

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

Fiftieth meeting of the Standing Committee
Geneva (Switzerland), 15-19 March 2004

Interpretation and implementation of the Convention

CONTROL OF INTERNAL IVORY TRADE

1. This document has been prepared by the Secretariat.
2. In Resolution Conf. 10.10 (Rev. CoP12) on the trade in elephant specimens the Standing Committee is directed to undertake a regular review of actions taken by consumer States to improve legislation and enforcement measures relating to internal trade in ivory and to report the results at each meeting of the Conference of the Parties. The Secretariat is directed, within available resources, to identify those Parties with an ivory carving industry and internal ivory trade whose domestic measures do not allow them to control such trade. Decisions 12.36 to 12.39 also relate to this subject. Decision 12.39 specifically identifies Cameroon, China, the Democratic Republic of the Congo, Djibouti, Ethiopia, Japan, Nigeria, Thailand, Uganda and the United States of America as Parties whose measures the Secretariat must assess. The Secretariat is further directed to report its findings, recommendations and progress to the Standing Committee.
3. Decision 12.37 allocates a specific task to the Standing Committee:

The Standing Committee, at its 50th meeting, shall review the work conducted by the Secretariat and the Parties to comply with Decision 12.39 and shall consider whether additional measures are appropriate. In the case of non-compliance these may include recommendations to restrict the commercial trade in specimens of CITES-listed species to or from the Parties concerned.

4. In document SC49 Doc. 11.1 the Secretariat reported that it intended to conduct 'desk research' as an initial step to assess the adequacy of the measures in place in the Parties listed in Decision 12.39. Thereafter, and if necessary, it would consider conducting verification missions to specific Parties. It wrote to each of the Parties in early May 2003, requesting that they provide details by 30 June 2003 of the legislative, regulatory and enforcement measures currently in place. It subsequently had to send reminders to several of the Parties. At the time of writing (January 2003) China, Ethiopia, Japan, Thailand, Uganda and the United States of America had responded. The Secretariat's assessment of the Parties listed in the Decision is as follows.

Cameroon

5. Although no response was received to the Secretariat's request for information, the Secretariat is aware through work it conducted in Cameroon in 2003 that worked ivory is readily available for sale and that, although this is illegal, there seems inadequate enforcement. The Secretariat is also aware of several shipments of ivory, originating in Cameroon that have been seized in Europe. Detailed information regarding these seizures,

including information relating to the companies involved has been passed to the CITES Management Authority of Cameroon. The nature of the information should have enabled enforcement authorities to take action against such companies for illegal sale and export of ivory. Despite requests to the CITES Management Authority of Cameroon for details of how it has used the information, no response has been received.

6. The Secretariat is of the opinion, therefore, that Cameroon does not have adequate measures in place to control the trade in ivory.
7. The Secretariat recommends that, if no response has been received from Cameroon by the time of its 50th meeting, the Standing Committee recommend a restriction in the commercial trade in specimens of CITES-listed species with Cameroon.

China

8. The Secretariat's assessment of the information supplied by China shows that it does have the legislative and regulatory measures in place with which to control trade in ivory. The Secretariat is also aware that China has supplied to ETIS information relating to significant numbers of seizures that was not available when the analysis of ETIS data was reported at the 12th meeting of the Conference of the Parties (Santiago, 2002). The Secretariat has asked TRAFFIC to conduct a fresh analysis of the ETIS data with regard to China, since it presumes that the rating for 'law enforcement effort' will have to be adjusted to take account of the new seizure information.
9. It remains apparent that China is still an important, if not the most important, destination for the international smuggling of ivory. However, it also seems that the assessment of weak law enforcement in China that was made by non-governmental organizations prior to CoP12 may no longer appropriate and that the control of ivory trade in China deserves to be reviewed again.
10. The Secretariat has had discussions with officials from the CITES Management Authority of China regarding its current controls and is aware that the Management Authority has made proposals to the Government of China as to how these might be amended or better enforced. The Secretariat believes that a verification and assessment mission should be conducted to China to examine its current controls and their enforcement, so that the Secretariat can determine whether China does comply with the Resolution. If any of the measures require to be strengthened, such a mission would also enable the Secretariat to work with China to develop an action plan that would satisfy Decision 12.39.

Democratic Republic of the Congo

11. The Secretariat believes that the Democratic Republic of the Congo has adequate legislation to control trade in ivory. However, it seems that the country continues to have active internal trade in ivory and it is suspected of being a source country for significant amounts of illegal ivory that is intercepted on route to markets in Asia.
12. The Democratic Republic of the Congo continues to be troubled by civil unrest and parts of the country do not appear to be under the control of government agencies and enforcement authorities. It has had considerable difficulty in implementing the Convention and the Secretariat continues to monitor its issuance of permits and control of trade in CITES-listed species. Many of the problems have resulted from the actions of unscrupulous traders and inefficient or corrupt officials, which have spoiled the commitment by its Government and CITES Management Authority to work towards effective implementation.

13. The Secretariat recommends that, if no response has been received from the Democratic Republic of the Congo by the time of its 50th meeting, the Standing Committee recommend a restriction in the commercial trade in specimens of CITES-listed species with the Democratic Republic of the Congo.

Djibouti

14. Having received no response to its request for information, the Secretariat has been unable to assess Djibouti's control of the trade in ivory. Document CoP12 Doc. 34.1, a report to the 12th meeting of the Conference of the Parties on the analysis of data in the Elephant Trade Information System (ETIS), noted Djibouti to be a country of 'major concern'. It appears likely, therefore, that its measures are inadequate.
15. However, in view of the Secretariat's lack of knowledge about the current situation in Djibouti, it recommends that the Standing Committee contact Djibouti and request it to cooperate with the Secretariat. If it fails to do so, or satisfactory progress is not made prior to the 13th meeting of the Conference of the Parties, the Conference of the Parties should be asked to consider recommending a restriction in the commercial trade in specimens of CITES-listed species with Djibouti.

Ethiopia

16. Ethiopia reported that any active internal ivory markets are illegal. It has established a committee of relevant government agencies to increase enforcement activities to stop the trade in ivory and has identified two priorities: firstly, to conduct a workshop to raise awareness among enforcement agencies, souvenir shop owners and the tourism industry; and secondly to mount a campaign by the police and game scouts to search shops suspected of being operated by ivory dealers. However, Ethiopia reported that it lacks the financial ability to undertake either of these initiatives. It has requested the assistance of the Secretariat in implementing them.
17. The Secretariat has written to Ethiopia encouraging it to take action using existing resources and offering to supplement its efforts with technical assistance. The Secretariat has suggested that, if external funding is available, it will undertake a mission to Ethiopia to participate in a capacity-building workshop, provide training to enforcement personnel and review existing legislation and enforcement capabilities. It awaits Ethiopia's response.

Japan

18. The Secretariat believes that Japan's current internal ivory controls do not meet all the required measures identified in Resolution Conf. 10.10 (Rev. CoP12). It has had productive discussions with the Government of Japan regarding this assessment and is awaiting details of what action Japan intends to take. Since Japan has told the Secretariat that its traders are interested in participating in the legal ivory sales approved at CoP12, the Secretariat will conduct a verification mission to Japan to assess its internal controls.

Nigeria

19. Although no response was received to the Secretariat's request for information, the Secretariat is aware through work it conducted in Nigeria in 2003 that worked ivory is readily available for sale and that, although this is illegal, there seems inadequate enforcement. It is also aware through the same work that Nigeria's domestic legislation is inadequate, as is its ability to enforce the Convention.

20. Nigeria's general implementation of the Convention is already being reviewed by the Secretariat and the Standing Committee as an enforcement issue and this will be discussed during the 50th meeting of the Standing Committee. The Secretariat believes that Nigeria's control of internal ivory trade is best addressed in conjunction with the ongoing work on implementation and that no specific action should be taken by the Committee with regard to Decision 12.37.

Thailand

21. The review of the information provided, together with observations made by the CITES Tiger Missions Technical Team in the report of its mission to Thailand in August 2002, lead the Secretariat to conclude that Thailand does not have adequate measures to control the trade in ivory. Whilst it acknowledges that the authorities in Thailand have made significant seizures of ivory that was being imported illegally to the country, the Secretariat does not believe that Thailand has measures in place that would comply with Resolution Conf. 10.10 (Rev. CoP12).

22. The Secretariat has asked Thailand to provide an action plan, as required in part b) of Decision 12.39. It has provided technical advice to assist Thailand in developing measures to regulate its internal ivory trade and markets. Thailand's response is awaited.

Uganda

23. Uganda's response to the Secretariat stressed the opinion of its Government that it should not have been included in the list of Parties included in Decision 12.39; a view it had also expressed at CoP12. It is adamant that there is no currently active internal ivory trade or ivory trade markets in Uganda. ETIS data and information available to the Secretariat suggest that this is true.

24. However, ETIS data show Uganda to be associated with seizures of large quantities of ivory. The Secretariat's own work relating to illicit trade in ivory indicates that Uganda is, on occasions, a transit point for illegal ivory and has apparently been used as a location where ivory has been loaded into containers before being shipped to ports in Asia.

25. The Secretariat believes that it was probably not appropriate to include Uganda in a list referring to internal ivory markets and ivory carving industries. However, before suggesting to the Standing Committee to exclude Uganda from the review, it has asked Uganda for information regarding its efforts to combat the illegal trade in or movement of ivory involving this Party, since it believes it was the intention of the Conference of the Parties that the Secretariat should consider the wider aspects of illegal trade in ivory and not just internal trade. Uganda's response is awaited.

United States of America

26. Information available to the Secretariat, data from ETIS, and the response received from the United States of America clearly demonstrates that this Party is committed to combating illegal trade in ivory. The United States has made significant seizures of ivory that was being illegally imported. Its enforcement authorities have also undertaken investigations regarding suspicious domestic sales.

27. However, the United States does not have all the regulatory measures identified in the Resolution. Consequently, the Secretariat has written seeking an action plan, as required in part b) of Decision 12.39. A response is awaited.

General observations

28. The Secretariat's initial desk research demonstrates that considerable work remains to be done, especially with those Parties that did not respond. The Secretariat must now allocate priorities to this work. In doing so, it believes that the Standing Committee may wish to consider exactly what it is hoped to achieve through this work. For example, it may be appropriate to define more precisely what is meant by terms such as, 'currently active internal ivory markets' and 'an ivory carving industry'.
29. It may also be appropriate to reflect upon whether the measures in the Resolution are the most effective ones for Parties that have no desire to allow 'active' markets or industries.
30. In the case of several Asian countries, there is little difficulty in identifying centuries-long traditions of ivory carving, stockpiles of ivory, existing consumer and trade demand and a desire to acquire new stocks of ivory (legally and illegally). It seems, therefore, appropriate for the Secretariat to devote its limited resources to working with such Parties to develop, and subsequently monitor and assess, action plans to introduce new or strengthen existing controls on the trade in ivory.
31. However, in the case of Parties such as the United States, it seems that official policies, whilst not prohibiting by law trade in ivory, certainly do nothing to encourage it and instead make clear that imports are rigidly restricted to what is allowed by the Convention and that domestic trade is restricted to pre-Convention ivory. Where suspicions exist that existing controls are not being complied with, the enforcement authorities will investigate. Indeed, in the case of the United States, it is primarily through its reporting of a significant number of seizures of ivory, intercepted at the time of attempted import, that it featured prominently in the analysis of ETIS records and, thus, was listed in Decision 12.39.
32. The Secretariat believes that the measures identified in the Resolution are relevant and appropriate for those Parties that have markets and industries that justify strict regulation. However, for those Parties where a very limited trade in ivory can be found, as opposed to being active, and where internal trade is already restricted to pre-Convention ivory, then it may make no sense to require the development of what could potentially be substantial registration or licensing of traders who may never possess fresh or illegally-acquired ivory. Instead, it will probably be more appropriate to focus on strengthening enforcement measures, increasing public awareness of the restrictions on trade in ivory and, where necessary, amending existing legislation regulating the use of ivory.
33. This seems likely to be what is required in the several countries of origin of ivory that are listed in Decision 12.39. For example, the Secretariat understands that domestic trade in other than pre-Convention ivory in Cameroon is, in essence, unlawful and yet seizures in Europe of shipments originating in this country demonstrate that ivory carving and sales are active. Interestingly, many of the seizures have involved ivory that has been carefully concealed in shipments or has involved products whose appearance has been altered to hide the fact that they are made of ivory. This illustrates that those involved are clearly aware that their activities are unlawful and contradicts the opinions expressed by some individuals and organizations that some traders and consumers believe that the legal trade in ivory has resumed.
34. The Secretariat believes that it is equally important to focus on countries of origin, since relatively little ivory (especially raw ivory) appears to be intercepted before it leaves these countries. If such seizures are being made, they are not being reported. Similarly, more work appears to be needed to be done by national and international law enforcement agencies to investigate seizures that have been made in other parts of the world. Several

major seizures have occurred in Bangkok, Hong Kong, Shanghai and Singapore but few, if any, of the persons primarily responsible for these shipments have been identified or prosecuted.

Conclusions

35. The Secretariat believes it is important for the limited resources currently available to be targeted where they are most needed and where the greatest problems may be found. It also believes that it is important to identify the most appropriate answers to such problems and is not convinced that Resolution Conf. 10.10 (Rev. CoP12) provides the solution. The Secretariat is also of the opinion that rigid adherence to Decision 12.39 may lead to a haphazard and inefficient response to the basic problem of illicit trade in ivory.
36. The Secretariat believes that the consumer States that require attention as a priority are China, Japan and Thailand. In terms of verification work, it seems that Japan and China probably require to be visited at an early stage.
37. The Secretariat also believes it would be more effective for it, at the same time, to consider developing sub-regional strategies to work with the Parties in west and central Africa where the majority of illegal ivory appears to originate and be exported or re-exported from. In doing so, it suggests that such work should not be confined to simply those Parties identified in Decision 12.39. For example, a recent report by TRAFFIC suggests extensive ivory trading in Côte d'Ivoire and Senegal, neither of which is listed in Decision 12.39. The Secretariat will, using its mandate in Decision 12.38, write to Côte d'Ivoire and Senegal, seeking details about their current controls of trade in ivory. If a harmonized and sub-regional approach is not taken, it risks simply displacing illicit trade to States where enforcement is not being strengthened.
38. In developing strategies, the Secretariat believes it may be better to use those identified in Decision 12.36, namely:
 - a) *building capacity for law enforcement within elephant range States;*
 - b) *improving public awareness of the conservation impacts from unregulated national trade in ivory;*
 - c) *improving coordination and cooperation amongst national law enforcement agencies;*
 - d) *registering and marking raw ivory in public and private possession, and registering and licensing all importers, manufacturers, wholesalers and retailers dealing in raw, semi-worked or worked ivory products;*
 - e) *introducing recording and inspection procedures as part of a system of comprehensive and compulsory national trade controls; and*
 - f) *urgently strengthening provisions in their national legislation concerning the regulation of internal ivory markets and the implementation of CITES in general where necessary.*

39. The Secretariat is conscious, however, of the introductory text in Decision 12.36:

Parties, donors and organizations are requested to provide urgent financial and technical support to strengthen the implementation of Resolution Conf. 10.10 (Rev. CoP12) regarding control of internal ivory trade in elephant range States...

and that, if this is to be successful, such support must be backed by political will in the relevant Parties to either bring trade in ivory under adequate control or eradicate it.

40. In helping to achieve such political will and gain a commitment to combat illicit trade in ivory, it may be worth convening an elephant range States meeting that would focus solely on illicit trade in ivory, since previous range State dialogue meetings have tended to concentrate on whether legal trade in ivory should occur or not.

41. The Secretariat believes that, whilst encouraging them to continue their law enforcement efforts, it should allocate a low priority to Parties such as Uganda and the United States of America or exclude them totally from its work on this issue.

Mid- to long-term work

42. It may be important to try to evaluate what percentage of illegal ivory is being intercepted and seized. For example, law enforcement and United Nations organizations have been able to calculate the amount of cocaine and heroin that is produced each year and compare such figures against the amount that is seized by Customs and police. The percentage seized can sometimes be surprisingly high. MIKE should, in due course, be able to provide more accurate statistics regarding elephant poaching levels. This, when compared against ivory seizures, should provide an indication of enforcement success levels and help determine interception and policing policies. Some of the ivory market surveys that have been conducted recently have shown, in some countries, decreasing markets, reduced consumer demand and reduction in the numbers of persons engaged in carving and trade. It may be that CITES enforcement personnel around the world are already achieving satisfactory levels of interception. Greater public awareness and increased enforcement efficiency may provide better results than registration and licensing bureaucracy.

43. The Secretariat is also conscious that its work on the National Legislation Project is made more complex if the Conference of the Parties seeks species-specific elements to be introduced. In turn, this adds to the burden on the Parties during their development and enactment of national legislation. The Secretariat is particularly anxious that it, and the Parties, are not asked to engage in work on elephants only to subsequently be asked to repeat the exercise for other species of conservation concern, especially if such work may not be the most effective way to address illegal trade and regulate legal trade.

44. In other documents prepared for the 50th meeting of the Standing Committee (such as that relating to conservation of and trade in bears), the Secretariat has pointed out that the Committee has previously agreed that it is likely to be more effective to address implementation of the Convention in a holistic manner, rather through the consideration of one species after another. It believes this should also be taken into account when considering the conservation of and trade in elephants.

Recommendations

45. The Secretariat proposes that the Standing Committee adopt the following recommendations:

The Secretariat should continue its work regarding the control of trade in ivory using the holistic approach and work plan in the Annex; and

Parties, donors and organizations are urged to provide urgent financial and technical support to implement Decision 12.36.

Draft Work Plan

The Secretariat believes that any exploitation of ivory obtained from Appendix-I elephant populations is completely incompatible with such a listing in the Appendices of the Convention. It is convinced through its work in relation to internal ivory controls that a continent-wide approach needs to be adopted to bring a halt to once and for all the illegal trade in ivory and that it is at the source of such ivory that efforts should be focussed.

The Secretariat recommends that, as soon as possible, all Parties in Africa, except Zimbabwe, where trade in ivory (legal or otherwise) is known to take place should:

- a) agree to halt all domestic sales of ivory (raw, semi-worked or worked);
- b) where necessary, introduce legislation making domestic sale of ivory illegal, including placing the onus of providing proof of lawful possession upon any person found in possession of ivory in circumstances from which it can reasonably be inferred that such possession was for the purpose of transfer, sale, offer for sale, exchange, import or export of or of transporting it for such purposes;
- c) issue instructions to all law enforcement and border control agencies to enforce existing or new legislation rigorously; and
- d) engage in public awareness campaigns publicizing existing or new bans on ivory sales.

The Secretariat recommends that Parties should, by 31 December 2004, report to the Secretariat on their implementation of such measures. Such reports should include details of seizures, copies of new legislation, copies of government instructions or orders to enforcement agencies and details of awareness campaigns. The Secretariat will report at the 53rd meeting of the Standing Committee on the implementation of the measures by Parties.

In the interim, the Secretariat will use the opportunity of any elephant dialogue meeting or other regional meeting prior to the 13th meeting of the Conference of the Parties to work directly with countries in Africa to provide any technical assistance that may be necessary to assist their implementation of the measures and to confirm Parties' commitment to put in place such measures.

The Secretariat will also, during this interim period, engage in efforts to publicize the halting of domestic ivory sales in Africa through contacting relevant organizations such as airlines and IATA. It will also, via ICPO-Interpol and the World Customs Organization, communicate with the heads of police and Customs authorities in Africa, advising them of this initiative.

In early 2005, the Secretariat will undertake work, including *in situ* verification missions, to assess Parties' implementation of the measures. Priority will be given to those Parties that are identified during research by the Secretariat and through other appropriate sources of information to be actively engaged in trade in ivory. Particular priority will be given to Cameroon, the Democratic Republic of the Congo, Djibouti and Nigeria. In cases where Parties are found to have failed to implement measures or ivory is found to still be in trade, the Secretariat will issue a Notification to the Parties advising them that the Standing Committee recommends that Parties should not engage in commercial trade in specimens of CITES-listed species with the Party in question.

The Secretariat will request all Parties to publicize this initiative, particularly to discourage persons travelling to Africa (except Zimbabwe) from purchasing raw, semi-worked or worked ivory and to encourage border control authorities to be alert to illegal imports of ivory and to make every effort to intercept movements of ivory.

The Secretariat will seek the support of Governments, international organizations and non-governmental organizations in supporting this work to eradicate illegal exports of ivory from the African continent and the domestic markets that contribute to illicit trade.