

RECALLING Decision 12.84, whereby the Conference of the Parties instructed the Secretariat to draft a set of guidelines on compliance with implementation of the Convention for consideration by the Standing Committee;

RECALLING FURTHER that the Standing Committee at its 50th meeting (Geneva, March 2004) decided to establish an open-ended working group to draft such guidelines;

THE CONFERENCE OF THE PARTIES TO THE CONVENTION

TAKES NOTE of the *Guide to CITES compliance procedures* annexed to this Resolution; and

RECOMMENDS that the Guide be referred to, when dealing with compliance matters.

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## Annex

## Guide to CITES compliance procedures

### *Objective and scope*

1. The objective of this Guide is to inform Parties and others of CITES procedures concerning promoting, facilitating and achieving compliance with obligations under the Convention and, in particular, assisting Parties in meeting their obligations regarding such compliance.

Specifically, the Guide describes existing procedures in order to facilitate consistent and effective handling of compliance matters relating to obligations under the Convention, taking into account relevant Resolutions and Decisions, in both specific and general compliance matters.

This Guide is non-legally binding.

2. This Guide addresses compliance matters relating to the obligations under the Convention, taking into account relevant Resolutions and Decisions. Particular attention should be paid to the following:
  - a) designating Management Authority(ies) and Scientific Authority(ies) (Article IX);
  - b) permitting trade in CITES-listed specimens only to the extent consistent with the procedures laid down in the Convention (Articles III, IV, V, VI, VII and XV);
  - c) taking appropriate domestic measures to enforce the provisions of the Convention and prohibit trade in violation thereof (Article VIII, paragraph 1);
  - d) maintaining records of trade and submitting periodic reports (Article VIII, paragraphs 7 and 8); and
  - e) responding as soon as possible to communications of the Secretariat related to information that a species included in Appendix I or II is being adversely affected by trade in specimens of that species or that the provisions of the Convention are not being effectively implemented (Article XIII).
3. The procedures described in this Guide are without prejudice to any rights and obligations and to any dispute settlement procedure under the Convention.

### *General principles*

4. A supportive and non-adversarial approach is taken towards compliance matters, with the aim of ensuring long-term compliance.

5. Compliance matters are handled as quickly as possible. Such matters are considered and ensuing compliance measures are applied in a fair, consistent and transparent manner.
6. Generally, findings, reports and communications in compliance matters are not treated confidentially.

However, communications between the Secretariat and individual Parties on specific compliance matters are generally confidential.

7. Decisions on whether to close or keep open debates in compliance matters are taken according to the Rules of Procedure of the body considering the matter and generally reasons are given.
8. The Secretariat communicates compliance-related decisions to the relevant authorities.

***The various bodies and their compliance-related tasks***

9. Compliance matters are handled by the following CITES bodies. Their main compliance-related tasks are listed below.
10. The Conference of the Parties:
  - a) provides general policy guidance on compliance issues;
  - b) directs and oversees the handling of compliance matters particularly through the identification of key obligations and procedures;
  - c) reviews as needed decisions of the Standing Committee related to specific compliance matters; and
  - d) may delegate certain authority to the Standing Committee or other CITES bodies in accordance with the Convention.
11. When the Conference of the Parties decides to carry out itself the tasks delegated to the Standing Committee, it follows the same procedures as those described below for the Standing Committee.
12. The Standing Committee, acting in accordance with instructions from and authority delegated by the Conference of the Parties, handles general and specific compliance matters, including:
  - a) monitoring and assessing overall compliance with obligations under the Convention;
  - b) advising and assisting Parties in complying with obligations under the Convention;
  - c) verifying information; and
  - d) taking compliance measures as described below.
13. The Animals and Plants Committees, acting in accordance with instructions from and authority delegated by the Conference of the Parties, advise and assist the Standing Committee and the Conference of the Parties with regard to compliance matters, *inter alia*, by undertaking necessary reviews, consultations, assessments and reporting. These Committees are entrusted with specific tasks in the handling of matters related to the Review of Significant Trade.
14. The Secretariat:
  - a) assists and supports the Animals and Plants Committees, the Standing Committee and the Conference of the Parties in carrying out their functions concerning compliance matters as described in this Guide and, where applicable, according to the procedures set out in relevant Resolutions and Decisions;
  - b) receives, assesses and communicates to the Parties information on compliance matters;
  - c) advises and assists Parties in complying with obligations under the Convention;

- d) makes recommendations for achieving compliance; and
- e) monitors the implementation of compliance-related decisions.

### ***Handling of specific compliance matters***

#### ***A. Identification of potential compliance matters***

- 15. Annual and biennial reports, legislative texts as well as other special reports and responses to information requests, for example within the Review of Significant Trade or the National Legislation Project, provide the primary, but not exclusive, means of monitoring compliance with obligations under the Convention.
- 16. The Secretariat provides a Party concerned with information it receives about that Party's compliance, and communicates with the Party regarding this matter.
- 17. In response, the Party informs the Secretariat as soon as possible of any relevant facts in so far as its laws permit and, where appropriate, proposes remedial action. Where the Party considers that an inquiry is desirable, such inquiry may be carried out by one or more persons expressly authorized by the Party.
- 18. Any Party concerned over matters related to trade in specimens of CITES-listed species by another Party may bring the matter up directly with that Party and/or call upon the Secretariat for assistance.
- 19. Parties themselves are encouraged to give the Secretariat early warning of any compliance matter, including the inability to provide information by a certain deadline, and indicate the reasons and any need for assistance.
- 20. Where compliance matters are identified, the Parties concerned are given every opportunity to correct them within reasonable time limits, if necessary with the assistance of the Secretariat.

#### ***B. Consideration of compliance matters***

- 21. If the Party fails to take sufficient remedial action within a reasonable time limit, the compliance matter is brought to the attention of the Standing Committee by the Secretariat, in direct contact with the Party concerned.
- 22. If a compliance matter is otherwise brought to the attention of the Standing Committee in accordance with the Rules of Procedure, the Standing Committee:
  - a) refers the matter to the Secretariat for action according to the procedure in paragraphs 16-20 above; or
  - b) rejects it as trivial or ill-founded; or
  - c) in exceptional circumstances, after consultation with the Party concerned, follows the procedures as described below.
- 23. When compliance matters are brought to the attention of the Standing Committee, it is generally done in writing and includes details as to which specific obligations are concerned and an assessment of the reasons why the Party concerned may be unable to meet those obligations.
- 24. When a compliance matter is brought to the attention of the Standing Committee, the Secretariat immediately informs the Party or Parties concerned.
- 25. The Standing Committee rejects compliance matters which it considers are trivial or ill-founded.

Where the Standing Committee has decided that the submission is not trivial or ill-founded, the Party concerned is given the opportunity to provide comments within a reasonable time limit.

26. The Standing Committee decides whether to gather or request further information on a compliance matter whenever such information may be found and whether to seek an invitation from the Party concerned to undertake the gathering and verification of information in the territory of that Party or wherever such information may be found.
27. The Party concerned has the right to participate in discussions with respect to its own compliance, in accordance with the Rules of Procedure of the relevant body.
28. If a Party cannot access the financial resources needed to participate in CITES meetings where its own compliance is being considered, it is able to request assistance from the Secretariat or the Standing Committee in identifying such resources.

*C. Measures to achieve compliance*

29. If a compliance matter has not been resolved, the Standing Committee decides to take one or more of the following measures:
  - a) provide advice, information and appropriate facilitation of assistance and other capacity-building support to the Party concerned;
  - b) request special reporting from the Party concerned;
  - c) issue a written caution, requesting a response and offering assistance;
  - d) recommend specific capacity-building actions to be undertaken by the Party concerned;
  - e) provide in-country assistance, technical assessment and a verification mission, upon the invitation of the Party concerned;
  - f) send a public notification of a compliance matter through the Secretariat to all Parties advising that compliance matters have been brought to the attention of a Party and that, up to that time, there has been no satisfactory response or action;
  - g) issue a warning to the Party concerned that it is in non-compliance, e.g. in relation to national reporting and/or the National Legislation Project; and
  - h) request a compliance action plan to be submitted to the Standing Committee by the Party concerned identifying appropriate steps, a timetable for when those steps should be completed and means to assess satisfactory completion.
30. In certain cases, the Standing Committee decides to recommend the suspension of commercial or all trade in specimens of one or more CITES-listed species, consistent with the Convention. Such a recommendation may be made in cases where a Party's compliance matter is unresolved and persistent and the Party is showing no intention to achieve compliance or a State not a Party is not issuing the documentation referred to in Article X of the Convention. Such a recommendation is always specifically and explicitly based on the Convention and on any applicable Resolutions and Decisions of the Conference of the Parties<sup>1</sup>.
31. The list of measures above is not necessarily an exhaustive list of measures applied to date.
32. When the Standing Committee decides upon one or more of the measures mentioned above, it takes into account:
  - a) the capacity of the Party concerned, especially developing countries, and in particular the least developed and small island developing States and Parties with economies in transition;

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<sup>1</sup> These currently include:

- Resolution Conf. 11.17 (Rev. CoP14) (National reports);
- Decision 14.29 (National laws for implementation of the Convention);
- Resolution Conf. 12.8 (Rev. CoP13) (Review of Significant trade in specimens of Appendix-II species);
- Convention Article XIII and Resolution Conf. 11.3 (Rev. CoP14) (Compliance and enforcement); and
- Resolution Conf 11.1 (Rev. CoP14) (Establishment of committees).

- b) such factors as the cause, type, degree and frequency of the compliance matters;
- c) the appropriateness of the measures so that they are commensurate with the gravity of the compliance matter; and
- d) the possible impact on conservation and sustainable use with a view to avoiding negative results.

These considerations are clearly set out in the Standing Committee's recommendations.

*D. Monitoring and implementation of measures to achieve compliance*

33. The Standing Committee, with the assistance of the Secretariat, monitors the actions taken by the Party concerned to implement measures taken. In this regard, the Standing Committee may, *inter alia*:
- a) request the Party concerned to submit progress reports in accordance with a schedule; and
  - b) arrange, upon the invitation of the Party concerned, for an in-country technical assessment and for a verification mission.

In the light of progress, the Standing Committee decides whether to adjust the measures it has taken, or to take other measures.

34. Existing recommendations to suspend trade are generally reviewed at each Standing Committee meeting. They are also monitored intersessionally by the Secretariat. A recommendation to suspend trade is withdrawn as soon as the compliance matter has been resolved or sufficient progress has been made. The Secretariat notifies Parties of any such withdrawal as soon as possible.
35. The general guidelines in paragraphs 33 and 34 above are in some cases supplemented by more precise provisions regarding specific categories of compliance matters, e.g. in the case of significant trade in specimens of Appendix-II species, as laid out in the Resolutions and Decisions related thereto.

***Reporting and reviews***

36. The Standing Committee reports to the Conference of the Parties on compliance matters. The Secretariat reports to the Standing Committee and the Conference of the Parties on compliance matters.
37. The Conference of the Parties may review this document periodically and revise it where appropriate.