

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



Seventy-fifth meeting of the Standing Committee
Panama City (Panama), 13 November 2022

Interpretation and implementation matters

General compliance and enforcement

Compliance matters

IMPLEMENTATION OF ARTICLE XIII AND
RESOLUTION CONF. 14.3 (REV. COP18) ON
CITES COMPLIANCE PROCEDURES

1. This document has been prepared by the Secretariat pursuant to paragraph 36 of the Annex to Resolution Conf. 14.3 (Rev. CoP18) on *CITES compliance procedures* stating that the Secretariat reports to the Standing Committee on compliance matters.
2. The present document provides an update on several cases related to trade in specimens of CITES-listed species that have not yet been identified as compliance matters under Article XIII but that are emerging as potential compliance matters and in relation to which the Standing Committee made recommendations.
3. From the outset, the Secretariat would like to express its gratitude to the CITES authorities and operators for their warm hospitality and the wealth of information provided during its visits to the different institutions and facilities. As announced to the Parties during the technical missions, the substantive report including conclusions and findings will be provided in separate documents to the 77th meeting of the Standing Committee once all the information provided has been properly analysed and all the technical missions recommended by the Standing Committee completed. In the following paragraphs, the Secretariat is reporting on the progress made in the implementation of the recommendations made by the Standing Committee at its 74th meeting (SC74, Lyon, March 2022).

Update on potential compliance matters identified in document SC74 Doc. 28.1

Trade in live Asian elephants (Elephas maximus)

4. SC74 adopted the following decision with regard to the trade in live Asian elephants (*Elephas maximus*):
 - a) *The Secretariat shall continue to keep close communication and strengthen the cooperation with China and Lao PDR on this potential case and seek an invitation from China and Lao PDR to provide in-country assistance, conduct a technical assessment and a verification mission to understand the type of trade controls that are put in place, once the specimens had been introduced, to ensure compliance with Article III concerning the import of live Asian elephants (Elephas maximus). The technical assessment of the facility(ies) hosting the live elephants should focus on clarifying the purpose of the transaction and the specific characteristics and objectives of the reported trade. The Secretariat shall present its findings and recommendations to the 75th meeting of the Standing Committee (SC75).*
5. On 17 August 2022, the Secretariat wrote to China conveying the instruction by the Standing Committee to seek an invitation from China to provide in-country assistance, conduct a technical assessment and a verification mission.

6. On 13 September 2022, the CITES Management Authority of China responded expressing their appreciation and welcoming the visit of the Secretariat. It was also explained that China's COVID-19 policy requires several days of quarantine and changed from region to region. Given the time constraints and the short resources of the Secretariat, it was agreed in consultation with China to postpone any mission after CoP19 with the hope that the epidemic situation has improved, and the quarantine restrictions are less strict.
7. The Secretariat appreciates the swift response of China, and the invitation that it has extended to the Secretariat to undertake the verification mission during the first quarter of 2023. A further update will be provided to the Standing Committee at its 77th meeting (SC77).
8. SC74 also decided in paragraph b) that "*the export of live Asian elephants from the Lao People's Democratic Republic shall be incorporated into the application of Article XIII in the Lao People's Democratic Republic to be considered under agenda item 28.2.1.*" An update with regard to communication between the Secretariat and the People's Democratic Republic of Lao (Lao PDR) concerning trade in live Asian elephants is provided in document SC75 Doc. 7.2.2.

Trade in Pericopsis elata from Cameroon

9. SC74 adopted the following decision with regard to trade in *Pericopsis elata* and other species from Cameroon:
 - c) *noted the information provided on Pericopsis elata from Cameroon and requested the Secretariat to further investigate this case and make recommendations to the Standing Committee.*
 - d) *according to Article II, paragraph 1, articles IV and VI and Resolution Conf. 12.3 (Rev. CoP18), the Secretariat shall continue to keep close communication and strengthen the cooperation with Cameroon on this potential case and seek an invitation from Cameroon to provide in-country assistance, conduct a technical assessment and a verification mission to understand how the CITES authorities ensure that timber species are legally acquired and exported in full compliance with CITES. The Secretariat shall present its findings and recommendations to SC75.*
10. On 24 August 2022, the Secretariat wrote to Cameroon communicating the recommendation of the Standing Committee to seek an invitation from the Management Authority to provide in-country assistance, conduct a technical assessment and a verification mission.
11. On 6 September 2022, Cameroon responded by inviting the Secretariat to conduct a technical mission in the country. The Secretariat held an online meeting with the Management Authority on 29 September 2022 to organize the mission and discuss a draft agenda that included several meetings with representatives of the Management and Scientific Authorities, cooperation partners, private operators and civil society representatives, as well as visits to selected companies and the port of Douala. The tentative dates identified for the mission were from 25 to 28 October 2022. Unfortunately, due to overlapping missions and shortage of personnel, the Secretariat was unable to conduct the visit on the proposed dates. On 13 October 2022, the Secretariat sent a letter to the Minister of Forest and Fauna communicating the postponement of the mission and suggesting new dates for conducting it during the first quarter of 2023. At the present meeting, the Secretariat will also report orally on the progress made for the organization of this mission in collaboration with the Management Authority of Cameroon.

Registration of operations that breed Appendix-I animal species in captivity for commercial purposes – European Union and the United Kingdom of Great Britain and Northern Ireland

12. SC74 adopted the following decision with regard to the registration of operations that breed Appendix-I animal species in captivity for commercial purposes – European Union and the United Kingdom of Great Britain and Northern Ireland:
 - e) *The Secretariat shall continue to keep close communication and strengthen the cooperation with the European Union, its member States and the United Kingdom of Great Britain and Northern Ireland regarding this case and seek an invitation from the European Union and from the United Kingdom to provide in-country assistance, conduct a technical assessment and a verification mission to several selected operations to know the type of trade controls that are put in place to verify the legal origin of the parental stock and the commercial or non-commercial nature of those operations. The aim of the visits would be to have a clearer understanding of the purpose of the breeding and the specific*

characteristics and objectives of the operations breeding bird and reptile species listed in Appendix I. The Secretariat shall present its findings and recommendations to SC75.

13. In accordance with the recommendation of the Standing Committee at SC74, the Secretariat maintained close contact with the European Union and the United Kingdom and wrote to both Parties to seek information on the breeding stock of relevant facilities and on how CITES authorities ensure that facilities breeding the relevant species in captivity comply with CITES rules, including Resolution Conf. 10.16 (Rev.) on *Specimens of animal species bred in captivity*.

European Union

14. The European Union (EU) provided written inputs in response to the letter of the Secretariat and invited the Secretariat to undertake verification missions to Germany and Spain before CoP19. In response to the Secretariat's queries, the European Union provided a letter of explanation setting out its general approach to exports of captive-bred specimens of Appendix-I species and answering specific questions. The European Union provided as Annexes to this letter a compilation of information received from 15 Member States concerning their implementation of the CITES regime on trade in captive-bred specimens of Appendix-I species.
15. The European Union explained that it implements CITES through the EU Wildlife Trade Regulations (EU WTR), which include stricter domestic measures. The Commission has recently published a "*Guidance document on live animals bred in captivity under the EU Wildlife Trade Regulations*". The guidance covers aspects such as establishment of breeding stocks for captive breeding, verification of legal origin of founder stocks that are non-detrimental to wild specimens, determination of source codes, and specific Scientific Authorities (SA) and Management Authorities (MA) roles.
16. The EU indicated that it considers the approach set out in this guidance to be equivalent to, and in some ways goes beyond, what is required under Resolution Conf. 12.10 (Rev. CoP15) on *Registration of operations that breed Appendix-I specimens in captivity for commercial purposes*. Exports of specimens of Appendix-I species are subject to a case-by-case assessment, including checks on whether the specimen is captive-bred in accordance with Resolution Conf. 10.16 (Rev.) on *Specimens of animal species bred in captivity*. Any commercial use of an Annex A (Appendix-I and others) specimen within an EU territory has to be covered by an EU certificate (or internal trade certificate), and such certificates can only be issued if specific conditions are met, for instance that the specimen is captive-bred in accordance with Resolution Conf. 10.16 (Rev.). All Annex A (Appendix-I) specimens used for commercial purposes need to be marked, for example by means of a closed ring or transponder.
17. The European Union's written response notes that:

The only facilities that are included in the CITES Registration of operations that breed Appendix-I animal species in captivity for commercial purposes in the EU are facilities that are breeding and exporting falcons on a large scale in order to facilitate as much as possible the commercial import of these species into destination countries.
18. In relation to the specific concern raised at SC74 in relation to the import of two specimens of *Amazona imperialis* and the ten specimens of *A. arausiaca* from Dominica to Germany in 2018, the European Union provided to the Secretariat a detailed explanation from Germany, which is under analysis and will be presented to SC77.
19. Regarding the captive-breeding of Appendix-I taxa for commercial purposes from non-registered breeding operations in the European Union and the United Kingdom of Great Britain and Northern Ireland, the Secretariat conducted missions to Germany, Spain and the United Kingdom.
20. The Secretariat's mission to Germany (4 to 6 October 2022) was facilitated by the Federal Agency for Nature Conservation (the German CITES Management Authority). The mission included visits to the CITES Authority of the federal state of Brandenburg, as well as to two captive-breeding facilities, one for parrots (Association for the Conservation of Threatened Parrots, Schöneiche) and one for reptiles (Reptilia24, Mudershausen).
21. The Secretariat's mission to Spain (19 to 21 October 2022) was facilitated by the Spanish Management Authority and included visits to three captive-breeding facilities, one for parrots (Parrot Grys, Cubelles) and two for tortoises (Tortuland, Masquefa; and Radiatas Paradise, Denia).

22. The Secretariat thanks the respective national authorities for the technical and logistical support received during its missions. The Secretariat will present its findings and recommendations to the 77th meeting of the Standing Committee.

United Kingdom of Great Britain and Northern Ireland

23. The Secretariat appreciates the collaboration of the United Kingdom in providing information in response to the Secretariat's queries and in inviting the Secretariat to undertake a verification mission in its territory. The Secretariat undertook a mission to the United Kingdom from 25 to 27 October 2022 and met with the UK CITES Management Authority, Scientific Authority and representatives of other agencies involved in the implementation and enforcement of CITES in the UK. The mission included visits to facilities breeding birds of prey which were registered in accordance with the provisions of Resolution Conf. 12.10 (Rev. CoP15) on *Registration of operations that breed Appendix-I specimens in captivity for commercial purposes*, and facilities which had not been registered.
24. The United Kingdom has indicated that its domestic measures implementing CITES are stricter than required by the Convention in many respects¹. The United Kingdom's Wildlife Trade Regulations implement Resolution Conf. 10.16 (Rev.) on *Specimens of animal species bred in captivity*. Trade in captive-bred Appendix-I or Appendix-II specimens relies on CITES export and import permits, with a certificate for domestic commercial use also required per specimen. Captive-breeding certificates are not used in the UK system. To ensure confidence in the provenance of specimens being exported on a case-by-case basis, the United Kingdom couples documentary controls with risk-based and intelligence-led inspections, both at the border for exports or imports, but also at captive-breeding facilities. This includes facilities which are not registered under CITES. Forensic methods are used where appropriate. More information on the approach of the United Kingdom to facilities breeding in captivity specimens of Appendix-I species will be provided at the 77th meeting of the Standing Committee.
25. The Secretariat notes that it may be worthwhile for the Standing Committee to develop further guidelines for the implementation of Resolution Conf. 12.10 (Rev. CoP15) on *Registration of operations that breed Appendix-I animal species in captivity for commercial purposes*, in particular regarding the legal verification of the origin of the parental stock. Some operators indicated the difficulty to go beyond a certain number of generations to prove the legal origin of their parental stock and asked how far the chain of custody should go in providing evidence of the legal acquisition of that stock. Guidelines may be also required concerning the commercial aspects of this operation (including the distinction between the notion of hobbyist and a commercial operation used in some countries of the European Union for an important number of small and medium facilities). Finally, guidelines should be explored to develop point 15 of Annex 3 to Resolution Conf. 12.10 (Rev. CoP15) regarding the contribution of those facilities to the conservation of the species in the wild. More broadly, some authorities and operators have suggested the need to consider revisiting the Resolution to be sure that the process of registration is as effective as possible and provide the necessary incentives for the law-abiding breeders interested in registering their facilities. It is worth noting that document CoP19 Doc 55 also proposes amendments to Resolution Conf 12.10 (Rev. CoP15) and that the Standing Committee will need to consider these recommendations in the context of any amendments adopted at CoP19.
26. The Secretariat will continue to keep in contact with the CITES authorities of the European Union and the United Kingdom in relation to the registration of facilities breeding specimens of Appendix-I species in their territory and provide a further report to the 77th meeting of the Standing Committee (SC77).

Timber trade – Viet Nam

27. SC74 adopted the following decision with regard to timber trade from or to Viet Nam:
- f) *The Secretariat shall continue to keep close communication and strengthen the cooperation with Viet Nam to understand how the CITES authorities ensure that timber and other species are imported and re-exported in full compliance with CITES. The Secretariat shall seek an invitation from Viet Nam to provide in-country assistance, conduct a technical assessment and a verification mission to further investigate allegations related to Viet Nam's possible engagement in trade in timber and other species*

¹ As of 31 December 2020, the United Kingdom retained the EU regulations implementing CITES, and these retained regulations form the basis of its current domestic regime.

that have been illegally harvested or traded, including timber that has been traded contrary to CITES provisions. The Secretariat shall present its findings and recommendations to SC75.

28. In accordance with the recommendations of the Standing Committee, the Secretariat wrote to Viet Nam and requested an invitation to undertake a verification mission. The Secretariat is grateful for the collaboration of Viet Nam in providing written responses and inviting the Secretariat to undertake the verification mission in its territory from 4 to 6 October 2022. During the mission, the Secretariat met with the CITES Management Authority, as well as agencies with responsibility for implementing and enforcing the requirements of CITES such as the Customs Administration, Environmental Police and Forest Rangers. Viet Nam indicated that a significant number of measures and activities have been undertaken and implemented with the aim of closing gaps on illegal timber trade, including the introduction of new legislation on forests and timber legality assurance. Viet Nam has also introduced a voluntary zero export quota for domestically harvested specimens of CITES-listed timber species. These are important steps in tackling the ongoing non-compliant timber trade through or connected with Viet Nam.
29. Viet Nam indicated that communication between relevant agencies effectively supports detection and investigation in cases of non-compliant timber imports, and that interagency committees meet regularly. Viet Nam identified the following areas for further development: species identification and document verification, as well as building capacity on detecting cross-border smuggling methodologies. Viet Nam has provided additional information in relation to its management of trade in CITES-listed timber species.
30. According to the data provided by Viet Nam in its annual reports covering the period from 2015-2019, the Lao People's Democratic Republic appears as a major trade partner of Viet Nam for the species *D. cochinchinensis* during the period that a recommendation to suspend trade was in effect. In relation to this item, Viet Nam has provided the following explanation:

In practice, the last import permit by Laos that was submitted to Viet Nam CITES MA was on 26/8/2016 (permit no. 16VN1122N), before the trade suspension of Dalbergia cochinchinensis as of 01/11/2018. All of the re-export permits of D. cochinchinensis from Laos since 23/09/2016 to date have been presented with the origin before trade suspension, according to provisions by CITES and laws of Viet Nam at each import time. Therefore, the re-export permits also provide in details the origin as pre-convention or import by laws.

Viet Nam hereby affirm that, 100% of D. cochinchinensis from Laos which were permitted for import to Viet Nam, is granted before the trade suspension.

31. The Secretariat reported in document SC74 Doc. 28 on the evidence submitted as part of the Review of Significant Trade of *D. cochinchinensis* and published in document PC24 Doc. 13.2, Annex 1 that Viet Nam repeatedly accepted fake CITES permits when authorising imports of Siamese rosewood between 2013-2015. Viet Nam provided the following comment in response to this item:

The above statement is unfortunately not correct. Viet Nam affirm that all CITES import permits of Siamese rosewood during 2013-2015 were granted with a confirmation on validity of the export permits by Cambodia. (...) At the meeting among Viet Nam, Cambodia, CITES Secretariat, INTERPOL on the issues raised by Cambodia about their laws to prohibit export of timber logs, sawn timber at a side meeting to CoP17, South Africa, similar discussion matters were solved as Viet Nam provided proofs on the mutual email exchange for permit verification. By that, Viet Nam also noted information on the laws of Cambodia, and suggested them to send Letter of request to the Secretariat for a formal notification to all member states. So that, other member states might be well informed and provide support to implement their laws effectively. On 21/3/2017, Cambodia sent their request to the Secretariat to notify that Cambodia no longer grant export permits of D. cochinchinensis. The last CITES imported permit with the origin from Cambodia granted by Viet Nam is permit no. 15VB1556N, dated 05/11/2015.

For the above reasons, Viet Nam affirm that we have fully complied with provisions by Articles II, IV, VI of the Convention, Resolution 12.3 on permits, certifications and related provisions.

32. Concerning the reports in document SC74 Doc. 28 that there are indications Viet Nam may have granted several permits for the same shipment, Viet Nam provided the following explanation:

During the past period, Viet Nam MA was informed about 02 cases on lost permit occurred during shipping from Viet Nam to the United States (with confirmation by the respective airline). Viet Nam MA later received request by the United States MA to re-grant the permit for the lost permit shipment, and

the proposal of a Vietnamese company to use another CITES export permit, which was granted for another shipment but not yet used, to replace the lost one, with the purpose for US customs clearance which was pending by that time due to the mentioned situation.

In response to the above two requests, considering CITES provisions and national laws, Viet Nam MA reject the re-granting of a replacement permit as requested by the United States MA, and did not allow the Vietnamese company to use another permit to replace the lost one.

For that, Viet Nam regards the statement that we granted several permits for the same shipment is not correct. Viet Nam affirm that this was not the fact. However, Viet Nam acknowledge the issuance of multiple permits for different shipments in the same time, due to the fact that the export permit validity is up to 6-month as promulgated by CITES and national laws. Consequently, Vietnamese companies may apply for several permits for different shipments by one single origin dossier and one single application form. For example: requesting for 20 export permits for 20 shipments, with the quantity 20 specimens/ shipment/ export permit by one set of origin papers of 400 specimens. Each permit is requested with the same quantity, importer, exporter, but different in CITES stamp or code. After then, the company is responsible for their export schedule for the duration of permits' validity.

33. The Secretariat will continue to keep in contact with the CITES authorities of Viet Nam about timber trade in its territory and will provide a detailed report including its findings and recommendations to the 77th meeting of the Standing Committee (SC77).

Trade in birds – Bangladesh

34. Before SC74, the Secretariat received allegations related to bird imports into Bangladesh, including species listed on the CITES Appendices being considered to be "non-CITES" species. For instance, CITES-listed parrots appear to be authorised for import as non-CITES species. As requested by the Standing Committee, the Secretariat wrote to the CITES authorities of Bangladesh in August 2022 seeking further information about the transactions' references and about the trade controls put in place by the CITES authorities of Bangladesh to ensure that specimens of bird species are imported and re-exported in full compliance with CITES requirements. At the time of writing, the Secretariat has not received a response to the letter.

Other potential matters - trade in shark specimens between Ecuador and Peru

35. At Peru's invitation, the Secretariat conducted a back-to-back technical visit following a regional workshop on demand reduction held in Lima from 20 to 21 September 2022. The visit aimed to support the CITES authorities in strengthening the implementation of CITES on sharks. The visit took place on 22 and 23 September 2022 and involved the Management and Scientific Authorities and the enforcement focal points of Peru, including regional authorities from the north of the country and customs officers, as well as the Management and Scientific Authorities of Ecuador. During the mission, key points were identified that required urgent action.
36. Both delegations presented the current levels of trade and the controls put in place and agreed on the importance of having commitments that help the collaborative work between both countries for the sustainable management of CITES-listed sharks within the framework of the Peru-Ecuador Binational Cabinet.
37. According to information presented by delegates from both Parties, significant volumes of trade in fins and meat of CITES-listed sharks from Ecuador to Peru are being authorized as by-catch. Both delegations recognized the potential problem and highlighted that sharks are migratory species. Considering the regional dimension of the challenge, it is advisable to promote their management in regional fora such as the Permanent Commission for the South Pacific and the South Pacific Regional Fisheries Management Organization.
38. Regarding the sustainability and scientific-related aspects, it was suggested that, for the preparation of the Non-Detriment Findings (NDF) by the Scientific Authorities of both countries, it is essential to establish a quota (quotas, volumes for fins and meat) and define the periodicity for each country. The statistical landing information should allow the maintenance of extraction levels that do not exceed the average and based on this, the calculation of the number of annual fins for export. Population studies were identified as a priority activity for which it is necessary to identify financing and international assistance from relevant institutions, including FAO, RFMOS, etc. Peru will also evaluate the possibility of adopting a due diligence approach to

verify the NDF and LAF supporting the export permit in accordance with Resolution Conf. 11.3 (Rev. CoP18) on *Compliance and enforcement*.

39. Regarding the legality aspects, both Parties discussed the preparation of Legal Acquisition Findings and considered it essential to receive training to strengthen the application in both countries. Particular attention should be paid to continue working on measures to enhance traceability, permit issuance, a single window, and fishery management measures that help prevent overexploitation. Ecuador indicated that it would soon approve a bycatch permissibility index, which will help establish a limit on these catches.
40. With regards to the enforcement controls, it seems urgent to establish critical checkpoints in the terminals, mail delivery companies, and other key points with trained personnel for the identification of shark body parts (fins), applying the guidelines that are already available. The channels of communication between the Management Authorities of both countries dealing with marine species should be more fluid to carry out consultations and organize collaborative work to prevent the illegal trafficking of these species.
41. Finally, authorities from both countries discussed the need to study the demand for shark species products, involving civil society, non-governmental organizations, fishing communities, industry, shipping companies, carriers, and other stakeholders. This will contribute to the development of a demand reduction strategy following the guide commissioned by the CITES Secretariat to help reduce pressure on the resource and promote its conservation and sustainable use.

Recommendations

42. The Standing Committee is invited to take note of the information provided.
43. The Standing Committee may also wish to recommend the following:
 - a) Regarding the above-described potential compliance cases, the Secretariat shall continue to keep close communication and strengthen the cooperation with the Parties involved. The Secretariat shall present its findings and recommendations to the 77th meeting of the Standing Committee (SC77). A substantive report, including conclusions and findings shall be provided in separate documents for each potential case to the 77th meeting of the Standing Committee
 - b) Regarding trade in shark specimens between Ecuador and Peru, requests the Secretariat to investigate this case further and make recommendations to the Standing Committee. The Secretariat shall continue to keep close communication and strengthen the cooperation with Ecuador and Peru on this potential case and seek an invitation from Ecuador to provide in-country assistance, conduct a technical assessment and a verification mission to understand how the CITES authorities ensure that shark specimens are legally acquired and exported in full compliance with CITES. The Secretariat shall present its findings and recommendations to SC77.