The two proposals together with other marine species proposal considered by the CoP were approved following a SECRET ballot vote

Proposal CoP18 Prop. 44 for Inclusion of White – spotted Wedge fish was supported by 112 Parties, opposed by 30 Parties while 4 Parties Abstained

Proposal CoP18 Prop.45 for inclusion of Teatfish/ *Holothuria spp* was supported by 119 Parties, opposed by 30 Parties while 7 Parties Abstained.

Implementation of the decision to list the species in Appendix II would however be delayed for a period of 12 months to allow range States time to put in place enforcement measures for the control of trade in specimens of the species already harvested.

E. Giraffe Listing Proposal

Proposal CoP18 Prop. 5 to Include *Giraffa spp* in Appendix II was a joint submission by Kenya and *Chad* and supported by *majority* of other African countries that are range States for the species. After a normal vote, the proposal was accepted with 106 Parties voting in support and 21 parties against.

3.1 Entry into Force of the Decisions Taken at COP18

Decisions adopted at the CITES CoP18 will enter into force on **26 November 2019** for implementation, (90 days after the conclusion of the CoP18 meeting on 28 August 2019). However, decision on the listing of Teat fish in Appendix II will enter into force on 25 November 2020 (following the agreement to delay the implementation of the decision by 12 months)

3.1.1 Impacts of Kenya's Participation at COP18

Kenya's participation to and adequate representation at CITES CoP18 was instrumental in the realization of the following conservation milestones:

1. Rejection by CITES Parties, of lifting the international ivory trade ban as proposed by Botswana, Zimbabwe, Namibia and Zambia and the international rhino horn trade ban as proposed by Eswatini and Namibia . This in effect means international trade ban in ivory and rhino horn remains;
2. Stringent regulation on live elephant trade to only allow any transfer of live elephants to appropriate and acceptable destinations within the elephant's natural range
3. Strict and time-bound compliance requirements for those countries that still have domestic ivory markets to work towards closing such markets and report to CITES on a regular basis the efforts being made to achieve the measure and to ensure their trade do not contribute to poaching and illegal ivory trade;
4. Listing of Giraffes, Wedge fish shark and Teat fish in CITES Appendix (II) thus bringing under regulation trade specimens of the listed species. Trade in Giraffe, Wedge fish shark and Teat fish will now be regulated under the CITES permitting and certification systems to ensure the trade is not detrimental to their survival in the wild.
5. Listing the Pancake tortoise in Appendix I to prohibit any trade in wild caught specimens and strictly regulate trade in specimens of the species to only allow specimens bred in captivity and only from those captive facilities that have been

entered in the CITES Register for captive breeding of Appendix I listed species for commercial purposes.

6. Apart from the species listing proposals and draft revisions to Resolutions and Decisions that Kenya submitted for the CoP consideration, Kenya's influence on the position the CoP would take on a number of controversial agenda items was monumental. Such positions included on issues of engagement of rural communities in CITES processes and how issues of CITES and livelihoods should be considered under the CITES framework, enhanced law enforcement to protect species such as the East African Sandalwood, Pangolins and Cheetah whose populations continue to decline as a result of illegal wildlife trade.

3.1.2 Implementation of Decisions of CITES CoP18

The decisions adopted by the Conference of the Parties to CITES form part of the provisions of the Convention. These provisions are binding to all Parties.

To further the work of the Convention and implement the decisions of the CoP18 during the period between CoP18 and CoP19, the CoP directed the Standing Committee at its next meeting in 2020 to establish the following Working Groups and request Parties to express interest to and participate in the Working Groups as appropriate:

- i. Working Group on Rules of Procedures of the Conference of the Parties
- ii. Working Group on Strategic Vision of CITES
- iii. Working Group on Engagement of Rural Communities
- iv. Working Group on CITES and Livelihoods
- v. Working Group on Capacity Building on implementation of CITES
- vi. Working Group on Due Diligence
- vii. Working Group on Electronic Permitting System
- viii. Working Group on Traceability of traded specimens
- ix. Working Group on specimens produced from Synthetic and Cultured DNA
- x. Working Group on Purpose Code
- xi. Working group on Implementation of the Convention in relation to captive Bred specimens
- xii. Working Group on Implementation of Resolution Conf. 10.10 on Review of Practical Guidance on elephant ivory and Rhino horn Stockpile Management and

xiii. Working Group on Annotations.

Seven (7) out of the 13 Working Groups to be established by the Standing Committee at its 73rd meeting (SC73) in the first half of 2020 are of great interest to the country. The country will therefore need to be represented and effectively participate in those Working Group. The Service will nominate suitable persons for official appointment to participate as appropriate in the Working Groups.

There are existing resolutions and decisions of the Convention that the Country need to continue implementing in compliance with the provisions of the Convention. Key among those resolutions are the

- a) Resolution on National Legislation that urges Parties to review their national legislation to ensure it is adequate for the implementation of the Convention and can be placed by the CITES Secretariat Review process in Category 1 of the National Legislation of Parties. Currently the country's legislation, the Wildlife Conservation and Management Act, 2013 is placed in Category 2 which means it is considered not adequate for effective implementation of the CITES Convention in the country and therefore needs revision.
- b) Decisions targeted activities on conservation and management of selected species among them East African Sandalwood, Pangolins, Cheetah, *Dalbergia spp* etc.
- c) Decisions on CITES and Livelihoods requesting Parties to document best practices on CITES and impacts of livelihoods or rural communities
- d) Implementation of National Action Plans towards controlling Illegal trade in CITES listed species

3.1.3 Next Meeting of the Conference of the Parties (COP19)

The 18th Meeting of the Conference of the Parties considered and approved to offer by the Government of Costa Rica to host the 19th Meeting of the Conference of the Parties scheduled for 2022 with the date to be determined by the Standing Committee in due course.

CHAPTER THREE

COMMITTEE OBSERVATIONS

The Committee Observes that:

- 1) There is need for the Ministry of Tourism and Wildlife to ensure that Kenya meets its obligations to the CITES Convention and other wildlife related Multilateral Environmental Agreements (MEAs).
- 2) To effectively implement the provisions of the CITES Convention and other MEAs under the jurisdiction, there is need for an adequate Budget Allocation.
- 3) There is need for the Review and/or amendments to the wildlife legislation for enactment and to make it adequate for the implementation of the CITES Convention and be considered as such by the CITES Secretariat for placement in Category 1 of CITES National legislation
- 4) There is need for the Ministry to develop and implement a comprehensive Plan of Work for stakeholder engagement in preparation of Country position to and participation in the next Meeting of the Conference of the Parties (CITES CoP19) to be held in Costa Rica in 2022.
- 5) The Ministry had a good reputation internationally for their Conservation Efforts, but needs to work on building their local image by addressing the human wild life conflicts and compensation issues and conduct civic education to enlighten the people on the species that they need to protect and economic benefits should be accorded to the locals in terms of royalties;
- 6) Trade was not the only challenge to endangering the species; the Ministry should look at the destruction of the environment by locals, farming and development;
- 7) The Ministry should consider domesticating/ farming endangered species of plants especially trees and also encourage research on how to sustain the species and new blood needed to be injected in research institutions to ensure continuity.

CHAPTER FOUR

COMMITTEE RECOMMENDATIONS

The Committee therefore makes the following recommendations:-

- 1) The Ministry of Tourism and Wildlife should continue with the efforts to ensure the Country meets its obligations to the CITES Convention and other wildlife related Multilateral Environmental Agreements (MEAs):
 - (a) The implementation of the decisions of the CITES Convention as adopted at the CITES CoP18 and previous CoPs;
 - (b) National reporting on the progress in implementation of the Convention;
 - (c) Country representation in meetings of CITES bodies such as the Animals Committee and the Standing Committee held in the intersession of the meetings of the Conference of the Parties.
- 2) The National Treasury and the National Assembly should prioritize budgetary allocation towards the Implementation of the provisions of the CITES Convention and other MEAs under the jurisdiction of the Ministry of Tourism and Wildlife.
- 3) The Ministry of Tourism and Wildlife should make recommendations to Parliament on the Review and/or amendments to the wildlife legislation for enactment and to make it adequate for the implementation of the CITES Convention.
- 4) The Ministry of Tourism and Wildlife should develop and implement a comprehensive Work Plan for stakeholder engagement in preparation of Country position to and participation in the next Meeting of the Conference of the Parties (CITES CoP19) to be held in Costa Rica in 2022.
- 5) The Ministry should try and bring the issue of the African elephants in to the agenda of the African Union so as to gain political goodwill;
- 6) The Ministry should consider conservation and preservation of wild indigenous fruits that are gradually becoming extinct, even though they are not listed in CITES. This can be

done through working with County Governments to identify and create an inventory of indigenous plants from all counties for purposes of preservation and increasing their numbers; and also engage the community and encourage them to preserve their environment;

- 7) The Ministry should look in to the areas of enhancing public awareness on matters conservation, engaging the women and youth in areas of mitigation;

APPENDICES

1. Minutes of the Committee Meetings
2. Text of the CITES Convention
3. Summary of all Decisions on Amendment proposals

MINUTES OF THE 27TH MEETING OF THE SENATE STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES HELD ON WEDNESDAY, 23RD OCTOBER, 2019 IN COMMITTEE ROOM 10, MAIN PARLIAMENT BUILDING AT 9.00 AM.

MEMBERS

1. Sen. Mwangi Paul Githiomi, M.P.
2. Sen. Prengei Victor, M.P.
3. Sen. Godana Hargura, M.P.
4. Sen. Ndwiga Peter Njeru, EGH, M.P.
5. Sen. George Khaniri, MGH, M.P.
6. Sen. Boy Issa Juma, M.P.
7. Sen. Halake Abshiro, M.P.

PRESENT

- **Chairperson**
- **Vice Chairperson**
- Member
- Member
- Member
- Member
- Member

ABSENT WITH APOLOGY

1. Sen. Mwaruma Johnes, M.P. - Member
2. Sen. Slyvia Kasanga, M.P. - Member

IN ATTENDANCE

SENATE SECRETARIAT

1. Mr. Victor Bett - Clerk Assistant
2. Ms. Caroline Cheruiyot - Legal Counsel
3. Mr. Abdalla Mbore - Sergeant at arms
4. Mr. Eugene Luteshi - Audio Recording

MINUTE SEN/SCLNDR/157/2019: PRELIMINARIES

The meeting was called to order at 11.30am by the Chairperson followed by a word of prayer.

MINUTE SEN/SCLNDR/158/2019: ADOPTION OF AGENDA

The agenda was therefore proposed by Sen. Halake Abshiro, M.P. and seconded by Sen. Godana Hargura, M.P as follows.

1. Preliminaries;
 - *Prayer*
 - *Chairpersons remarks*
2. Adoption of the agenda;
3. **Adoption of Committee Reports;**
4. Any other Business;
5. Date of the next meeting;
6. Adjournment.

MINUTE SEN/SCLNDR/159/2019: CONFIRMATION OF MINUTES

The Minutes of the 24th sitting held on 25th September, 2019 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Ndwiga Peter Njeru, M.P. and seconded by Sen. Godana Hargura, M.P. respectively.

The Minutes of the 20th sitting held on 12th August, 2019 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Halake Abshiro, M.P. and seconded by Sen. Boy Issa Juma, M.P. respectively.

The Minutes of the 11th sitting held on 4th April, 2019 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Ndwiga Peter Njeru, M.P. and seconded by Sen. Boy Issa Juma, M.P. respectively.

The Minutes of the 5th sitting held on 20th February, 2019 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Prengei Victor, M.P. and seconded by Sen. Halake Abshiro, M.P. respectively.

MINUTE SEN/SCLNDR/160/2019: MATTERS ARISING

There were no matters arising.

MINUTE SEN/SCLNDR/161/2019: ADOPTION OF COMMITTEE REPORTS

The following reports were adopted by the Committee:

- (a) Report on the Petition regarding Adverse environmental and social effects arising from the construction of Phase 2A of the Standard Gauge Railway (Nairobi – Naivasha Section);

The report was adopted after having been proposed and seconded by Sen. Godana Hargura, M.P. and Sen. Halake Abshiro, M.P. respectively.

- (b) Report on the Petition regarding Budgetary support to Wildlife Conservancies for sustainable conservation and community development;

The report was adopted after having been proposed and seconded by Sen. Prengei Victor, M.P. and Sen. Boy Issa Juma, M.P. respectively.

- (c) Report on the Petition regarding Alleged unlawful deprivation of a parcel of land situated in Kaputiei North, Kajiado County;

The report was adopted after having been proposed and seconded by Sen. Godana Hargura, M.P. and Sen. Ndwiga Peter Njeru, M.P. respectively.

- (d) Report on the Petition regarding Ownership of Mgeno Land Reserve;

The report was adopted after having been proposed and seconded by Sen. Godana Hargura, M.P. and Sen. Prengei Victor, M.P. respectively.

- (e) Report on the Petition regarding Non-payment of compensation for land compulsorily acquired to construct Mwatate-Taveta-Holili Road;

The report was adopted after having been proposed and seconded by Sen. Boy Issa Juma, M.P. and Sen. Halake Abshiro, M.P. respectively.

- (f) Report on the Petition regarding the Alleged grabbing of the part of the land allocated for settlement of the Petitioners at Kiang'ombe Squatters Settlement Scheme in Thika sub-County, Kiambu County

The report was adopted after having been proposed and seconded by Sen. Ndwiga Peter Njeru, M.P. and Sen. Halake Abshiro, M.P. respectively.

- (g) Report on the Petition regarding the effects of iron ore mining at Kishushe in Taita Taveta County.

The report was adopted after having been proposed and seconded by Sen. Prengei Victor, M.P. and Sen. Ndwiga Peter Njeru, M.P. respectively.

- (h) Report regarding the Committee's participation in the 8th World Water Conference held in Brasília, Brazil from 18th – 23rd March, 2018;

The report was adopted after having been proposed and seconded by Sen. George Khaniri, M.P. and Sen. Boy Issa Juma, M.P. respectively.

- (i) Report regarding the Committee's participation in the 14th Annual General Meeting (AGM) of the Intergovernmental Forum on Mining, Minerals, Metals and Sustainable Development (IGF) on Modern Mining Law and Policy 16th – 18th October, 2018.

The report was adopted after having been proposed and seconded by Sen. George Khaniri, M.P. and Sen. Prengei Victor, M.P. respectively.

- (j) Report regarding the Committee's participation in the 18th meeting of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) Conference of the Parties (CoP 18) that was held in Geneva, Switzerland from 17th – 28th August, 2019.

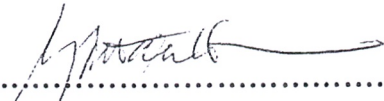
The report was adopted after having been proposed and seconded by Sen. Boy Issa Juma, M.P. and Sen. Prengei Victor, M.P. respectively.

MINUTE SEN/SCLNDR/162/2019: ANY OTHER BUSINESS;

There were no other matters discussed during the meeting.

MINUTE SEN/SCLN/163/2019: DATE OF NEXT MEETING;

The meeting was adjourned at 10.29 am and the next meeting was to follow thereafter.

SIGNATURE.......... DATE.....*23-10-2019*.....

(CHAIRPERSON: SEN. MWANGI PAUL GITHIOMI, MP.)