

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

Nineteenth meeting of the Conference of the Parties
Panama City (Panama), 14 – 25 November 2022

Interpretation and implementation

General compliance and enforcement

DOMESTIC MARKETS FOR FREQUENTLY ILLEGALLY TRADED SPECIMENS

1. This document has been submitted by the Standing Committee.*
2. At its 18th meeting (CoP18, Geneva, 2019), the Conference of the Parties adopted Decisions 17.87 (Rev. CoP18) and 17.88 (Rev. CoP18) as follows:

Directed to the Secretariat

17.87 (Rev CoP18) *The Secretariat, subject to external funding and in consultation with relevant Parties, is requested to:*

- a) *undertake a study of the domestic controls in consumer markets for specimens of CITES-listed species for which international trade is predominantly illegal, other than elephant ivory; and*
- b) *report the findings and recommendations of this study, as well its own recommendations, to the Standing Committee.*

Directed to the Standing Committee

17.88 (Rev CoP18) *The Standing Committee at its 73rd meeting shall review the findings and recommendations of the report referred to in Decision 17.87 (Rev. CoP18) and any recommendations of the Secretariat and make recommendations for consideration at the 19th meeting of the Conference of the Parties, including appropriate revisions to existing resolutions, to strengthen domestic controls addressing illegal trade in specimens of CITES-listed species for which international trade is predominantly illegal.*

3. Before CoP 18, the Secretariat prepared a study on the domestic trade controls in consumer markets for elephant ivory and presented the main findings of the study to the Standing Committee at its 70th meeting (see document [SC70 Doc. 28](#)) and the Standing Committee in turn presented the findings and its recommendations to CoP18.
4. At the 74th meeting of the Standing Committee (SC74, Lyon, March 2022), the Committee noted the study undertaken pursuant to Decision 17.87 (Rev. CoP18) and reported on by the Secretariat in document

* *The geographical designations employed in this document do not imply the expression of any opinion whatsoever on the part of the CITES Secretariat (or the United Nations Environment Programme) concerning the legal status of any country, territory, or area, or concerning the delimitation of its frontiers or boundaries. The responsibility for the contents of the document rests exclusively with its author.*

[SC74 Doc. 38](#), the information contained therein and the comments made by Parties [see executive summary [SC74 Sum. 8 \(Rev. 1\)](#)]. The full study was made available in information document [SC74 Inf. 2](#).

5. The study focused on legal controls on domestic trade in Appendix-I listed species other than elephants as set out in laws and regulations as opposed to enforcement in practice, where trade in 'Appendix-I listed species' is used as a proxy for 'CITES-listed species for which international trade is predominantly illegal.' It examined existing legal controls adopted by ten Parties to the Convention: China [including Hong Kong Special Administrative Region (SAR) and Macao Special Administrative Region (SAR)]; the European Union; India; Indonesia; the Lao People's Democratic Republic; Malaysia; Nigeria; Thailand; the United States of America; and Viet Nam. The Parties included in this study were selected mainly based on trends observed in seizure data indicating their importance as source, transit, and/or consumer markets for Appendix-I listed species. The study was made possible thanks to funding made available by the United States of America and the collaboration of Parties included in the study. It was completed in July 2020 and hence did not cover developments after that date.
6. Based on the findings of the study, two main areas for strengthening domestic controls to address illegal trade in specimens of CITES-listed species for which international trade is predominantly illegal were identified. These relate to regulation and control of online trade and possession of specimens of CITES-listed species.
7. With respect to online trade, the study had suggested explicitly regulating online trade given that online trade represented a major loophole in the legislation of many countries. It had further suggested that where existing legal controls are broad enough to prohibit possession of domestic trade in Appendix-I listed species, Parties could explicitly state how online trade is regulated and ensure that the legislation in place is applied and enforced with regard to online trade. The study also noted that, at CoP18, the Conference of the Parties adopted Decision 18.82 encouraging Parties to draw upon INTERPOL's guidance on addressing illegal wildlife trade on the Internet, and that INTERPOL finalized its *Wildlife Crime Linked to the Internet: Practical Guidelines for Law Enforcement Practitioners* in 2019. These guidelines are not publicly available but can be provided to any wildlife trade enforcement authority that requests them. To address the study's findings in relation to online trade, the Standing Committee agreed to submit two amendments to Resolution Conf. 11. 3 (Rev. CoP18) on *Compliance and enforcement* (see Annex 1 to the present document). The Committee agreed to move subparagraph 12 a) to become a new subparagraph 15 e) so that it addresses trade in specimens of species included in Appendix I more broadly and not only in the context of online trade and agree to the include of a new subparagraph 15 to ensure that legislative provisions also cover online trade.
8. With respect to possession, the study found that some Parties require individuals to have a certificate of ownership or a permit issued by the Management Authority to legally possess or keep any protected animal species or derived product. The study suggested that this approach of requiring a permit for possession could be more widely adopted to prevent specimens that illegally enter a country from continuing to be traded or consumed in-country. One way of achieving this would be to regulate possession of specimens of species included in Appendix I. For instance, the possession of a specimen of an Appendix-I listed species (whether dead or alive) could require the proof that the specimen was acquired legally and that the possession is legal. This provision could facilitate the enforcement of paragraph 1 of Article VIII of the Convention requiring that Parties take measures to penalize the possession of specimens traded in violation of the Convention. Based on this finding, the Standing Committee agreed to submit a further amendment to Resolution Conf. 11.3 (Rev. CoP18) on *Compliance and enforcement* (see Annex 1) recommending that Parties review and amend their national legislation, as necessary, to enable authorities to take action in cases that are connected to international illegal trade in fauna and flora and where evidence of legal acquisition of specimens of species included in Appendix I cannot be provided by the owner, to the extent that it is practicable to require such evidence. The Committee further agreed to submit a new decision directed to the Standing Committee to explore whether further non-binding guidance in this area would be pertinent (see Annex 2 to the present document).
9. In accordance with Decision 17.88 (Rev. CoP18), the Standing Committee made recommendations for consideration at the 19th meeting of the Conference of the Parties to strengthen domestic controls to address illegal trade in specimens of CITES-listed species for which international trade is predominantly illegal contained in Annexes 1 and 2 to the present document.
10. The Standing Committee considers that Decisions 17.87 (Rev. CoP18) and 17.88 (Rev. CoP18) have been implemented and can be deleted.

Recommendations:

11. The Conference of the Parties is invited to:

- a) adopt the amendments to Resolution Conf. 11.3 (Rev. CoP18) on *Compliance and enforcement* contained in Annex 1 to the present document;
- b) adopt the draft decision contained in Annex 2 to the present document; and
- c) delete Decisions 17.87 (Rev. CoP18) and 17.88 (Rev. CoP18).

COMMENTS OF THE SECRETARIAT

- A. The Secretariat recommends that the Conference of the Parties adopt the amendments to Resolution Conf. 11.3 (Rev. CoP18) on *Compliance and enforcement* contained in Annex 1 to the present document and the draft decision contained in Annex 2, with the following changes:
 - a) Replacing “address the challenges of controlling” by “regulate” in paragraph 15 e) of Resolution Conf. 11.3 (Rev. CoP18) on *Compliance and enforcement* contained in Annex 1; and
 - b) Replace “online trade” by “trade linked to the internet” in paragraph 15 s) of Resolution Conf. 11.3 (Rev. CoP18) on *Compliance and enforcement* contained in Annex 1 to ensure that terminology is used consistently as per Decision 18.84 paragraph c) which provides that all relevant Resolutions and Decisions be amended to ensure consistent use of the term ‘wildlife crime linked to the internet’ with regard to reference to combating wildlife cybercrime.
- B. As their objective has been achieved, the Secretariat recommends that Decisions 17.87 (Rev. CoP18) and 17.88 (Rev. CoP18) be deleted.

PROPOSED AMENDMENTS TO
RESOLUTION CONF. 11.3. (REV. COP18) ON *COMPLIANCE AND ENFORCEMENT*

Moved text is underlined twice; new text is underlined; and deleted text is ~~struck through~~.

Regarding additional actions to promote enforcement

15. RECOMMENDS further that the Parties:

- a) take the necessary measures to develop a comprehensive strategy for border controls, audits and investigations, by:
 - i) taking into account the different procedures for customs clearance of goods and customs procedures such as transit, temporary admission, warehouse storage, etc.;
 - ii) ensuring that officers in charge of control are aware of and trained in CITES matters regarding, for example, CITES requirements, identification of specimens and the handling of live animals;
 - iii) implementing document control in order to ensure the authenticity and validity of CITES permits and certificates, especially, if necessary, by requesting the Secretariat to confirm their validity;
 - iv) conducting physical examinations of goods, based on a policy of risk assessment and targeting;
 - v) using wildlife detector dogs and scanning equipment as appropriate, in support of the detection of illegal wildlife shipments;
 - vi) increasing the quality of controls at the time of export and re-export; and
 - vii) providing the necessary resources in order to achieve these objectives;
- b) encourage national agencies responsible for wildlife law enforcement to establish communication networks, or expand existing networks, to combat organized wildlife crime, in accordance with relevant legislation regulating such matters, including putting in place or maintaining strict procedures for managing covert human intelligence sources;
- c) affected by significant poaching of CITES specimens, or that have made a large-scale seizure of such specimens, reach out to the Secretariat to request the deployment of a Wildlife Incident Support Team (WIST), should expert support be needed in the immediate aftermath of such an incident;
- d) promote and increase the use of wildlife forensic technology and specialized investigation techniques, such as controlled deliveries, in the investigation of wildlife crime offences;
- e) evaluate or develop their domestic measures to ensure that they are sufficient to address the challenges of controlling legal wildlife trade, investigating illegal wildlife trade and punishing the perpetrators, giving high priority to the offer for sale of specimens of species listed in Appendix I;
- ef) review and amend national legislation, as necessary and appropriate, so that offences connected to the illegal wildlife trade are treated as predicate offences, as defined in the United Nations Convention against Transnational Organized Crime, for the purposes of domestic money-laundering offences, and are actionable under domestic proceeds of crime legislation;
- fg) implement national legislation to combat money laundering and facilitate asset forfeiture to ensure that criminals do not benefit from the proceeds of their crimes, stressing that effective prosecutions against money laundering linked to wildlife trafficking benefit from bringing together wildlife trade and money laundering expertise, including from financial intelligence units, as appropriate;

- gh) make illicit trafficking in protected species of wild fauna and flora involving organized criminal groups a serious crime, in accordance with their national legislation and Article 2 (b) of the United Nations Convention against Transnational Organized Crime;
- hi) prosecute those involved in wildlife crime, in particular those identified as members of organized crime groups, under a combination of relevant legislation which carry appropriate penalties that will act as effective deterrents, whenever possible;
- ij) make use of the different tools available through ICCWC, in particular the *ICCWC Wildlife and Forest Crime Analytic Toolkit* and the *ICCWC Indicator Framework for Wildlife and Forest Crime*, in order to strengthen enforcement-related aspects of the implementation of the Convention;
- jk) whenever appropriate and possible, liaise closely with CITES Management Authorities and law enforcement agencies in consumer, source and transit countries to help investigate, detect, deter and prevent illicit trade in wildlife through the exchange of intelligence, technical advice and support;
- kl) promote incentives to secure the support and cooperation of local and rural communities in managing wildlife resources and thereby combating illegal trade;
- lm) where appropriate, evaluate and utilize for enforcement purposes, information from non- governmental sources while maintaining standards of confidentiality;
- mn) consider the formation, at national level, of specialized wildlife-law enforcement units or teams;
- no) use the CITES Virtual College, which provides access to courses and training materials to build enforcement capacity;
- op) explore innovative means of increasing and improving national enforcement capacity;
- pq) as appropriate, initiate intelligence-driven operations, and participate in the operations initiated at international level by organizations such as INTERPOL and the World Customs Organization, to mobilize resources and initiate targeted activities to combat wildlife crime; ~~and~~
- qr) carry out focused national and regional capacity-building activities with particular focus on fostering inter-agency cooperation and improving knowledge of legislation; species identification; risk analysis and investigation of criminal actions;
- s) ensure that legislative provisions cover online trade and that national agencies responsible for wildlife law enforcement be made aware of the challenges raised by online trade and provided with adequate means to tackle it; and
- t) review and amend national legislation, as necessary, to enable authorities to take action in cases that are connected to international illegal trade in fauna and flora and where evidence of legal acquisition of specimens of species included in Appendix I cannot be provided by the owner, to the extent that it is practicable to require such evidence;

DRAFT DECISION ON *POSSESSION OF SPECIMENS
OF SPECIES INCLUDED IN APPENDIX I*

Directed to the Standing Committee

19.AA The Standing Committee, with the assistance of the Secretariat, shall:

- a) explore whether further non-binding guidance is needed on the implementation of the Convention with respect to possession of specimens of species included in Appendix I, including species that have been transferred from Appendix II to Appendix I, as well as specimens of species included in Appendix II subject to a zero export quota, to help address illegal international trade and, if so, request the Secretariat to prepare draft guidance for its endorsement;
- b) consider whether additional recommendations related to the possession of specimens of species included in Appendix I, including species that have been transferred from Appendix II to Appendix I, as well as specimens of species included in Appendix II subject to a zero export quota, in relevant Resolutions are warranted to address illegal international trade in such specimens; and
- c) make recommendations for consideration at the 20th meeting of the Conference of the Parties, including appropriate revisions to existing Resolutions, to strengthen the regulation of possession of specimens of species included in Appendix I, including species that have been transferred from Appendix II to Appendix I, as well as specimens of species included in Appendix II subject to a zero export quota, to help address illegal international trade in such specimens.

TENTATIVE BUDGET AND SOURCE OF FUNDING
FOR THE IMPLEMENTATION OF DRAFT RESOLUTIONS OR DECISIONS

According to Resolution Conf. 4.6 (Rev. CoP18) on *Submission of draft resolutions, draft decisions and other documents for meetings of the Conference of the Parties*, the Conference of the Parties decided that any draft resolutions or decisions submitted for consideration at a meeting of the Conference of the Parties that have budgetary and workload implications for the Secretariat or permanent committees must contain or be accompanied by a budget for the work involved and an indication of the source of funding. The Secretariat proposes the following tentative budget and source of funding.

The Secretariat considers that the implementation of the draft resolution has workload implications for the Secretariat and the Standing Committee that can be absorbed within the existing allocated budgetary and human resources.