

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

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Twelfth meeting of the Conference of the Parties  
Santiago (Chile), 3-15 November 2002

Interpretation and implementation of the Convention

Regular and special reports

Report on national reports required under Article VII, paragraph 7, of the Convention

BIENNIAL REPORTS

1. This document has been prepared by the Secretariat.

Background

2. Article VIII, paragraph 7, of the Convention states that:

*Each Party shall prepare periodic reports on its implementation of the present Convention and shall transmit to the Secretariat... a biennial report on legislative, regulatory and administrative measures taken to enforce the provisions of the present Convention.*

3. At the time of the Convention's adoption, Parties recognized that a reporting procedure would be an essential feature of the effective working of the Convention. The Convention's legislative history shows that Parties' reporting obligations related to CITES permits and specimens in trade, legislation, enforcement and other relevant information originally were to be contained in a single annual report. Taking into account the potential administrative burden on Parties, however, it was agreed to separate 'key information' (i.e. trade data) to be reported annually from other information (i.e. legislative, regulatory and administrative measures to enforce the Convention) to be reported biennially.
4. Reporting is a key component of virtually every multilateral environmental agreement as well as a logical complement of record-keeping and other actions required under these agreements. At national level, reports serve as Parties' self-assessment of their implementation of an agreement through which they can identify achievements and problems. At international level, such reports provide the basis for comparison and synthesis that then inform substantive and procedural decision-making by the Conference of the Parties and various subsidiary bodies. Monitoring and reporting on the environment may not directly improve the environment but they help to bring about the decision-making that can do so.
5. Biennial reports under CITES reflect the importance placed by the Convention on measures to be taken by the Parties to enforce its provisions and to prohibit trade in specimens in violation thereof (Article VIII, paragraph 1). Such reports are intended to track Parties' progress in the enactment of binding laws or regulations as well as non-binding administrative policies and procedures related to implementation of the Convention. Moreover, they provide a means by which Parties can report on proceedings instituted to enforce those legislative, regulatory and administrative measures.

### Historical compliance with the biennial reporting requirement

6. Since 1977 the Secretariat has distributed various Notifications reminding Parties about the requirement to provide biennial reports and urging them to submit such reports. As indicated in several past reports to the Conference of the Parties, the Secretariat's workload, especially in view of the growing number of Parties, prevented it from being able to devote resources to the subject of biennial reports. Emphasis instead was placed on annual reports and trade monitoring.
7. Resolution Conf. 2.16 on Periodic Reports (repealed) emphasized the importance of annual and biennial reports for the effective monitoring of trade and the need for the standardization, timely submission and distribution of both types of reports. Resolution Conf. 5.4 on Periodic Reports (repealed) noted that Parties were still failing to comply with the reporting requirements of the Convention. Biennial reports have not featured since then in any resolutions although several have addressed annual reports and the monitoring of trade.
8. On 21 December 1992 the Secretariat issued Notification to the Parties No. 716 advising Parties again of the Secretariat's concern about the non-submission of biennial reports and warning them pursuant to Article XIII that the Convention was not being effectively implemented. Parties were asked to submit reports before the Secretariat prepared its reports for the ninth meeting of the Conference of the Parties (Fort Lauderdale, 1994).
9. At the ninth meeting of the Conference of the Parties, the report on National Laws for Implementation of the Convention [Doc. 9.24 (Rev.)] made reference to the requirement to submit biennial reports and stated that:

*Because this requirement has not, for the most part, been implemented by the Parties, it has often been difficult for the Secretariat to obtain current information on national legislation for implementation of the Convention.*

The Parties adopted Decision 9.20 instructing Parties to make greater efforts to provide to the Secretariat the biennial reports required under Article VIII, paragraph 7(b), of the Convention, in particular because of the importance of information on changes that have occurred with regard to national legislation for implementation of CITES. This call for more biennial report submissions was reiterated in Decisions 10.39 and 11.38 of the Conference of the Parties.

10. Under Point 1.8.5 of the Action Plan for the *Strategic Vision through 2005*, Parties are urged to report biennially on their progress in developing and implementing effective management programmes for the conservation and recovery of species, so that species will no longer satisfy the criteria for inclusion in the Appendices.
11. Although compliance levels with the biennial report requirement have never been high, there have been more expressions of interest and submissions in recent years. In particular, the obligation in European Union legislation for its Member States to submit biennial reports has resulted in two comprehensive biennial reports (1997-1998 and 1999-2000). Article 15.4 c) of Council Regulation 338/97 states that:

*... the management authorities of the Member States shall, before 15 June of each second year, and for the first time in 1999, communicate to the Commission all the information relating to the preceding two years required for drawing up the reports referred to in Article VIII.7 (b) of the Convention and equivalent information on the provisions of this Regulation that fall outside the scope of the Convention. The information to be communicated and the format for its presentation shall be specified by the Commission in accordance with the procedure laid down in Article 18.*

12. Under the CITES National Legislation Project, the Secretariat has been encouraging other Parties to include a reference to biennial reports in their CITES-related legislation. With the assistance of UNEP-WCMC, it also has begun to monitor more closely the submission of biennial reports and has included

several relevant action items in its work plan. The overall aim is to improve compliance with the biennial reporting requirement.

### Submission

13. Convention documents indicate that biennial reports have been submitted since the first years of the Convention's entry into force. The Secretariat, however, has restricted its recent survey of submissions to the period 1990-2001 (see Annex 1). Even using this more restrictive timeframe it has been difficult to ensure the identification of all biennial report submissions. Accordingly, the attached chart is indicative only. Additional information from Parties, including the correction of any errors or omissions, is most welcome.
14. An initial analysis of biennial report submissions reveals the following:
  - different biennial periods have been used covering the same year (e.g. 1992-1993 and 1993-1994);
  - the biennial report is not always called such but rather may be titled a "performance report" or an "implementation report";
  - a number of countries include biennial report information in their annual reports;
  - since 1990 reports with biennial report information have been submitted by 63 countries; and
  - the contents and quality vary but usually biennial report information addresses CITES authorities, legislation, implementation and/or enforcement.

### Quality

15. No guidelines for the preparation and submission of biennial reports have yet been developed for use by all Parties. Some guidance for their preparation, however, has been suggested by TRAFFIC Europe (at the request of the European Commission to undertake such work) for use by Member States of the European Union. This consists primarily of a set of report components linked to a number of specific provisions in EU legislation. Experience with these components, however, seems to show that there is a need for simpler and easier-to-use guidance.
16. Taking into account the biennial reports submitted to date, the Secretariat has developed a "List of priority items for the preparation of biennial reports" (see Annex 2).
17. To reduce the reporting burden on Parties, consideration could be given to:
  - keeping the biennial report short and simple with a focus on priority topics;
  - after an initial biennial report, only highlighting any legislative amendments or changes in CITES authorities and new activities; and
  - using a more structured approach consistent with agreed guidelines, *inter alia*, to facilitate comparative analysis.
18. Similar to annual reports, Parties should strive to produce a coordinated biennial report that incorporates relevant information from multiple management authorities, relevant sectoral agencies and sub-national government bodies.

## Analysis and use

19. The biennial report, like the annual report, should be seen and used as a management tool rather than a burdensome obligation (see document CoP12 Doc. 22.1). Improved information systems, guidance material and reconsideration of the ultimate purpose of the report might help this transition. The complementarity of annual and biennial reports also might be explored further. Biennial reports could be a good vehicle for reflecting the implementation of Resolutions and Decisions of the Conference of the Parties and identifying more easily and regularly implementation difficulties.
20. TRAFFIC Europe, at the request of the European Commission, has twice compiled and analysed biennial report submissions of the Member States. As mentioned, it also has provided some guidance for the preparation of such reports. The compilation and assessment of biennial reports assists the Commission's review of Member States' compliance with EU legislation on CITES. It could be quite helpful if a process were set up through which the results of this review and the overall EU experience with biennial reports were to be shared with non-EU countries.
21. The biennial report provides an opportunity to take stock of overall implementation of the Convention, including administrative, regulatory and legislative measures used to apply its provisions. It would be helpful, therefore, if such reports highlighted major achievements, significant developments or trends, gaps or problems and possible solutions. The provision of more quantitative information (e.g. number of CITES staff, seizures/confiscations, prosecutions, training seminars, meetings, etc.) could allow implementation trends to be easily tracked over time.
22. A review of the biennial report requirement shows it strongly overlaps with the National Legislation Project particularly as such reports provide useful information on changes in legislation. As the National Legislation Project has resulted in the provision of legislative information by virtually all Parties, it may have indirectly lessened concern about non-compliance with the biennial report requirement. With more countries achieving Category 1 status for their legislation, emphasis within the Convention should shift to assessing the effective application of that legislation (see document CoP12 Doc. 28) and this would be something addressed by countries' biennial reports.
23. In addition to the content of legislation, some biennial reports already provide information on experience with the application, adequacy and effectiveness of legislation, including specific compliance and enforcement efforts. The overview of enforcement efforts (seizures, confiscations, warnings, penalties, court decisions, etc.) complements the more prompt submission of specific enforcement information in the form of an ECOMESSAGE or other report concerning significant CITES offences. Incorporation of such information into the biennial report, however, requires good relations and regular communication between management and enforcement authorities.
24. Unlike the annual reports that are quite unique to CITES, the biennial reports offer more opportunity for harmonization with national reporting under other biodiversity conventions. This should be addressed in the review of CITES reporting recommended below as well as discussions and resulting joint activities with interested Parties and convention secretariats.

## Recommendations

25. Biennial reports should be part of the review of CITES reporting recommended in Annex 2 of document CoP12 Doc. 22.1. The Implementation Committee or working group undertaking that review should include the following terms of reference relevant to biennial reports:
  - clarify the purpose and usefulness of biennial reports, especially in relation to annual reports, the submission of biennial reports by Parties with Category 1 legislation under the National Legislation Project and various special reports under the Convention;

- assess the need to enhance the use of biennial reports as a means for Parties to communicate implementation problems and possible solutions;
- explore whether biennial reports could be thematic in nature and synchronized with special reports to the CoP or subsidiary bodies to the Convention;
- consider whether biennial reports could be harmonized with national reporting under other biodiversity conventions; and
- identify ways in which biennial reports could be standardized for easier analysis and comparison, including the adoption of guidelines and standard formats for their preparation and submission.

24. The Conference of the Parties should delete Decision 11.38 as it is an ongoing responsibility under the Convention.