

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



Seventy-seventh meeting of the Standing Committee
Geneva (Switzerland), 6–10 November 2023

Compliance

Compliance matters

Application of Article XIII in Guinea

ADDENDUM

1. This addendum to document SC77 Doc. 33.9 has been prepared by the Secretariat.
2. This addendum contains additional information on the application of Article XIII in Guinea obtained during the mission of the Secretariat to Guinea from 9 to 13 October 2023. The objectives of the mission were to:
 - a) collect additional information on the implementation of the recommendations of the Standing Committee under Article XIII, including the exceptional authorization to export the pre-Convention stockpile of *Pterocarpus erinaceus*;
 - b) take part in the implementation of the Indicator Framework of the International Consortium on Combating Wildlife Crime (ICWC), facilitated by the United Nations Office on Drugs and Crime (UNODC);
 - c) monitor the implementation of the Compliance Assistance Project (CAP), financed by the European Union; and
 - d) hold a training workshop for the newly appointed CITES Scientific Authority.

The Secretariat would like to express its gratitude to the Ministry of Environment and Sustainable Development (*Ministère de l'Environnement et du Développement Durable* - MEDD) for the warm hospitality and support to the Secretariat during the entire mission.

Implementation of the recommendations of the Standing Committee

Export of the pre-Convention stockpile of Pterocarpus erinaceus – recommendations a) to c)

3. During the mission, the Secretariat went with the CITES Management Authority to the two locations, Kountiya and Faziya, where the stockpile of pre-Convention *Pterocarpus erinaceus* had previously been located. The two sites were empty but for some 20 to 30 logs of poor quality left on the larger site, Kountiya.
4. After the site visit, the Secretariat met with the National Commission established by the Note of Service 200052 adopted by Guinea on 16 November 2020 (before the regime change in September 2021) to oversee the export of the stockpile. The following agencies had been designated as part of the National Commission and took part in the meeting:
 - *Direction Nationale des Forêts et de la Faune* (DNFF-CITES Management Authority), in charge of overseeing the entire process and of issuing the required CITES pre-Convention certificates;

- *L'Office Guinéen du Bois* (OGUIB) in charge of issuing the Certificates of Origin on the basis of which the revenue for the timber is received;
 - Customs in charge of sealing the containers and escorting them to the port;
 - *Gendarmerie* in charge of ensuring the security of the containers and the transparency of the process; and
 - The INTERPOL National Central Bureau (NCB) of Guinea, in charge of securing the transparency of the process.
5. During the meeting, the National Commission was invited to explain in detail how the safeguard measures and the Standing Committee's conditions for exceptionally authorizing the export of the stockpile had been applied by Guinea. They explained that the first 97 containers had been loaded and sealed in the presence of the entire National Commission in November 2022 and had left the country in early 2023. Subsequently, containers had been loaded in the presence of the National Commission regularly as and when the containers were made available by the shipping company. In June 2023, China communicated to Guinea that it had accepted the import of 9,605 m³ on the basis of the pre-Convention certificates issued by the CITES Management Authority. Based on this information, the Management Authority had continued to issue pre-Convention certificates until reaching the volume of 13,991 m³. The last containers had been loaded in August 2023.
 6. As noted in the main document, the Secretariat had previously expressed concerns over the volume of timber authorized for export exceeding the original inventoried volume of 12,882 m³ by 1,100 m³ (equivalent to 65 containers) that had been communicated to the Secretariat in June 2021 in accordance with the first condition of the exceptional approval by the Standing Committee. At the meeting, the National Commission maintained that the original inventory had been wrong and that the volume was larger than what had been estimated in June 2021. However, the Commission was not able to provide any evidence of the faulty inventory and had not alerted the Secretariat of this issue earlier. There was no material evidence to support the claim that the stockpile was in fact 14,000 m³.
 7. The National Commission further noted that Notification to the Parties No. 2022/082 of 5 December 2022 had not mentioned the volume of 12,882 m³ that had previously been inventoried and noted by the Standing Committee. The National Commission claimed that it had therefore understood that the Committee had authorized a volume of maximum 14,000 m³. The Secretariat maintained that the Standing Committee had allowed the export of the stockpile and not of a quota of 14,000 m³. However, the Secretariat also recognized that the Notification from December 2022 only mentioned a volume of maximum 14,000 m³ and should have mentioned the volume of 12,882 m³ that had been inventoried by Guinea in 2021 and noted by the Standing Committee at its 74th meeting in March 2022.
 8. The Secretariat was informed that the National Commission had held regular meetings during the process and the Secretariat asked for the minutes of these meetings. However, this was not provided during or after the Secretariat's mission.
 9. During the meeting with the National Commission, it was not possible to obtain information about the revenue received by OGUIB from the sale of the pre-convention stockpile. However, the Secretary-General of the MEDD subsequently communicated that a total of about 4 billion Guineans francs were expected to be received, equivalent to USD 478,650. He further confirmed that 40 per cent of this amount (equivalent to USD 190,386) would be transferred to a special sub-account in the Ministry of Environment and Sustainable Development destined to strengthen and build capacity of the CITES Management Authority in Guinea as requested by the Standing Committee. He did not specify when this was expected to happen.
 10. Following the meeting with the National Commission, the Secretariat held a brief meeting with the shipping company in charge of transporting the stockpile from Guinea to China. The shipping company informed the Secretariat that it had charged over 1,200 containers of *Pterocarpus erinaceus* equivalent to 20,400 m³ and therefore well over the maximum authorized volume of 14,000 m³. However, as the shipping company had not received CITES documents for this entire volume, it had stopped accepting further shipments by the end of August. The Secretary-General of the Ministry later confirmed by telephone that 510 containers (equivalent to 8,500 m³) had been shipped to China by l'OGUIB without any CITES document or any other authorization.
 11. Upon receiving this information, the CITES Management Authority of China and the CITES Secretariat verified their records of copies of CITES pre-Convention certificates received from the CITES Management Authority of Guinea. Over 350 certificates have been received for a volume of over 20,000 m³. The CITES Management Authority of Guinea claims that they declared many of these as invalid following the refusal of

their acceptance by China and has provided a list of the “valid certificates” to the CITES Management Authority of China and the CITES Secretariat. The Secretariat has asked for a list of invalidated pre-Convention certificates so that it can share that list with China and other relevant stakeholders. At the time of writing, no such list has been received.

12. As indicated in document SC77 Doc. 33.9, the CITES Secretariat has been communicating regularly with China regarding the import of the stockpile and the excess volumes exported from Guinea with or without CITES pre-Convention certificates. China has indicated that it should be allowed to import 13,991 m³, referring to the Notifications to the Parties, indicating a maximum volume of 14,000 m³ as explained in paragraph 7 above.
13. In this context, the Secretariat notes that upon its request, China transferred photos taken by the Chinese Customs of containers transporting logs of *Pterocarpus erinaceus* from Guinea to China. With agreement of China, the Secretariat shared the photos with the UNODC expert in illegal timber trade. He concluded that on the basis of the photos, it was not possible to estimate the time of harvest of the logs; however, the photos showed clear differences in the appearance of the logs with some of them seeming to be old as they were grey or almost black whereas others appeared more recent as they were more reddish.
14. With regard to the excess volume that will not be authorized for import, China has indicated that according to Chinese law, the timber must either be returned by the company or confiscated. The Secretariat has reminded China of paragraph 1 of Resolution Conf. 17.8 (Rev. CoP19) in which it is recommended that *when specimens are exported or re-exported in violation of the Convention, importing Parties: consider that the seizure and confiscation of such specimens are generally preferable to the definitive refusal of the import of the specimen*. Should China decide to refuse the import, it would be important for Guinea to dispose any returning shipments of illegal timber in a manner that discourage further illegal logging and timber trafficking, e.g. destroying the shipment. In this context, the Secretariat recalls that all logging is prohibited and therefore illegal under national law in Guinea and that there is a current recommendation to suspend trade that remains in effect. The Secretariat further recalls Resolution Conf. 17.8 (Rev. CoP19) on *Disposal of illegally traded and confiscated specimens of CITES-listed species* providing the following in paragraph 2 b):

2. The CoP recommends that

b) as a general rule, confiscated dead specimens, including parts and derivatives, of Appendix-II and Appendix-III species be disposed of in the best manner possible to achieve the purposes of the Convention, and steps be taken to ensure that the person responsible for the offence does not receive financial or other gain from the disposal and that such disposal does not stimulate further illegal trade

15. At the end of the mission, the CITES Secretariat reported its findings to the Minister for Environment and Sustainable Development of Guinea, including the finding about pre-Convention certificates issued for an excess volume and the significant amount of *Pterocarpus erinaceus* shipped without any CITES pre-Convention certificate. The Minister committed to taking action on this without delay; she also indicated that she would bring the matter to the attention of the judiciary for criminal investigations into illegal timber trafficking and to the *Comité national du rassemblement pour le développement (CNRD)* which is the highest authority in the transitional government.
16. The following week, on Tuesday 17 October 2023, the Secretariat received from MEDD, a formal Ministerial Decision 2023/000027 suspending the only two members of the CITES Management Authority with immediate effect. However, they have not been suspended from their positions within the DNFF, which is of concern. Two other staff members of the DNFF have taken up the position as CITES Management Authority and the information has already been made available on the CITES website.

Regarding progress in adopting national legislation – recommendation d)

17. During the mission to Guinea, the Secretariat met with the consultant who has been recruited by the CAP to assist with updating the national legislation. Some progress has been made before the regime change in 2021, but the legislation was scattered over a number of legal instruments. The Secretariat recommended to replace these instruments with one decree on international trade in wild fauna and flora to facilitate implementation and enforcement, which was noted. After consultation with various stakeholders on this approach and assuming that the approach would be agreeable, the text of the draft decree would be prepared and submitted to the Secretariat for comments before further national consultations. The aim would be to have the decree signed by mid-2024.

Regarding management and issuance of CITES permits and certificates, recommendations e) to i)

18. In response to the recommendations of the Standing Committee, Guinea has invested in security paper and security stamps acquired in 2021 after the decision of the Standing Committee to exceptionally allow for the export of the timber stockpile. Guinea has also adopted a legal instrument requiring two signatures on each CITES document. It is apparent that these measures have not been sufficient to prevent a significant mismanagement of the export of the stockpile and more stringent measures, amongst others, may be needed before the current recommendation to suspend trade can be lifted. Guinea is working on developing a cloud-based electronic permit management system. For the time being, the Secretariat advises that Guinea should ensure that the remaining printed security paper and security stamps are removed from the previous Management Authority and locked into a safe. Guinea must also ensure the cancellation and invalidation of all pre-Convention certificates that have not been used for the export of the pre-Convention stockpile. Finally, Guinea must submit without delay to the Secretariat the sample signature for CITES documents in accordance with recommendations in Resolution Conf. 12.3 (Rev. CoP19) on *Permits and certificates*.

Regarding law enforcement, including the Implementation of the ICCWC Indicator framework – recommendations j) to m)

19. On 11-12 October 2023, UNODC facilitated a workshop to assess the law enforcement efforts of Guinea against the ICCWC Indicator Framework in collaboration with the CITES Secretariat and together with 45 representatives selected from the environmental authorities (National Directorate of Forests and Wildlife, CITES Management and Scientific Authorities), law enforcement agencies (National Wildlife and Forest Crime Brigade, police, gendarmerie, INTERPOL NCB, customs) as well as the judiciary (public prosecutors offices and magistrates) and partner non-governmental organizations such as WARA Conservation and the *Action Citoyenne pour la Protection de l'Environnement* (ACPE). Among the findings and recommendations from the workshop, it is worth highlighting the need for a reform of the legal framework which is currently underway to strengthen the prosecution of wildlife and forest crimes. Since the establishment of the National Wildlife and Forest Crime Brigade in 2019, the penalties and sentences have been elevated but are not sufficiently dissuasive. On the law enforcement side, there is a need for enhanced technical assistance and capacity-building of the national brigade and other law enforcement agencies. It was recommended to strengthen interagency collaboration not just during the operations but also in gathering and sharing information to prevent wildlife crime offenses. The Indicator Framework Report is expected to be available by mid-November 2023.

Implementation of the Compliance Assistance Project (CAP)

20. During the mission, the Secretariat held a meeting with the senior national consultant recruited to oversee and assist with the implementation of the CAP to discuss progress and next steps. The Secretariat also met with two of the consultants recruited by the CAP to assist with specific tasks: the consultant preparing the draft revised national legislation (as mentioned above) and the consultant preparing a software to facilitate the tracking and archiving of CITES permits and certificates (also mentioned above). The Secretariat also visited the container that had recently been acquired under the CAP to be used to store confiscated non-perishable specimens. The container is still being fitted with shelves, air conditioning etc. but will be ready for use shortly. The CAP is also providing support (food, veterinary care) for the management of seized live animals, including small monkeys (*Chlorocebus sabaeus*, *Erythrocebus patas*, *Papio papio*) that are kept by the CITES Management Authority and the National Brigade for a short period before being released back into the wild.
21. On the last day of the mission, the Secretariat held a one-day workshop mainly for representatives of the newly designated CITES Scientific Authority, consisting of six institutions as follows:
- *Centre d'étude et de Recherche en Environnement (CERE)*, Chair
 - National Herbar
 - *Guinée Ecologie*
 - Sylvatrop Consulting
 - *Centre Halieutique de Boussoura* (marine speices)
 - *Division Faune de DNFF*
22. The representatives of each of these institutions discussed the role and functions of the Scientific Authority in supporting the scientific aspects of the implementation of the Convention, non-detriment findings and legal

acquisition findings, as well as the way forward for Guinea towards the lifting of the recommendation to suspend trade and the associated risks.

Conclusions and recommendations

23. The Secretariat is pleased to note significant progress with the implementation of the CAP which is very timely. The coordinator of the CAP (senior local consultant), who was part of the CITES Management Authority until the change of regime in September 2021, is providing needed support and seems to be well placed to support the transition to the newly appointed CITES Management Authority. The mismanagement of the export of the stockpile of pre-Convention *Pterocarpus erinaceus* and the significant excess in the volumes exported are disappointing setbacks. However, the swift reaction from the Minister to suspend the CITES Management Authority and appoint new persons seems to be an indication of the political will to persist with the path towards the withdrawal of the recommendation to suspend trade. It is expected that the suspension of the Management Authority will be followed by criminal investigations and prosecution of all individuals and entities involved in the illegal activities associated with this alleged trafficking. The Standing Committee may wish to urge Guinea to ensure this takes place.
24. In order to prepare the Party for a future consideration of a withdrawal of the recommendation to suspend trade and to mitigate the risks of corruption and to facilitate building capacity in the country to implement CITES, the Secretariat would like to propose a stepwise approach. The new CITES Focal Point, who has completed the Baeza Master, will hopefully be able to quickly understand the roles and functions of the Management Authority with the support of the CAP. The CITES Management Authority should, in consultation with other stakeholders, identify an initial list of species included in CITES Appendix II that may be of potential commercial interest. It is clear that corruption is and continues to be a very high risk in the country and in the region. It is therefore necessary to assist the country in mitigating these risks at the same time as capacity and knowledge building continues.
25. During its mission, the Secretariat also met with the Director and the Deputy Director of the National Anti-corruption and good governance promotion agency (ANLC-PBG) to inform them of the risks associated with trade in high value CITES species. At the meeting, the Agency expressed its commitment to assist and support the country and its agencies to be better at addressing the risks of corruption and would be open to work with the CITES Management Authority to better manage these risks. The Head of State, the President of the Transition, has made combatting corruption one of his main priorities until the democratic elections scheduled to take place in 2025.
26. In view of the above, the Secretariat would like to update and replace the recommendations contained in document SC77 Doc. 33.9 with the following.
27. The Secretariat invites the Standing Committee to consider the following recommendations:

Regarding the recommendation to suspend trade

- a) The Standing Committee recommends that Parties continue to suspend all trade in CITES-listed species with Guinea for commercial purposes until the following recommendations have been met to the satisfaction of the Standing Committee:

Regarding the proceeds from the export of the stockpile of Pterocarpus erinaceus

Guinea should:

- b) provide to the Secretariat evidence from the Public Treasury of the deposit in the State account of the proceeds obtained from the sale of the *Pterocarpus erinaceus* stockpile (4 billion Guinean francs, equivalent to USD 478,650) as well as of the transfer of the 40% (equivalent to USD 190,386) to a separate subaccount of the Ministry of Environment and Sustainable Development, and the establishment of a budget for the use of the funds taking into account the Compliance Assistance Project and in close consultation with the Management Authority;

Regarding national legislation

Guinea should:

- c) adopt legislative measures that meet the minimum requirements of CITES set out in Resolution Conf. 8.4 (Rev. CoP15) on *National laws for implementation of the Convention* and in accordance with the guidance provided under the National Legislation Project; this should include the issuance of a legally binding instrument on the functions and responsibilities of the CITES Management and Scientific Authorities;

Regarding management and issuance of CITES permits and certificates

Guinea should:

- d) implement an electronic system for the receipt and management of applications for CITES documents, and for the issuance, filing and monitoring of CITES documents, as well as for the timely submission of an annual report; Guinea must ensure a quick setting up of the new Management Authority and submit a new sample signature without delay to the CITES Secretariat and continue to use security paper and security stamps;
- e) develop a protocol for the making of non-detriment findings by the CITES Scientific Authority prior to the issuance of export permits;
- f) assess the capacity of the CITES Management and Scientific Authority on CITES implementation, including the capacity to make non-detriment and legal acquisition findings, and address any gaps and needs for training and capacity-building, with the relevant technical assistance, including from the CITES Secretariat, if requested and subject to available resources;
- g) in order to prepare for the consideration of a future partial withdrawal of the recommendation to suspend trade, Guinea should submit for approval by the CITES Secretariat a list of species included in CITES Appendix II for which export for commercial purposes could be considered; and initiate the process of collecting data and information related to the approved species in order to develop precautionary voluntary export quotas for consultation with the Animals and Plants Committees, respectively, and the Standing Committee, taking into account Article IV of the Convention, Resolution Conf. 16.7 (Rev. CoP17) on *Non-detriment findings*, Resolution Conf. 18.7 (Rev. CoP19) on *Legal acquisition findings* and Resolution Conf. 14.7 (Rev. CoP15) on *Management of nationally established export quotas*;
- h) every six months, submit copies of CITES permits and certificates issued to the CITES Secretariat for information and monitoring;

Regarding compliance and law enforcement

Guinea should:

- i) under the aegis of the Advocate General of the Conakry Court of Appeal (Focal Point for Wildlife Crime of the Ministry of Justice), and in accordance with national law, conduct criminal and financial investigations, through specialized agencies such as INTERPOL's National Central Bureau, the National Financial Information Processing Unit (*Cellule Nationale de traitement des Informations Financières - CENTIF*), the National Anti-corruption and good governance promotion agency, and the National Wildlife and Forest Crime Brigade; and undertake judicial prosecutions against all individuals and entities involved in alleged offences associated with the recent illicit trafficking of *Pterocarpus erinaceus*, including the members of the National Commission, irrespective of their position;
- j) make efforts to also investigate and collect information on the transnational organized syndicates operating in the country so that they can be brought to justice and avoid that only small perpetrators are targeted;
- k) continue to investigate and prosecute other cases of illegal trade in specimens of CITES-listed species and inform the Secretariat of the results of any legal proceedings by submitting the annual illegal trade report in accordance with the *Guidelines for the preparation and submission of the CITES annual illegal trade report*;

- l) consider developing and implementing a strategy to counter corruption linked to wildlife crime at all levels, including anti-bribery policies, and intensify efforts to ensure full implementation of Resolution Conf. 17.6 (Rev. CoP19) on *Prohibiting, preventing, detecting and countering corruption, which facilitates activities conducted in violation of the Convention*. The strategy should include recommendations to protect officials responsible for the implementation and enforcement of CITES from undue pressure, obstruction and threats;
- m) establish a formal agreement between the CITES Management Authority and the Customs Service on collaboration, coordination and exchange of information;
- n) develop a protocol for the management and disposal of seized and confiscated specimens (live and dead), taking into account the provisions of the Convention and the recommendations of Resolution Conf. 17.8 (Rev. CoP19) on *Disposal of illegally traded and confiscated specimens of CITES-listed species*;
- o) take action to address the gaps identified through the implementation of the Indicator Framework of the International Consortium on Combating Wildlife Crime (ICWC);

Regarding reporting on the implementation of these recommendations

- p) Guinea shall prepare a report on the implementation of these recommendations, including the budget and the use of the funds mentioned in recommendation b) and any progress in the criminal investigations mentioned in recommendation i) and any other pertinent information. Guinea shall submit the report to the Secretariat 90 days before the 78th meeting of the Standing Committee so that the Secretariat can in turn submit its report and recommendations to the Standing Committee at that meeting.
28. The Secretariat recommends that the Standing Committee invite Parties, ICWC partners and donors to provide financial, technical and logistical support to Guinea to support the implementation of the above recommendations.
 29. The Standing Committee is further invited to recommend that China seize and confiscate any illegal timber from Guinea. Should China reject the import of the illegal shipment and the timber be returned to Guinea, the Committee is invited to recommend that Guinea seize the shipments and ensure that these are disposed of in a manner that discourages further illegal logging and timber trafficking in accordance with Resolution Conf. 17.8 (Rev. CoP19) on *Disposal of illegally traded and confiscated specimens of CITES-listed species*, preferably by complete destruction.
 30. Finally, the Secretariat recommends that the Standing Committee request the Secretariat to publish a Notification to the Parties to replace Notification to the Parties No. 2022/082, recommending that Parties maintain the suspension of trade for commercial purposes with Guinea.