

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

Forty-sixth meeting of the Standing Committee
Geneva (Switzerland), 12-15 March 2002

Interpretation and implementation of the Convention

Implementation of the Convention in individual countries

NATIONAL LEGISLATION

1. This document has been prepared by the Secretariat.
2. Decision 11.77 directs the Standing Committee to decide the appropriate measures to be taken with respect to the Parties identified in Decisions 11.15, 11.18 and 11.19, which – based on the latter decisions – may include restrictions on the commercial trade in specimens of CITES-listed species to or from such Parties.

Parties identified in Decision 11.15

3. Decision 11.15 refers to four Parties whose legislation was analysed during Phase 3 of the National Legislation Project, namely Fiji, Turkey, Viet Nam and Yemen, which have high volumes of international trade in specimens of CITES-listed species and national legislation that is believed generally not to meet the requirements for implementation of CITES (Category 3).
4. Decision 11.16 states that, if so advised by the Standing Committee, all Parties should refuse any import of specimens of CITES-listed species from, and any export or re-export of such specimens to, the Parties listed in Decision 11.15, if, in spite of receiving any assistance that may have been requested from the Secretariat, the Parties concerned had not adopted the legislation required under the text of the Convention before 31 October 2001.
5. The Secretariat informed the Standing Committee, at its 45th meeting (Paris, June 2001), about the progress made by the countries concerned to implement these decisions. Having considered the report of the Secretariat, the Standing Committee agreed to defer until 31 December 2001 its advice to suspend trade in specimens of CITES-listed species with those countries.
6. By 31 December 2001, only Turkey had provided to the Secretariat a copy of their enacted legislation, this having been published in the Official Gazette No. 24623 of 27 December 2001. Fiji, Viet Nam and Yemen were unable to adopt the necessary legislation before the deadline established.
7. Consequently and pursuant to Decision 11.16, the Secretariat issued Notifications to the Parties No. 2002/003-005 of 14 January 2002 stating that, from the date of the Notifications, all Parties should refuse any import from and export or re-export to Fiji, Viet Nam and Yemen of specimens of CITES-listed species, until further notice.
8. On 23 January 2002, Viet Nam informed the Secretariat that Government Decree No. 11/2002/ND-CP for implementing CITES has been signed by Prime Minister on 22 January 2002.

Parties identified in Decision 11.18

9. Decision 11.18 applies to those Parties with high volumes of international trade in specimens of CITES-listed species, whose legislation was analysed during Phase 1 or 2 of the National Legislation Project and placed in Category 2 or 3, namely Cameroon, the Dominican Republic, Mozambique, Panama, Poland, Romania, the Russian Federation, Singapore, South Africa and Thailand.
10. Decision 11.18, paragraph c), states that with respect to Parties referred to in this Decision that have not enacted legislation, the Standing Committee, at its 45th meeting, shall consider appropriate measures, which may include restrictions on the commercial trade in specimens of CITES-listed species to or from such Parties.
11. At its 45th meeting, the Standing Committee agreed to defer until its 46th meeting a decision regarding measures affecting Parties concerned by Decision 11.18.
12. As of 21 January 2002, only Romania and Singapore had enacted specific legislation to fulfil the requirements of the Convention and provided to the Secretariat a copy of their legislation in one of the working languages.
13. Romania provided an English version of law No. 192/2001 regarding fish stock management, fishing and aquaculture and Ministerial order No. 647/2001 regulating the harvesting of and domestic and international trade in wild fauna and flora. After a preliminary review of the legislation, it appears that some requirements for implementing the Convention are covered but further analysis is needed to determine whether the legislation prohibits trade in all CITES specimens in violation of the Convention, penalizes such illegal trade and provides for the confiscation of specimens illegally traded or possessed.
14. Singapore provided a copy of the “Endangered species (import and export) (amendment of schedules) Notification 2001” published in the Official Gazette No. S 512 of 15 October 2001. The Secretariat acknowledges the efforts that Singapore has made to ensure that its legislation meets CITES requirements and is pleased to report to the Standing Committee that Decision 11.18 no longer applies to Singapore. The Secretariat further reports that Singapore’s legislation now meets all of the requirements for CITES implementation and qualifies for category 1 status in the National Legislation Project.
15. Six countries in category 2 (Cameroon, Panama, Poland, the Russian Federation, South Africa and Thailand) and two countries in category 3 (the Dominican Republic and Mozambique) were unable to meet the deadline established by the Standing Committee at its 45th meeting and have not sent to the Secretariat the enacted legislation required under Decision 11.18 in one of the working languages of the Convention.
16. Recommendation
 - a) The Secretariat recommends, for Parties in Category 3, that:
 - i) The Standing Committee require the submission of a “CITES Legislation Plan” to the Secretariat by 31 May 2002 with respect to the Dominican Republic and Mozambique. Such a Plan should include the agreed steps needed for each Party to adopt adequate legislation by 31 October 2002.
 - ii) The Standing Committee instruct the Secretariat to issue a Notification recommending a suspension of trade in specimens of CITES-listed species with such Parties, if a Party fails to submit a “CITES Legislation Plan” by 31 May 2002 or to adopt adequate legislation by 31 October 2002.

- b) The Secretariat recommends, for Parties in Category 2, that:
- i) The Standing Committee require the submission of a "CITES Legislation Plan" to the Secretariat by 31 May 2002 with respect to Cameroon, Panama, Poland, the Russian Federation, South Africa and Thailand. Such a Plan should include the agreed steps needed for each Party to adopt adequate legislation by 31 January 2003.
 - ii) The Standing Committee instruct the Secretariat to issue a Notification recommending a suspension of trade in specimens of CITES-listed species with such Parties, if a Party fails to submit a "CITES Legislation Plan" by 31 May 2002 or to adopt adequate legislation by 31 January 2003.

Parties identified in Decision 11.19

17. Decision 11.19 concerns Parties whose national legislation was reviewed in Phase 1 or 2 of the National Legislation Project and is believed not to meet one or more of the requirements for implementation of CITES (Categories 2 and 3), and that do not have high volumes of international trade in specimens of CITES-listed species.

18. The following 74 Parties have been identified:

- a) Forty-four Parties in Category 2: Bangladesh, Benin, Botswana, Brazil, Bulgaria, Burkina Faso, Chile, China, Congo, Ecuador, El Salvador, Equatorial Guinea, Eritrea, Estonia, Gambia, Greece, Guinea, Honduras, Hungary, India, Indonesia, Israel, Kenya, Madagascar, Malawi, Malaysia, Mauritius, Monaco, Namibia, Papua New Guinea, Peru, Philippines, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Sudan, Suriname, Togo, Trinidad and Tobago, Tunisia, United Republic of Tanzania, Uruguay, Venezuela and Zambia;
- b) Thirty Parties in Category 3: Algeria, the Bahamas, Barbados, Belize, Bolivia, Brunei-Darussalam, Burundi, Central African Republic, Chad, Comoros, Côte d'Ivoire, Cyprus, Djibouti, Gabon, Ghana, Guinea-Bissau, Jordan, Liberia, Mali, Morocco, Myanmar, Nepal, Niger, Pakistan, Rwanda, Seychelles, Sierra Leone, Sri Lanka, Uganda and United Arab Emirates.

19. Decision 11.19 provides that such Parties should take all necessary measures to enact national legislation for the implementation of CITES and to ensure that this legislation will be in effect no later than 30 days before the 46th meeting of the Standing Committee. It further provides that such Parties should report to the Secretariat any progress made in this regard no later than six months before the 46th meeting of the Standing Committee.

20. Decision 11.19 paragraph c) provides with respect to Parties referred to in this Decision that have not complied with paragraph a), that the Standing Committee, at its 46th meeting, shall consider appropriate measures, which may include restrictions on the commercial trade in specimens of CITES-listed species to or from such Parties.

21. On 10 August 2001, the Secretariat sent Notification to the Parties No. 2001/059 giving a list of the Parties concerned. It reminded them of the need to adopt legislation meeting the criteria specified in Resolution Conf. 8.4 and that they may request technical assistance from the Secretariat to prepare such legislation.

22. As of 21 January 2002, 18 countries in Category 2 and 14 countries in Category 3 had not responded to Notification No. 2001/059, namely in Category 2: Bangladesh, Botswana, Chile, Equatorial Guinea, Estonia, Gambia, Greece, Honduras, Hungary, India, Israel, Madagascar, Malawi, Philippines, Saint Kitts and Nevis, Saint Vincent and the Grenadines, Sudan and Uruguay; and in Category 3, namely Belize, Brunei-Darussalam, Comoros, Cyprus, Djibouti, Guinea-Bissau, Jordan, Liberia, Myanmar, Nepal, Niger, Pakistan, Rwanda and Sri Lanka.

23. Fourteen Parties concerned by Decision 11.19 participated a regional workshop on the legal aspects of the implementation of CITES in francophone Africa (see paragraph 35), namely Algeria, Benin, Burkina Faso, Burundi, Central African Republic, Chad, Congo, Côte d'Ivoire, Gabon, Guinea, Mali, Mauritius, Morocco and Tunisia. They made a commitment to review their national legislation and make the necessary arrangements to adopt adequate legislation for the implementation of CITES.
24. Eight Parties have made a commitment to adopt specific legislation for the implementation of CITES in the near future, namely Bolivia, El Salvador, Eritrea, Kenya, Saint Lucia, Sierra Leone, United Arab Emirates and the United Republic of Tanzania.
25. Eleven Parties have prepared draft legislation for implementing CITES, namely the Bahamas, Barbados, China, Ecuador, Ghana, Monaco, Namibia, Seychelles, Togo, Trinidad and Tobago and Uganda.
26. Five Parties have enacted new legislation, namely Brazil, Indonesia, Malaysia, Peru and Papua New Guinea. The legislation adopted by these countries is being analysed.
27. Two Parties informed the Secretariat that their legislation is in compliance with the provisions of the Convention, namely Suriname and Venezuela.
28. Many Parties have requested the Secretariat to provide advice and assistance in the development of CITES legislation. In view of its limited resources, the Secretariat will have to set priorities for the provision of such assistance.

29. Recommendation

The Secretariat recommends that:

- a) The Standing Committee require the submission of a "CITES Legislation Plan" to the Secretariat by 31 May 2002 with respect to the Parties listed in Paragraphs 22, 23, 24 and 25. Such a Plan should include the agreed steps needed for each Party to adopt adequate legislation by 31 December 2003.
- b) The Standing Committee instruct the Secretariat to issue a Notification recommending the following compliance measures, if a Party fails to submit a "CITES Legislation Plan" by 31 May 2002 or to adopt adequate legislation by 31 December 2003:
 - i) Ineligibility to be a member of the Standing Committee and loss of the right for it or its experts to participate in other permanent committees, subsidiary bodies or working groups;
 - ii) Suspension of the right to issue re-export certificates; and
 - iii) Suspension of the right to export species for which there is no quota.
- c) The Standing Committee encourage the Parties to cooperate on a bilateral or multilateral basis with the countries listed in paragraphs 22, 23, 24 and 25 to provide technical or financial assistance related to the development of adequate legislation to implement CITES.

Other relevant matters

Parties identified in Decision 11.17

30. Decision 11.17 refers to remaining Parties whose legislation was analysed during Phase 3 of the National Legislation Project, namely Antigua and Barbuda, Belarus, Cambodia, Dominica, Georgia, Jamaica, Latvia, Mauritania, Mongolia, Myanmar, Saudi Arabia, Somalia, Swaziland,

Uzbekistan and three United Kingdom overseas territories, namely Pitcairn Islands, Saint Helena and Dependencies and South Georgia and the South Sandwich Islands, which do not have high volumes of international trade in specimens of CITES-listed species but have legislation that is believed generally not to meet the requirements for implementation of CITES (Category 3).

31. Decision 11.17 provides that such Parties should take steps to enact legislation for implementation of the Convention. It further provides that such Parties should report to the Secretariat any progress made in this regard no later than six months before the 46th meeting of the Standing Committee.

32. As of 14 January 2002, six Parties, namely Belarus, Cambodia, Jamaica, Latvia, Mauritania and Mongolia had indicated to the Secretariat the actions foreseen to enact the legislation. Jamaica is the only one of these countries that had enacted specific legislation for implementation of the Convention, which is being analysed by IUCN's Environmental Law Centre (ELC).

33. Recommendation

No specific action is required from the Standing Committee regarding these Parties. Decision 11.17 will be addressed by the Secretariat's report to the 12th meeting of the Conference of the Parties with recommendations for action by the Conference of the Parties or the Standing Committee.

Translation of guidance documents into Arabic and Russian

34. In order to provide more effective legal assistance to some of the countries for which none of the three working languages of the Convention is a national language, the Secretariat translated three legislative guidance documents into Russian and Arabic, namely the model law, the legislative checklist and the template for the legislative analyses.

UNEP's Fifth Global Training Programme on Environmental Law and Policy

35. At UNEP's Fifth Global Training Programme on Environmental Law and Policy (GTP5, Nairobi, 19 November – 7 December 2001), the Secretariat presented the CITES National Legislation Project highlighting its compliance/enforcement aspects and led a series of related exercises with participants. GTP5 involved over 50 individuals with backgrounds in law, policy, diplomacy and science from the following countries: Argentina, Australia, Bangladesh, Benin, Bhutan, Brazil, Burkina Faso, China, Colombia, Egypt, Ethiopia, Fiji, Gambia, Georgia, Ghana, Jordan, Kazakhstan, Kenya, Kuwait, Lao People's Democratic Republic, Lesotho, Libya, Malawi, Mali, Moldova, Mongolia, Morocco, Mozambique, Nepal, Nigeria, Pakistan, Peru, Poland, Portugal, the Russian Federation, Rwanda, Saudi Arabia, Senegal, South Africa, Suriname, Tajikistan, Togo, Turkey, Uganda, Vanuatu, Venezuela and Zimbabwe.

First regional workshop on the legal aspects of the implementation of CITES in francophone Africa

36. Pursuant to the "legal-capacity-building strategy for implementing CITES obligations in the domestic sphere" endorsed at the 11th meeting of the Conference of the Parties, the Secretariat in cooperation with the Regional Office for West Africa of the IUCN organized the first regional workshop on the legal aspects of the implementation of CITES in francophone Africa, held in Abidjan, Côte d'Ivoire, from 3 to 5 December 2001. Eighteen French-speaking African countries attended the meeting, represented by two lawyers, three prosecutors, two chiefs of environmental regulation divisions, a legal consultant and thirty-two staff members of CITES Management Authorities.

37. The objectives for the legislative workshop were:

- a) To persuade the Parties about the urgent need for adopting adequate national legislation to implement CITES;
- b) To enhance the legislative skills of each Party for the development and enactment of CITES legislation;
- c) To promote implementation of Resolution Conf. 8.4 and Decisions 11.18 and 11.19; and
- d) To achieve harmonization of laws and procedures to implement and enforce the Convention in the region.

38. The Secretariat believes the workshop provided a good opportunity for CITES authorities to review the adequacy of their national legislation and undertake the necessary arrangements to adopt legislation for the implementation of CITES.

Regional Environmental Law Workshop for the five Caspian littoral States

39. During the period 10-13 December 2001 the CITES Secretariat, together with UNEP's Regional Office for Europe, the Secretariat of the Espoo Convention on Environmental Impact Assessment in a Transboundary Context and the Secretariat of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (two regional conventions administered by the United Nations Economic Commission for Europe) organized a Regional Environmental Law Workshop in Baku, Azerbaijan, for the five Caspian littoral States.

40. The workshop was developed in the context of the Caspian Environment Programme (CEP) with logistical support provided by CEP's Programme Coordination Unit. It brought together national government focal points for the three conventions as well as independent legal experts and representatives of the European Bank for Reconstruction and Development, the private sector and several NGOs. Participants discussed implementation issues related to four legislative components (institutional arrangements, information management, substantive obligations and compliance) largely derived from the CITES National Legislation Project. Conclusions and recommendations from the workshop will form the basis for future actions by national Governments and convention secretariats and will serve as input to the next phase of the CEP.

Second regional workshop on the legal aspects of implementing CITES in east, south and southeast Asia

41. China has agreed to host the second CITES regional legislative workshop in the Hong Kong Special Administrative Region during the week of 22-26 April 2002. Participants' costs and documentary or other expenses associated with the workshop will be covered by USD 88,861 that China provided in 2001 as a counterpart contribution to the Secretariat for use in compliance and enforcement activities. The Secretariat is working jointly with the CITES Management Authority of Hong Kong SAR to organize the workshop.