

CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES
OF WILD FAUNA AND FLORA

Forty-fifth meeting of the Standing Committee
Paris (France), 19-22 June 2001

Interpretation and implementation of the Convention

Implementation of the Convention in individual countries

NATIONAL LEGISLATION PROJECT

1. This document has been prepared by the Secretariat.

Background

2. Decision 11.77 states that the Standing Committee, beginning at its 45th meeting, shall decide the appropriate measures to be taken with respect to the Parties identified in Decisions 11.15 and 11.18, which may include restrictions on the commercial trade in specimens of CITES-listed species to or from such Parties.
3. Decision 11.16 specifically provides that:

“All Parties should, from 31 October 2001, if so advised by the Standing Committee, refuse any import of specimens from, and any export or re-export of such specimens to, the Parties listed in Decision 11.15, if, in spite of the assistance [requested of and provided by the Secretariat], the Parties concerned do not adopt the legislation required under the text of the Convention.”

Decision 11.15

4. Decision 11.15 refers to four Parties whose legislation was analysed during Phase 3 of the National Legislation Project, namely Fiji, Turkey, Viet Nam and Yemen, which have high volumes of international trade in specimens of CITES-listed species and legislation that is believed generally not to meet the requirements for implementation of CITES (Category 3).
5. On 27 November 2000, the Secretariat wrote to the Management Authorities of the Parties concerned, reminding them of the need to adopt legislation meeting the criteria specified in Resolution Conf. 8.4 and advising them that they may request technical assistance from the Secretariat to prepare such legislation. The Secretariat also drew to the attention of these Parties that this issue would be considered at the 45th meeting of the Standing Committee.
6. Three of the four Parties concerned, namely Fiji, Turkey and Viet Nam, acknowledged receipt of the letter sent by the Secretariat and explained that they were working on draft legislation or amendments of existing legal texts. The Secretariat has not received any information from Yemen.

7. As of 31 March 2001, none of the three countries that are preparing legislation to fulfil the requirements specified in Resolution Conf. 8.4 has provided the Secretariat with drafts of the legal texts that it intends to submit to its legislative bodies. Consequently, the Secretariat is unable to determine whether these texts specifically designate CITES authorities, regulate trade in all specimens of CITES-listed species, penalize illegal trade and provide for the confiscation of specimens that are illegally traded.
8. Decision 11.15 states that Fiji, Turkey, Viet Nam and Yemen should report any legislative progress no later than 30 April 2001 and, before 31 October 2001, should adopt adequate legislation to implement the Convention.

Fiji

9. In December 2000, the Secretariat received several communications from the Department of Environment advising it of the progress made in preparing the Sustainable Development Bill (SDB) and subsidiary legislation for implementing CITES, and indicating that this legislation should be enacted by 30 April 2001.
10. The Secretariat wrote to Fiji on 7 March 2001 welcoming the progress made and requesting a copy of the draft legislation related to CITES.
11. The Management Authority of Fiji responded on 12 March 2001 pointing out that, owing to political changes in the country, the anticipated enactment of the legislation had been moved from April to August 2001. They indicated that the draft SDB had raised some concerns related to indigenous rights and so had been translated into Fijian and disseminated to provincial heads. They requested technical assistance from the Secretariat to set appropriate penalties for CITES-related offences and to build the capacity of the newly established Scientific Authority. A copy of the draft legislation, however, was not provided.

12. RECOMMENDATION

The Standing Committee may wish to advise Parties that Decision 11.16 will automatically apply to Fiji if legislation implementing the Convention is not adopted by 31 October 2001.

Turkey

13. On 3 January 2001, the Secretariat received a letter from the Permanent Mission of Turkey to the United Nations Office at Geneva indicating that Turkey had initiated a process to take appropriate measures to meet the implementation requirements of CITES and asking for technical assistance from the Secretariat. A representative of the Permanent Mission visited the Secretariat on 16 January 2001 to clarify the status of Turkey's efforts to enact CITES-related legislation and the nature of the technical assistance sought. The Secretariat provided the representative with copies of the existing legislative analysis for Turkey, the model law on CITES implementation, a legislative checklist and the last correspondence exchanged with Turkey on the subject of national legislation.
14. The Secretariat wrote to the Permanent Mission on 19 January 2001 noting previous technical assistance provided to Turkey by the Secretariat and the European Union and requesting an English translation of the draft national CITES regulation mentioned in the Permanent Mission's letter of 3 January 2001.

15. RECOMMENDATION

The Standing Committee may wish to advise Parties that Decision 11.16 will automatically apply to Turkey if legislation implementing the Convention is not adopted by 31 October 2001.

Viet Nam

16. In a letter dated 14 February 2001, received by the Secretariat on 12 March 2001, the Management Authority of Viet Nam informed the Secretariat that specific CITES implementing legislation was in the final drafting stages and should be reviewed in March 2001 before submission to the government for approval in June 2001. They stressed that the exploitation of and trade in many species listed in the CITES Appendices are strictly controlled through existing administrative and legal provisions. They further detailed the institutional, compliance and enforcement improvements made by Viet Nam since 1994.
17. On 19 March 2001, the Secretariat responded to Viet Nam confirming receipt of unofficial English translations or descriptions of 18 existing legislative texts that have some relevance to CITES. The Secretariat acknowledged the Government's commitment to and actions taken to improve the legislative basis for CITES, but noted that it had not seen any draft texts and advised that ongoing legislative drafting efforts should take into account the requirements contained in Resolution Conf. 8.4 as well as the specific gaps identified in the existing analysis of Viet Nam's legislation (e.g. unclear coverage of parts and derivatives, absence of penalties and limited power of confiscation).

18. RECOMMENDATION

The Standing Committee may wish to advise Parties that Decision 11.16 will automatically apply to Viet Nam if legislation implementing the Convention is not adopted by 31 October 2001.

Yemen

19. As it did not receive any response to its letter of 27 November 2000, the Secretariat wrote again to Yemen on 12 March 2001 reminding the Management Authority that Decision 11.15 would be reviewed during the 45th meeting of the Standing Committee, advising the Management Authority that it had learned indirectly about new domestic legislation in Yemen related to rhino horn and asking for further information on legislation to implement CITES. The Secretariat also expressed regret that it had not received any response to a letter sent to Yemen in January 2001 suggesting that a member of the Secretariat might visit Yemen in March 2001.

20. RECOMMENDATION

The Standing Committee may wish to advise Parties that Decision 11.16 will automatically apply to Yemen if legislation implementing the Convention is not adopted by 31 October 2001.

Decision 11.18

21. Decision 11.18 applies to those Parties with high volumes of international trade in specimens of CITES-listed species, whose legislation was analysed during Phase 1 or 2 of the National Legislation Project and placed in Category 2 or 3 (believed generally not to meet some or all of the requirements for implementation of CITES).
22. Based on trade data provided by UNEP-WCMC and a review of existing legislative analyses, 10 Parties were identified as coming under Decision 11.18, namely Cameroon, the

Dominican Republic, Mozambique, Panama, Poland, Romania, the Russian Federation, Singapore, South Africa and Thailand.

23. On 23 January 2001, the Secretariat wrote to the Management Authorities of the Parties listed in paragraph 22, pointing out the need to adopt legislation meeting the criteria specified in Resolution Conf. 8.4 and advising them that they may request technical assistance from the Secretariat to prepare such legislation.
24. Decision 11.18 provides that such Parties should take all necessary measures to enact legislation for the implementation of CITES and to ensure that this legislation will be in effect no later than 30 days before the 45th meeting of the Standing Committee. It further provides that such Parties should report their progress to the Secretariat not later than six months before that meeting. As the Parties coming under Decision 11.18 were only identified and notified in January 2001, however, some flexibility seems warranted with regard to the deadlines specified in Decision 11.18.
25. As of 31 March 2001, five Parties (Poland, Romania, the Russian Federation, South Africa and Thailand) had acknowledged receipt of the Secretariat's letter.
26. Poland and Romania provided copies of CITES-implementing legislation recently adopted to satisfy the requirements of Resolution Conf. 8.4. A preliminary review of their legislation indicates that it fulfils some, if not all, of the requirements for implementing CITES. The Secretariat therefore considers that Poland and Romania can be removed from Category 3.
27. The Russian Federation provided a journal article to the Secretariat describing their legislation to implement CITES and stating that it meets the requirements of Resolution Conf. 8.4. Relevant legislative texts in one of the working languages of the Convention, however, have not been provided to the Secretariat and are necessary for proper analysis.
28. South Africa advised the Secretariat that it was working on draft legislation or amendments to existing texts.
29. Thailand indicated that it is reviewing the legislation related to CITES, some of which may have been amended since the initial legislative analysis, to determine whether it meets the requirements of Resolution Conf. 8.4.
30. On 29 March 2001 the Secretariat sent a reminder to the five Parties that had not responded to the Secretariat's January 2001 letter, namely Cameroon, the Dominican Republic, Mozambique, Panama and Singapore.
31. **RECOMMENDATION**
The Standing Committee may wish to determine that Decision 11.18 no longer applies to Poland and Romania as their legislation now generally meets some or all of the requirements for implementation of CITES.
32. The Standing Committee may wish to review at its 46th meeting the progress made by the Russian Federation, South Africa and Thailand in adopting legislation to implement CITES.
33. The Standing Committee may wish to consider appropriate measures, which may include restrictions on commercial trade in specimens of CITES-listed species, with respect to Cameroon, the Dominican Republic, Mozambique, Panama and Singapore.

Other relevant matters

34. The following progress has been made in the implementation of Phase 4 of the National Legislation Project after the 11th meeting of the Conference of the Parties.
35. A Memorandum of Understanding (MoU) was concluded with the Regional Environmental Centre for Central and Eastern Europe (REC) to provide assistance to the Secretariat in preparing legislative analyses for six new Parties, namely Azerbaijan, Croatia, the Former Yugoslav Republic of Macedonia, Kazakhstan, Slovenia and Ukraine, and to support the Parties in Central and Eastern Europe to develop or improve CITES-related legislation. The Secretariat wrote to the Parties concerned on 18 January 2001 requesting them to send copies of their CITES-related legislation in one of the three working languages of the Convention. By 31 March 2001 only Slovenia had responded, stating that it was translating relevant legislative provisions into English and planned to send them by early April 2001.
36. An MoU was concluded with IUCN's Environmental Law Centre (IUCN/ELC) for assistance to the Secretariat in the analysis and review, or updated analysis, of the legislation for nine Parties or territories, namely Egypt, Grenada (new Party), Guyana, Jamaica, Iceland (new Party), Indonesia, Sabah (Malaysia), Senegal and Suriname, as well as the European Union. A second objective of the MOU is for IUCN/ELC to produce a survey of international legal instruments related to CITES. A third objective is to produce an information tool on good practice and new developments in national CITES-related legislation.
37. A handbook and general brochure are being prepared by the Secretariat to be used, *inter alia*, as part of the package of training materials for the regional legislative workshops that are a new component of the National Legislation Project.
38. The Secretariat has been in contact with various potential donors to secure sufficient external funds for the series of regional legislative workshops envisaged under Phase 4 of the National Legislation Project. To date, the United States of America has contributed USD 30,000 to this activity.