

Via electronic delivery

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Honourable Chairs and Representatives,

## THE PRO ELEPHANT NETWORK OPEN LETTER TO CITES SECRETARIAT RE THE EXPORT OF DESERT ELEPHANTS FROM NAMIBIA

On the 11<sup>th</sup> of August 2021, Namibia's Ministry of Environment, Forestry and Tourism released a statement - *Ministerial update on the Elephant Auction* - which declared that 57 wild elephants would be captured and 42 of these exported.

On World Elephant Day – 12<sup>th</sup> August 2021 - the [Pro Elephant Network](#) (PREN) wrote to the Namibian CITES authorities, asking:

1. *Are the forty-two elephants to be captured and sold internationally for in situ conservation purposes only?*
2. *What are the final destinations of the forty-two elephants selected for exportation?*
3. *Will any of the fifty-seven elephants be going into captivity?*

To date, no acknowledgement of, or response to this letter has been received from the Namibian government. Throughout the almost ten months since its original announcement in December 2020 of the intention to auction elephants for capture and possible export, the Government of Namibia has consistently failed to provide transparent information to national and international stakeholders about the exact source and population status of the elephants to be targeted as well as their destination.

On September 8<sup>th</sup> 2021, the CITES Secretariat issued a contentious statement on its website entitled – *Statement on Trade in live African elephants under articles III and IV* – which was sharing Namibia's wrong interpretation that the trade in wild elephants from Namibia to *ex situ* destinations (i.e. outside of their natural range) was possible under Appendix I rules.

The Secretariat [updated its statement](#) on the 17<sup>th</sup> of September, however once again failed to address the legal arguments speaking against such exports. It also failed to acknowledge the fact, that the CITES Animals Committee had in June expressed concerns on live elephant exports and that Namibia's controversial interpretation will be further discussed at the Standing Committee.

The members of PREN note Namibia's obligations under CITES: African elephant populations in Namibia and South Africa are listed under Appendix II, with an annotation restricting the export of live animals to *in situ conservation programmes*. This means Namibia's elephants can neither legally be exported out of the species' natural range, nor to captive or commercial facilities outside of the country. The way the annotation should be interpreted is plainly described in Paragraph 9 of Resolution Conf. 11.21 (Rev. CoP18) which states: "*for species transferred from Appendix I to II with an annotation specifying that only certain types of specimens are subject to the provisions relating to species in Appendix*

*II, specimens that are **not specifically included in the annotation** shall be deemed to be specimens of species included in Appendix I and the trade in them shall be regulated accordingly".* Therefore, the claim, that Namibia can choose whether to export live animals either under the conditions of Appendix II or Appendix I using the clause in the annotation that states *"All other specimens shall be deemed to be specimens of species included in Appendix I and the trade in them shall be regulated accordingly"*, is seriously flawed, since live elephants are clearly specifically included in the annotation. This flawed interpretation only serves to undermine both the wording and intent agreed by the CITES Parties. Accepting this interpretation would render the annotation to the Appendix II CITES listing of African elephants - as well as other CITES annotations - meaningless.

PREN Members further note that the CITES Secretariat has an administrative and not a decision-making role. Decisions are taken by 2/3 majority decisions of the Parties, [the Member States which are signatories](#) of the Convention. The decision to limit live elephant exports from Namibia to *in situ* conservation programmes was agreed at CITES CoP12 in 2002, and has not been amended or challenged ever since. Moreover, at the most recent CITES Conference of the Parties (CoP18) in August 2019, it was agreed that *ex situ* exports do not contribute to the conservation of the species. Namibia's plans to export wild-caught elephants to an undisclosed *ex situ* destination are thus in conflict with the overwhelming vote, spirit and position of the CITES Member States.

Further, in June 2021, the CITES Animals Committee expressed concerns on Namibia's flawed interpretation that it is permitted to export elephants for *ex situ* purposes and [referred its concerns](#) to the Standing Committee, as is outlined in paragraph 7 of document AC31 Doc. 18.1, Addendum 1. In defiance of this procedurally correct route, the Secretariat has, in its original statement published on 8<sup>th</sup> September, provided its own interpretation of the Convention and the annotation to the Appendix II listing, judging that: *"In circumstances where this special "Appendix II conditionality" is not fulfilled, i.e. when live Namibian African elephants are not traded for "in situ conservation programmes", they "shall be deemed to be specimens of species included in Appendix I and the trade in them shall be regulated accordingly"*.

In taking this action, the Secretariat bypassed the CITES Parties' and the Standing Committee's central roles in implementing the Convention, and overstepped its mandate as their administrative support body; instead, it acted as decision-maker.

It should also be noted that [some media outlets in Namibia](#) have described the Secretariat's statement as giving a 'green light' for live elephant exports to *ex situ* locations.

Although the Secretariat has partially amended its statement, the revised version fails to emphasise that it is a revision, and fails to clarify that it is not intended to provide justification for Namibia's past or intended future exports of live elephants using Appendix I rules; it seems to serve the purpose to defer all responsibility to the trading Parties; it implies that compliance with the Convention can only be ensured in retrospect, by stating blandly that *"as usual, if sufficient facts allow for a reasonable inference that a violation of the Convention has occurred with respect to the trade referred above, compliance procedures could be triggered, and appropriate measures considered"*.

The elephant experts' community is aware that the survival of the small and fragile population of desert-adapted elephants in [the very dry North West, where Namibia](#) announced to capture elephants, would be irreversibly and negatively affected by such actions. Exports from this population would contravene CITES requirements, that offtakes must not be detrimental to the species and population concerned. These desert elephants have unique morphological and behavioural adaptations to the arid environment of this region, and they play a [hugely important ecological role](#), through the creation and remodelling of habitat and dispersal of seeds which benefits countless other species.

## Conclusion and recommendation

We have been reliably informed that the capture of elephants in Namibia is imminent if not already taking place. In view of this urgency, we hereby ask the CITES Secretariat to withdraw its statement and to approach the Government of Namibia urging it to comply with the Convention's regulations and provisions. Until these questions are satisfactorily resolved, through discussion at the Standing Committee and, if necessary, the upcoming Conference of Parties, neither export nor import permits for live Namibian elephants traded under Appendix I rules should be issued.

Yours Sincerely,



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On behalf of PREN

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**This open letter is for urgent media diffusion**

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