

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

SUMMARY REPORT

1. Opening remarks by the Chairman..... no document

The Chairman and the Secretary-General gave speeches of welcome and the Chairman thanked the Secretariat for hosting the meeting.

Strategic and administrative matters

2. Adoption of the Rules of ProcedureDoc. 2 (Rev. 1)

Regarding the production of summary reports, it was suggested that future reports might be less brief than that of the 45th meeting. One observer suggested that the summary reports should include a list of the States that had made interventions. The Chairman asked for guidance from the Committee on how broadly to interpret Rule 6. He noted that there had been a number of recent requests from non-Party observers to attend the Standing Committee meetings. A number of members spoke in favour of allowing more open participation. Caution was expressed regarding: the need in future for a larger meetings room and other possible costs; the need to ensure that the free exchange of views is not hampered; the need to clarify whether non-governmental observers would be invited only for agenda items related to their expertise; the need for prior approval by Management Authorities of the participation of national non-governmental organizations (as for meetings of the Conference of the Parties). It was suggested that Rules 2 and 17 of the Rules of Procedure of the Conference of the Parties should be adapted for the Standing Committee and introduced into its Rules. The Secretariat was requested to draft a revision of the Rules of Procedure of the Standing Committee incorporating the proposed amendments to Rules 9, 26 and 33 and with the adapted text from Rules 2 and 17 of the Rules of the Conference. This was done and presented as SC46 Doc. 2 (Rev. 1) Annex (Rev. 1). The following corrections to this document were announced: in Rule 6, first line, after "invite", insert any person or; in Rule 9, "6 and 7" should read 7 and 8; in Rule 23, paragraph 1, change "5 or 6" to 4, 5 or 6; in Rules 23, paragraph 2, first sentence, replace "to the delegates and to the Secretariat" with to the members of the Committee and, in the second sentence, replace "given to non-Party States" by representatives of Parties, non-Party States. In the draft of revised Rules of Procedure, the Secretariat had also: in Rule 7, deleted the reference to making an intervention, to make the Rules consistent with those of the Conference of the Parties; in Rule 9, indicated that credentials should be presented in one of the working languages, to avoid problems such as had arisen at the present meeting; and deleted the old Rule 31 on the confidentiality of documents as incongruous if the meetings were to be open to observers.

The amendments proposed to Rules 9, 26 and 33 were adopted. The Secretariat was requested to take into account the requests for slightly less condensed summary reports of meetings in future. It was agreed that in future the Chairman should provide an open

invitation for observer organizations to attend meetings of the Committee. The Chairman noted that the discussions relative to Rule 6 had provided the guidance requested. It was agreed that this issue would be placed on the agenda of SC47 for additional discussions relative to any revision of Rule 6, which remains in effect. The revised draft of Rules prepared by the Secretariat was noted and participants were requested to provide comments to the Secretariat, to be taken into account in the preparation of a further draft for presentation at the next meeting.

3. Acceptance of credentials no document

Credentials were accepted for the representatives of 15 Parties members of the Standing Committee, and for observers from 44 other Parties and one intergovernmental organization. The list of participants is attached in the Annex.

4. Adoption of the agendaDoc. 4 (Rev. 2)

The provisional Agenda in document SC46 Doc. 4 (Rev. 2) was adopted, with the following items to be included under item 24 (Any other business): MIKE, ETIS, the dialogue meetings on the African elephant.

5. Implementation of the Strategic and Action Plans

The documents were briefly introduced by the United States of America as Chairman of the Working Group

a) Report/recommendations of the Working Group..... Doc. 5.1

The Secretariat accepted the recommendations of the Working Group on its workplan and agreed to implement them. The Standing Committee endorsed this decision.

b) Standing Committee workplan..... Doc. 5.2

The Standing Committee noted this document and agreed to discuss it at its next meeting.

c) Draft revision of the Strategic Vision through 2005 Action PlanDoc. 5.3

The Standing Committee noted this document and agreed to discuss it at its next meeting.

6. Establishment of an Implementation Committee..... Doc. 6 and Doc. 6.1

Several participants thanked the working group and in particular to the United States of America as its convenor. There was general agreement on the need to establish a mechanism for considering technical and implementation issues with input from Management Authorities and technical experts. The main concerns related to the potential costs and to the fact that the current discussions within UNEP about International Environmental Governance discouraged the creation of new subsidiary bodies. It was suggested that, in finding a solution, a flexible approach was needed but clear guidance should be provided to any new body.

A working group was established and prepared document SC46 Doc. 6.1. The Standing Committee decided that the working group should work with the Secretariat to take into

account comments made during the meeting and prepare a revised proposal for consideration at the next meeting.

7. Arrangements for the 12th meeting of the Conference of the Parties

a) Preparation for CoP12..... no document

The representative of Chile provided an oral report on the progress in making arrangements for CoP12. He referred to the strong governmental support for the meeting, the renovation of the Conference Centre where the meeting would be held and the close collaboration with the Secretariat. He noted the high cost of the meeting, which would be covered as far as possible from government funds, although they would welcome offers of assistance. He also drew attention to the website that had been created for the meeting and noted that Chile was looking forward to receiving a visit of the Chairman and the Secretary-General in May 2002.

The progress made by Chile and the Secretariat in preparing for CoP12 was noted with appreciation.

b) Provisional Agenda..... Doc. 7.2

It was suggested that an item should be added to the draft Provisional Agenda for CoP12 to allow for reporting the results of the dialogue meetings on the African elephant and the hawksbill turtle. It was noted that there was no specific agenda item for some of the tasks given to the Animals and Plants Committees because these were expected to be covered in the reports of the Chairmen of those Committees. It was noted that the discussion of "time-sensitive research samples" had extended to cover other types of biological samples and it was proposed that item 35 of the Provisional Agenda be amended to reflect this.

The first draft of the Provisional Agenda for CoP12 was approved with the following additions: communiqués of the dialogue meetings on African elephant and hawksbill turtles; in item 35, 'research samples' should be changed to 'biological samples'.

c) Working Programme Doc. 7.3

In response to a question of whether there should be a break of only one day in the middle of the meeting, the Secretariat stated that there would be a break of two days as usual and that CoP11 had been unusual in this respect (as it was not possible to meet on the Friday of the second week). In response to a question as to why it was proposed to discuss item 41 (Amendment of the Appendices with regard to populations) in Committee II, the Secretariat explained that this issue was more a technical one than a biological one. It was suggested that items 29 [Conservation of sturgeons: revision of Resolution Conf. 10.12 (Rev.)] and 34 [Universal labelling system for the identification of caviar] were overlapping.

The first draft of the Provisional Working Programme for CoP12 was approved with the amendment that items 29 and 34 should be combined. This should be reflected in the Provisional Agenda.

d) Rules of Procedure Doc. 7.4

The Secretariat presented its draft proposal to amend the Rules of Procedure for the 12th meeting of the Conference of the Parties. Questions were raised only regarding the proposed amendments to Rules 3.1, 3.4, 11.2, 14.2, 22.2, 23.5 and 25.4.

The proposed amendment to Rule 3.1 was agreed. The proposed amendment to Rule 3.4 was agreed with the amendment that the words "delegation of a Party" be replaced by "meeting". The proposed inclusion of a new paragraph 2 in Rule 11 was withdrawn by the Secretariat.

Regarding Rule 14.2, the new text was agreed with the following amendment: the words "in consultation with the Secretariat and, where applicable, the Host Government" should be replaced by "after appropriate consultations with, *inter alia*, if applicable, the Host Government".

Regarding Rule 22.2, the new text was agreed with the following amendment: the words "or to precise it" should be replaced by "or to make it more precise". An equivalent amendment should be made to Rule 23 paragraph 5. (These amendments might affect only the English text.)

Regarding Rule 25.4, the proposed amendment was rejected.

e) New arrangements for discussion of budgetary issues Doc. 7.5

At the request of the Standing Committee, the Secretariat produced a further document on procedures that could be followed under SC46 Doc. 7.5 (SC46 Inf. 10). The Standing Committee agreed to the procedures.

8. Financing the conservation of species Doc. 8

France, as Chairman of the working group on the financing of the conservation of species, presented the report on behalf of the working group (Burkina Faso, Canada, Czech Republic, France, Japan, South Africa, Trinidad and Tobago). Several Parties stated that they would provide additional information on trust funds and other measures if the process of analysis could continue. The importance of this review was underlined, and further work with other treaties and organizations (such as with CBD) was encouraged.

The Standing Committee accepted the report on financing the conservation of species, prepared by France on behalf of the working group established by the Committee at SC45. The Committee directed the Secretariat to continue to collate and analyse information on financial mechanisms, to publish regularly updated analyses of funding mechanisms for the conservation of species and to circulate this information by notification. The Committee further directed the Secretariat to consider financial mechanisms other than trust funds, and to confer with other conventions, such as the Convention on Biological Diversity, as appropriate.

9. Financial and administrative matters

a) Report of the Subcommittee

i) Financial report for 2001 Doc. 9.1.1 (Rev. 1)

Document SC46 Doc. 9.1.1 (Rev.1) was noted.

ii) Anticipated expenditures in 2002..... Doc. 9.1.2 (Rev. 1)

Following discussion of the proposed new text for paragraph 11 of the Terms of Reference for the Administration of the CITES Trust Fund, the following text was agreed:

The Secretary-General of the Convention is authorized, to the extent consistent with the Financial Regulations and Rules of the United Nations, to make transfers from one budget line to another up to a maximum of 20 per cent over and above the annual amount foreseen in the budget under any budget sub-component (e.g. 11, 12, 13, etc.) provided that such action does not negatively affect any high-priority items. When any such transfers are made, these shall be reported to the Standing Committee at its next meeting. Any budget adjustments on a specific budget sub-component over and above the 20 per cent flexibility mentioned above may be made only after they have been agreed by the Standing Committee. However, the total budget approved by the Parties for that financial period shall not be exceeded unless this is specifically sanctioned in writing by the Standing Committee.

iii) Payment of contributions by Parties..... Doc. 9.1.3 (Rev. 1)

Regarding document SC46 Doc. 9.1.3 (Rev. 1), concern was expressed regarding the possibilities of actions against Parties that had not paid their annual contributions. Some participants stated that contributions were voluntary. The Secretary-General noted that the text of the Bonn amendment gave the Conference of the Parties the right to make financial provisions. The need for improved communications between Parties and the Secretariat was noted, and it was suggested that the Secretariat copy correspondence on financial issues to the relevant permanent missions.

It was suggested that regional representatives in the Standing Committee should contact Parties in arrears with their contributions to discuss the issue. It was also suggested that the Secretariat should work with the countries concerned to develop a compliance action plan. The following was agreed:

In relation to the non-payment of arrears referred to in paragraph 4, the affected Parties are requested to commit to a compliance action plan and transmit it to the Secretariat by 30 April 2002. Affected Parties should commit to having settled their arrears by 31 August 2002 unless they provide the Secretariat with a satisfactory justification as to why they cannot meet this deadline. The Secretariat will provide an updated version of Annex 3 of document SC46 Doc. 9.1.3 (Rev. 1) to the regional representatives in the Standing Committee, and will work with the Parties to develop compliance action plans. The Chairman of the Standing Committee and the Secretary-General should intervene in cases where the arrears of a Party are particularly large.

It was also agreed that the Chairman would, as proposed in paragraph 9 of document Doc. 9.1.3 (Rev. 1), write to the Parties that contribute more than five per cent of the budget each, to urge them to pay their contributions for 2002 before May 2002.

With regard to the Parties with contributions in arrears, the Standing Committee decided to consider further appropriate measures at its 47th meeting.

The Standing Committee expects the affected Parties to meet the deadlines so that further measures are not required and will consider appropriate action at its 47th meeting in the event that an affected Party does not show good cause for failing to make adequate progress.

iv) Budget for the triennium 2003-2005.....Doc. 9.1.4

The proposed amendments to the Terms of Reference for the administration of the CITES Trust Fund presented in paragraph 7 of document SC46 Doc. 9.1.4 were agreed.

Regarding the proposed budget for the triennium 2003-2005, the following points were made. There was some confusion about how the figures 10 per cent and 25 per cent were obtained. The Secretariat clarified paragraph 5 stating that the 'no-change option' budget will require an increase in Parties' contributions of 10 per cent as explained in document SC46 Inf. 9. Many participants were concerned about the possibility of an increase in the budget or in the annual contributions of Parties. It was noted that the smallest payments required on the scale of contributions were very small indeed and could be increased. Some Parties suggested that a minimum payment could be established as an absolute amount, rather than as a percentage of the budget. Some Parties also suggested that one option is to consider that some Parties should not pay any contribution at all, especially if the total value of contributions is less than the cost of obtaining and processing them. No consensus was reached on these issues. The Secretariat was requested to assess the cost of the communication with the Parties with regard to the payments of their contributions, and to the provisions of services to Parties, such as the distribution of documents, for further discussion on this issue.

There was some discussion of document SC46 Doc. 7.5, in which concerns were expressed that participation in financial discussions should not be diminished. Various additions were suggested to the proposal of the Secretariat for handling discussions of budgetary issues, using the input of the Finance Subcommittee.

It was agreed that the Secretariat should propose a budget document for CoP12 based on the budget presented in the Annex to document SC46 Doc. 9.1.4 for the period 2003 to 2005. The budget should be presented in US dollars and Swiss francs, the latter in an Annex for reference, with a proposal that it be adopted in US dollars only (so that Swiss francs would not appear in the resulting resolution). It was also agreed that the Secretariat should prepare a document for information for CoP12 to indicate a budget that would reflect a zero growth in Parties' contributions. In this budget the Secretariat should indicate priority activities (based on the priority areas set out in Resolution Conf. 11.2) and should also indicate what activities it would be unable to carry out under a budget that provides for a zero growth in the contributions.

It was also agreed to propose that future budgets always cover a three-year period and that the medium-term budgets, such as the one presented in Annex 3 to Resolution Conf. 11.2, should no longer be prepared.

b) Sponsored delegates project Doc. 9.2

The Secretariat presented its approach for supporting delegates to attend CoP12, giving first priority to supporting two delegates from Parties below the threshold of 0.006 per cent on the UN scale of contributions, followed by Parties below the 0.01 per cent

threshold. The Secretariat explained that funds for the sponsored delegates project were derived from Party contributions and accumulated unspent balances from externally-funded and completed projects. Donations had been received from Austria, Switzerland and United Kingdom of Great Britain and Ireland, and three NGOs. Together with the unspent balance, USD 226,326 were currently available, sufficient to support two delegates from approximately 23 Parties.

There was general concern that maximum attendance at CoP12 was important but that a large group of countries would be unable to attend CoP12 if these were not supported by the sponsored delegates project. Concern was also raised that the amount provided per delegate, based on the UN rates for Daily Subsistence Allowance, was too high, and that the UN scale of assessment did not fully reflect a Party's ability to fund its delegates. It was suggested that although two delegates from the most needful Parties should be supported, above a certain threshold only one delegate should be supported, or only one delegate should be supported unless there were sufficient funds to support two delegates. It was also suggested that Parties needing funding for only one delegate should request funding for one delegate, and not two.

The Committee agreed that the Secretariat shall seek to support two delegates from each country eligible for assistance, and that only those Parties with the least available resources should receive assistance. The Committee noted that using the UN scale of assessment alone as a means of determining eligibility for support does not reflect accurately the will of the Committee to assist those countries with financial constraints that could prohibit their participation in the meetings of the CoP. The Committee agreed that priority for the allocation of funds shall be accorded to least developed countries, followed by other developing countries and countries with economies in transition, following the UNDP list.

c) Approval of new donors Doc. 9.3 (Rev. 2)

The Secretariat introduced document SC46 Doc. 9.3 (Rev. 2), requesting the Committee's endorsement of a new procedure for the approval of donors, so that it may be considered at CoP12, and the approval of two prospective donors. It was pointed out that as Resolution Conf. 11.2 referred to the present procedure, what was proposed for CoP12 was an amendment to the procedure referred to in Resolution Conf. 11.2. Concerning the addition of international organizations to the list, it was suggested that Management Authorities of States where national branches are located be given the opportunity to comment on proposals for inclusion on the list. It was suggested that when prospective donor organizations focus on a few key species, the Management Authorities of range States might be consulted. The list of approved donors was requested to be made available.

The Standing Committee directed the Secretariat to prepare a document for review at its 47th meeting on a revised mechanism for the approval of donors, taking into account the interventions during the discussion of this issue. The Standing Committee approved the inclusion of the Species Survival Network (SSN) and the Chinese Medicine Merchants Association in the list of approved donors.

Interpretation and implementation of the Convention

10. Implementation of existing Resolutions..... Doc. 10

The need was expressed for care in the exercise of reviewing Resolutions and for Parties to have additional background information regarding the perceived problems with the

Resolutions listed in the document. In response to a concern expressed about the Secretariat independently reviewing Resolutions and giving advice, the Secretary-General pointed out that this was one of the roles of the Secretariat provided for in the text of the Convention. It was suggested that the website be used to provide additional information to the Parties but one observer was concerned that African Parties in particular had poor access to the Internet. The Secretariat noted that it would soon start to provide to all Parties copies of the website on CD Rom.

It was agreed that the Secretariat would proceed with the review of the Resolutions listed in paragraph 7. a) of document SC46 Doc. 10.

With regard to the Resolutions listed in paragraph 7. b) and the tasks to be done as indicated in paragraph 7. c), it was agreed that the Secretariat should list the Resolutions for which amendments are required as a priority and inform the Standing Committee of these for comments before preparing documents for CoP12.

The Secretariat was requested to notify all Parties, including through its website, of the Resolutions with respect to which it intends to prepare amendments for consideration of at CoP12, and to provide a brief explanation of the reasons giving rise to these proposals. The Secretariat was also requested to ask all Parties to indicate whether they are considering the submission of proposals to amend existing Resolutions. In addition the Secretariat was requested to conduct a survey of all Parties to determine how many Parties were unable to use the Internet as a reliable means of communication.

11. Implementation of the Convention in individual countries

a) National legislationDoc. 11.1

Parties identified in Decision 11.15

The Secretariat reported that Turkey had submitted a draft English translation of its recently enacted CITES-implementing legislation. It further reported that Viet Nam's national legislation for implementing CITES had entered into force on 7 February 2002 and that a declaration containing the CITES Appendices had just been published in the official gazette. The Secretariat finally advised the Standing Committee that Notification to the Parties No. 2002/016 of 11 March 2002 had been issued, withdrawing the recommendation to suspend trade with Viet Nam contained in Notification to the Parties No. 2002/004 of 14 January 2002.

The Secretariat reported that it had been in regular contact with Fiji and was exploring ways to provide additional assistance in relation to the development of legislation but that CITES-implementing legislation had not yet been enacted. A representative of Fiji stated that it had been unable to enact legislation since the 11th meeting of the Conference of the Parties as it had no Parliament during the years 2000 and 2001. On 26 February 2002, however, its Cabinet directed the development of national legislation for implementing CITES. Recognizing the concern expressed at the 45th meeting of the Standing Committee relative to Fiji's unsustainable exploitation of its coral resources, Fiji announced that it was undertaking a thorough inventory of those resources. Fiji pointed out that the suspension of trade in CITES specimens had had a major socio-economic impact on villages and coastal communities and requested the Standing Committee to reconsider the decision it took at its 45th meeting concerning Fiji. The Secretariat brought to the Standing Committee's attention that Fiji had not submitted annual reports since it became a Party to CITES, that it was in arrears in the payments of its contributions to CITES, that it had allowed an authority other than the

Management Authority to issue CITES permits and that its significant trade in corals was having a detrimental effect on the survival of the species involved.

The Standing Committee agreed to suspend temporarily its recommendation to suspend trade, in light of the commitment of the Government of Fiji to table national legislation for the implementation of CITES at its next parliamentary session in June 2002, and to have such legislation enacted before the end of 2002. The Committee understands that Fiji is committed to implementing a plan of action to address the concerns over the unsustainable levels of trade in corals from Fiji that existed before the trade was suspended. The main points of this plan are:

- i) Fiji will voluntarily reduce its national exports of coral specimens to 50 per cent of the level of trade that occurred in 2001;
- ii) No exports of coral specimens shall be authorized until the voluntary reduced quota is in effect (i.e. when notified by the Secretariat and the voluntary quotas are published on the CITES website);
- iii) All export permits issued to authorize trade under this quota shall be copied to the Secretariat; and
- iv) Permits to authorize exports from Fiji shall be issued only by the Management Authority authorized to issue CITES documents.

The Secretariat shall notify the Parties of the voluntary national quotas, and publish these. The Secretariat shall also report at the next meeting of the Standing Committee on the implementation of this action plan. The Standing Committee agreed that if Fiji has not enacted legislation by 31 December 2002, the Secretariat shall notify the Parties that the recommendation of the Conference of the Parties that trade be suspended with Fiji is once again in effect until further notice.

The Secretariat reported that Yemen was revising its draft CITES-implementing legislation to incorporate the comments of the Secretariat and that the Secretariat had transmitted electronic versions of the CITES legislative guidance materials in Arabic. It further reported, however, that the recommendation to suspend trade with Yemen, contained in Notification to the Parties No. 2002/005, remained in effect.

Parties identified in Decision 11.17

The Secretariat stated that Mongolia is preparing draft CITES-implementing legislation and translating other national legislation relevant to CITES. It further stated that contact had been established with Myanmar on the subject of legislation via its Permanent Mission in Geneva. The Secretariat noted there was no action required by the Standing Committee on Decision 11.17 at this time.

Parties identified in Decision 11.18

The Secretariat drew the Standing Committee's attention to that portion of its written report which advised that Singapore had enacted additional CITES-implementing legislation which now ensured that its legislation met the four minimum requirements.

The Secretariat reported that English translations of enacted legislation had been submitted by Poland, Romania, the Russian Federation and Thailand. It further reported that the texts from Poland, Romania and Thailand were under review to determine

whether the respective legislation met the four minimum requirements for CITES-implementing legislation. With respect to the Russian Federation, the Secretariat stated that it had determined that the legislative provisions submitted to the Secretariat did not meet the four minimum requirements for CITES-implementing legislation and had sought additional information from the Russian Federation, including details about the status of efforts to develop CITES-specific legislation.

The Secretariat reported that draft legislative texts had been submitted by the Dominican Republic and South Africa that it would review and discuss with those Parties.

The Secretariat further reported that Cameroon and Panama had described their plans to enact CITES-implementing legislation and had requested assistance in this regard. It stated that it had not had contact with Mozambique and had asked whether South Africa might assist. South Africa confirmed that it would do so.

The Standing Committee agreed:

a) For Parties in Category 3, that:

- i) The Dominican Republic and Mozambique should submit a CITES Legislation Plan to the Secretariat by 31 May 2002. Such a Plan should include the agreed steps needed for each Party to adopt adequate legislation by 31 October 2002.
- ii) The Secretariat shall issue a Notification recommending a suspension of commercial trade in specimens of CITES-listed species with any of these Parties that fails to submit a CITES Legislation Plan by 31 May 2002 or to adopt adequate legislation by 31 October 2002. The Secretariat may withhold action on this instruction if good legislative progress has been made by a Party but shall implement the instruction immediately if adequate legislation has not been adopted by 31 March 2003.

b) For Parties in Category 2, that:

- i) Cameroon, Panama, Poland, the Russian Federation, South Africa and Thailand should submit a CITES Legislation Plan to the Secretariat by 31 May 2002. Such a Plan should include the agreed steps needed for each Party to adopt adequate legislation by 31 January 2003.
- ii) The Secretariat shall issue a notification recommending a suspension of commercial trade in specimens of CITES-listed species with any of these Parties that fails to submit a CITES Legislation Plan by 31 May 2002 or to adopt adequate legislation by 31 January 2003. The Secretariat may withhold action on this instruction if good legislative progress has been made by a Party but shall implement the instruction immediately if adequate legislation has not been adopted by 31 March 2003.

Parties identified in Decision 11.19

The Secretariat reported that Greece had requested that its legislation be reviewed again as it believed that this legislation met the four minimum requirements. The Secretariat further reported that the Philippines had enacted new CITES-implementing legislation, which the Secretariat must now review to determine whether it meets the four minimum requirements. The Secretariat finally reported that Ghana had submitted

draft CITES-implementing legislation to the Secretariat for its review and comments. The Secretariat drew the Standing Committee's attention to the large number of Parties identified in Decision 11.19 and the need to determine the best means for maintaining momentum in the legislative process while recognizing the limited resources available in the Secretariat to carefully monitor and provide assistance to individual Parties.

The Standing Committee agreed that:

- a) Parties listed in paragraphs 22, 23, 24 and 25 of document SC46 Doc. 11.1 should submit a CITES Legislation Plan to the Secretariat by 31 May 2002. Such a plan should include the agreed steps needed for each Party to adopt adequate legislation by 31 December 2003.
- b) the Secretariat shall issue a Notification recommending the following compliance measures: If an affected Party fails to submit a CITES Legislation Plan by 31 May 2002, the Standing Committee shall consider further action at its 47th meeting. The Standing Committee expects the affected Parties to meet the above deadlines so that further measures, which may include restrictions on commercial trade, will not be required. If an affected Party fails to adopt adequate legislation by 31 December 2003, the Standing Committee shall recommend restrictions on commercial trade at its first meeting after that date unless a Party can show good cause for its lack of adequate progress.

The following statement was submitted by the delegation of Thailand:

On the matter of national legislation for the implementation of CITES, the Royal Thai Government has recognized the importance of adequate national legislation for the effective implementation of the Convention. We made strenuous efforts before and during the 45th meeting of the Standing Committee in Paris to provide information on and clarification of national legislation related to CITES.

However, in the aftermath of the 45th meeting, and following the Secretariat's indication in October 2001 that certain important information was still required to complete its review of the national legislation of Thailand, there seemed to have been some communication gap on the steps required pursuant to Decision 11.18. This was due, as the Committee may understand, to the fact that there are many agencies in Thailand involved in the implementation of CITES. This oversight is now being rectified and, as requested by the Secretariat, Thailand at this meeting of the Standing Committee has provided the Secretariat with an unofficial English translation of the Ministerial Regulations No. 2 and No. 4 issued under the Wild Animal Reservation and Protection Act (WARPA) 1992 (B.E. 2535) in the implementation of our CITES obligations, referred to in the statement of the Thai delegation at the 45th meeting, as well as the Appendix to Ministerial Regulation No. 4 dated 10 November 1994 providing the list of protected species, and the Ministerial Notice dated 12 October 1994. The Appendix to this last document, which is a list of wild animals prohibited from importation or exportation, is identical to the species list in Appendices I, II and III of CITES as adopted at the eighth meeting of the Conference of the Parties in Kyoto in 1992 except for the inclusion of additional species deemed by the Ministry of Agriculture and Cooperatives to be important for Thailand's natural ecosystems, and will be forwarded to the Secretariat by the end of the month.

When seen in its totality, the legislation provides for prohibitions on trade and designation of focal points; provisions of checkpoints; penalties; and the seizure of

evidence, and thus already covers the requirements of CITES. We are hopeful that the information that we are providing at this meeting will serve to allay any remaining concerns as to Thailand's determination to fully implement CITES, and will be given due account in the national legislation project.

At the same time, we are pleased to announce that the Ministry of Agriculture and Cooperatives has already launched a comprehensive review of the WARPA in all its aspects with the objective, among others, of ensuring that the WARPA is in line with latest developments in the implementation of CITES. In this connection, Thailand looks forward to working closely with the Secretariat on this exercise.

In the wider scope, may I also point out that Section 79 of the Constitution of the Kingdom of Thailand of 1997 stipulates that "the State shall promote and encourage public participation in the preservation, maintenance and balanced exploitation of natural resources and biological diversity". This has provided the context under which the Thai Government as a whole and the line agencies are paying added attention to the reservation and protection of animal and plant resources, including through improving coordination in enforcement between the key agencies, namely the Royal Forest Department and the Department of Fisheries which have the responsibility for the WARPA and the Department of Agriculture for the Plant Act, the Food and Drug Administration and the Consumer Protection Board.

Last but not least, Thailand is proud to show its transparency on issues relating to implementation of CITES and is always open to dialogue. In this regard, we look forward to participating actively in the second regional workshop on legal aspects of implementing CITES in east, south and Southeast Asia to be held in Hong Kong in April 2002.

b) Enforcement matters.....Doc. 11.2

Democratic Republic of the Congo

The Standing Committee noted the Secretariat's progress report and noted also that the Secretariat had decided not to issue a notification to the Parties withdrawing the recommendation made by the Standing Committee at its 45th meeting. The Secretariat shall issue such a notification when the Democratic Republic of the Congo has satisfied all of the requirements specified in paragraph 1 of document SC46 Doc. 11.2.

United Arab Emirates

The observer from the United Arab Emirates reported on the actions they had taken after the Standing Committee had recommended a suspension of trade in CITES specimens with his country, drawing particular attention to the action plan in document SC46 Inf. 4. The Secretariat noted that the United Arab Emirates had responded positively to the recommendation: had ceased authorizing trade in CITES specimens; had restructured its Management Authority arrangements and appointed a new Scientific Authority; had established an action plan to correct the problems identified earlier; had prepared an excellent new law to implement CITES, expected to be adopted before the end of the year; had established a two-year training programme for all levels of government and all relevant agencies, and had started to implement it. Some problems remained regarding the illegal trade in caviar and regarding movements of falcons and the Secretariat was in discussion with the United Arab Emirates regarding these. The Secretariat proposed a three-phase withdrawal of the recommendation to

suspend trade (see below). All speakers expressed appreciation of the progress made by the United Arab Emirates and supported a phased withdrawal of the earlier recommendation. Concern was expressed regarding the trade in caviar and falcons. The Secretariat noted that, if phased withdrawal were agreed, the commercial trade in caviar would not be permitted until the third phase and so would be subject to further review. The non-commercial trade in falcons would not be allowed until completion of the registration of birds within the United Arab Emirates, and then only in accordance with Resolution Conf. 10.20 on frequent cross-border movements of personally owned live animals, for which provision was made in the draft of the new law. It was noted that guidance on how to understand the term non-commercial as used in the decision of the Standing Committee (see below) was provided in Resolution Conf. 5.10 on the definition of 'primarily commercial purposes', and that Parties should take into account the fact that the United Arab Emirates was not yet in a position to control the commercial trade.

The Standing Committee agreed that its recommendation to Parties to suspend trade in specimens of CITES-listed species with the United Arab Emirates would be withdrawn in three phases, as follows:

- Phase 1: With regard to trade for non-commercial purposes other than movements of live birds of prey, the recommended suspension is withdrawn immediately.
- Phase 2: With regard to trade in live birds of prey for non-commercial purposes, the recommended suspension shall be withdrawn when the registration of birds of prey is complete and this has been confirmed by the Secretariat.
- Phase 3: With regard to commercial trade, the recommended suspension shall be reconsidered at the 47th meeting of the Standing Committee.

Russian Federation – Trade in caviar

The Secretariat expressed its appreciation for the cooperation it received from the bodies listed in paragraph 15 of document SC46 Doc. 11.2. It also expressed its thanks to the Government of New Zealand for allowing one of its law enforcement officers to be part of the assessment team.

The Secretariat explained that the nature of the team's report required that the contents be kept confidential since it contained recommendations of an operational nature and referred to organized crime issues. It reported that the assessment team believed there were two areas where external support could be provided to the Russian Federation. The first related to enabling fishery protection staff in the Russian Federation to experience similar work carried out by their counterparts abroad and the team encouraged Parties to consider providing support through exchange programmes. The second point where the team felt external support could be provided was in assisting the funding of a light aircraft to be used in anti-poaching activities. Whilst the team felt that such air support operations could be funded through normal budgets, it recognized that the initial purchase of a light aircraft might need external donor funding.

The Secretariat also identified the likely benefits of an international meeting of enforcement officers involved in sturgeon conservation and in controlling the trade in caviar, and anticipated a need for external funding to allow this to take place. It would report further on this issue after further enforcement needs-assessment missions had been conducted in the Caspian Sea area.

The Secretariat reported that, in response to the assessment report, it had been advised by the State Committee of Fisheries for the Russian Federation that the Government of the Russian Federation had called for a federal law to be drafted that would regulate domestic trade in caviar, including: the licensing of all stages of caviar production; the marking of all caviar containers in domestic trade; and the licensing of all retail outlets for sales of caviar.

The Committee noted the report of the Secretariat and congratulated the Russian Federation for taking this very important step to regulate domestic trade in caviar. The Committee also noted the close cooperation between the Russian Federation and the Secretariat.

c) Possible measure for non-complianceDoc. 11.3

Standing Committee members expressed reluctance to revise Resolution Conf. 11.3 on Compliance and enforcement at this time. They suggested the Secretariat elaborate further on the following: the sequential and graduated nature of responses to non-compliance, including a possible flow chart indicating various measures; more emphasis on measures for facilitating compliance and working cooperatively with Parties to do so; clarification of the legal basis for the non-compliance responses listed in paragraph 13 with reference to the Vienna Convention on the Law of Treaties and an indication as to whether amendments to CITES provisions are required; the possible reasons for non-compliance; the respective roles of the Secretariat, the Standing Committee, the Conference of the Parties and other bodies as well as an indication as to whether those roles are properly reflected in the Resolutions that set forth their functions; incentives for compliance; and means to ensure that measures used to address non-compliance do not have any negative conservation impact.

One observer Party suggested that Parties preserve the unique, pragmatic, non-bureaucratic and inexpensive compliance scheme currently used in CITES and not attempt to mirror the compliance schemes in other multilateral environmental agreements. It was further suggested that the Secretariat be asked, on the basis of a further analysis of Resolutions and Decisions related to compliance as well as practice within the Convention, to prepare flexible guidelines for the Standing Committee that would ensure that measures for non-compliance are applied consistently and in accordance with previous practice.

The Standing Committee instructed the Secretariat to prepare a document for the 12th meeting of the Conference of the Parties that does not require any decision by the Conference of the Parties and does not involve any proposed revision of Resolution Conf. 11.3. This document should comprise a further elaboration of SC46 Doc. 11.3 incorporating all of the points made by Standing Committee members during their discussion on this agenda item.

The following statement was submitted by Ecuador as regional representative of Central and South America and the Caribbean:

We thank the Secretariat for preparing this document and support the interventions of other delegations with regard to strengthening incentives for Parties to comply with the provisions of the Convention.

In this respect, it seems to us that the last two suggestions stated in paragraph 13 of this document would be counter-effective.

Indeed, the possibility to participate in the different CITES fora has allowed Parties to understand fully what these provisions are, which has resulted in a better implementation of the Convention at national levels. This is one of the reasons why we have adopted a rotation mechanism of Parties in the different committees of the Convention. A link should not be established between the failure to pay national contributions to the Trust Fund and the possibility to sanction Parties, not allowing them to be sponsored financially to participate in meetings of the Conference of the Parties. As a matter of fact there is a series of internal administrative problems that prevents many Parties in the region from paying their dues to the Trust Fund and that should not be interpreted as a lack of political commitment to implement the Convention.

For these reasons, we consider that, at least for the moment, those measures (suspension of rights and financial penalty) should be discarded.

12. Trade in time-sensitive research samples..... Doc. 12

The Secretariat introduced document SC46 Doc. 12 and amended paragraph b) of the proposed annotation in Annex 1 by deleting the phrase "metabolic excretions such as". The Secretariat informed the Committee of consultations with the Secretariat of the Convention on Biological Diversity on this issue. Several Parties commented on the issues raised in the document, primarily concerning the inclusion of specific items in the proposed annotation, the need for an approach that is compatible with the obligations of Parties to the Convention on Biological Diversity and the urgent need for expedited procedures for the international movement of samples for purposes that do not pose a conservation risk.

The Standing Committee decided that the working group shall continue to work with the Secretariat on the issue of trade in time-sensitive biological samples as outlined in paragraph 3 of document SC46 Doc. 12, taking into consideration the discussions held at SC46, and shall prepare proposals for consideration at the 12th meeting of the Conference of the Parties.

13. Implementation issues related to the listing and identification of secondary products..... Doc. 13

Document SC46 Doc. 13 was noted and it was agreed that, if an implementation subcommittee were formed, it would be instructed to consider the issues raised in the document.

14. Review of the criteria for amendment of Appendices I and II..... Doc. 14

Following a discussion on how to proceed with documents SC46 Doc. 14 and Inf. 1, the Committee agreed to the following:

The Secretariat shall prepare a document that will contain:

- a) The report of the Chairmen of the Animals Committee and the Criteria Working Group and the one prepared by the Chairman of the Plants Committee as annexes;
- b) A clear reference to the fact that all comments received are available from the CITES website; and
- c) An identification of the issues which arise from consideration of the documents noted in paragraphs 1 and 2, with a description of the discussion to date. It is expected that

this document will provide a way forward for the discussion at CoP12. This document shall also take account of the comments provided by various members of the Committee.

The following statement was submitted by Ecuador as regional representative of Central and South America and the Caribbean:

The review of the criteria to amend the Appendices should not be considered as a static process (with a beginning and an end), on the contrary it should be viewed as an ongoing process within the activities of the Conference of the Parties, and of the Animals and Plants Committees. This is why we urge the Standing Committee to request at the 12th meeting of the Conference of the Parties a clear mandate to carry on reviewing the criteria in a deeper and more detailed manner. To this end we believe it would help if the Criteria Working Group prepared a document that would suggest how to establish an ongoing evaluation of the criteria and ensure above all equity in the Parties' participation in this process.

15. Conservation of and trade in specific species Doc. 15

Following the introduction of the document by the Secretariat, China indicated its willingness to work with the Secretariat on measures to assist anti-poaching work in relation to the Tibetan antelope. It indicated that China would welcome a needs-assessment mission by the Secretariat.

Thailand explained why it had been unable to participate in the recent General Assembly of the Global Tiger Forum. It described the efforts it is making to engage with the traditional medicine community to heighten awareness of tiger conservation and the way in which its Food and Drug Administration is working to ensure compliance with national legislation. It emphasized that the sale of captive-bred tigers or of parts and derivatives thereof is prohibited in Thailand. Finally, Thailand invited the Standing Committee to send a technical mission and welcomed the opportunity for officials to engage with the Secretariat.

India congratulated the Secretariat on the work it is doing to distribute intelligence regarding wildlife crime, especially relating to the tiger and the leopard. India described the work it is doing relating to law enforcement and the recent adoption of a national Wildlife Action Plan and the establishment of a Wildlife Crime Cell. It reported two major seizures of Tibetan antelope wool and outlined its efforts to work with the State of Jammu and Kashmir to halt manufacture of such products. India called for the Standing Committee to encourage the Animals Committee to pay particular attention to the tiger when considering captive-breeding operations.

The United States of America encouraged the Secretariat, if it undertakes a mission relating to the Tibetan antelope, to also take into consideration other species (particularly musk deer) so as to avoid too species-specific an approach to its work.

The Committee approved the recommendations made by the Secretariat in document SC46 Doc. 15.

16. Significant trade in specimens of Appendix-II species Doc. 16

a) Acipenseriformes no document

The Secretariat provided an extensive verbal report on progress with the implementation of the 'Paris Agreement' concerning sturgeons in the Caspian Sea as

well as the implementation of recommendations of the Animals Committee in the Azov Sea, the Black Sea and the Amur River. The Secretariat emphasized that sufficient progress had been made in the Black Sea, the Caspian Sea and the Amur River to justify the acceptance of catch and export quotas for 2002, but that the Secretariat would continue to liaise closely with the countries concerned to ensure that regional cooperation and the scientific basis for management be strengthened further. The Secretariat further reported that sturgeon stocks in the Azov Sea had not shown signs of a recovery but that no further action was required as the Russian Federation had decided not to establish export quotas for caviar for sturgeons caught in that area. The Committee noted the report from the Secretariat on progress with regard to the implementation of the agreement reached at its 45th meeting concerning Acipenseriformes species of the Azov Sea, the Black Sea, the Caspian Sea and the Amur River. The Committee commended the range States for their efforts and the spirit of cooperation at the regional level and with the Secretariat.

The Committee noted that Turkey had implemented all the recommendations detailed in document SC45 Doc. 12 and that the trade suspension had been lifted.

b) *Strombus gigas*Doc. 16.2

St. Lucia provided an outline of its programme for managing its population of *Strombus gigas* and thanked the Secretariat for its assistance. The Standing Committee agreed to withdraw its recommendation to suspend imports from St Lucia of specimens of *Strombus gigas*. The Standing Committee accepted St Lucia's clarifications concerning its system of regulation of fishing and trading in specimens of this species, which include restricting access to the resource and to export markets, and ensuring that annual levels of export do not exceed those in place before 1999.

17. Late or non-submission of annual reports Doc. 17

The Secretariat provided the following update in relation to the Parties potentially affected by Decision 11.89 and listed in paragraph 10 of document SC46 Doc. 17: Antigua and Barbuda had reported having no trade in specimens of CITES-listed species since 1997; Burkina Faso's annual reports for 1999, 2000 and 2001 were completed and had been sent to the Secretariat; Comoros had submitted its annual reports for 1997 to 2001; and Saint Vincent and the Grenadines had submitted its annual reports for 1997 to 2000.

In addition the Secretariat advised the Standing Committee that Cambodia had requested and been sent Guidelines for the preparation and submission of CITES annual reports; Myanmar had also requested the Guidelines and the Secretariat had agreed to provide them directly to its Permanent Mission; the regional representative's report for Oceania (SC46 Doc. 20.6) stated that Vanuatu was in the process of compiling its annual reports for 1997 to 2001 which should be submitted before CoP12; and it was expected that Fiji would be submitting its missing reports or copies of permits in the near future. The Secretariat noted that it was cooperating with UNEP's Post-Conflict Assessment Unit in relation to Afghanistan and this might enable better communication with the appropriate authority in that country.

The representative of Saudi Arabia stated that a change in personnel had delayed its preparation of the missing annual reports but that they would soon be provided to the Secretariat.

The Standing Committee agreed to determine at its 47th meeting which Parties had failed, without having provided adequate justification, to provide their annual reports or relevant

permits for three consecutive years during the period 1997 to 2000. If such a determination were made, the Standing Committee should instruct the Secretariat to issue a notification recommending that trade in specimens of CITES-listed species be suspended with that Party. The Standing Committee expects the affected Parties to meet this deadline so that recommending suspension of trade will not be required. The Standing Committee directed the Secretariat to contact the affected Parties to advise them of this decision. The Standing Committee encouraged the regional representatives to the Standing Committee to contact the affected Parties and offer them assistance.

Reports

18. Status of preparation for the discussion of International Environmental Governance at the World Summit on Sustainable Development in 2002..... no document

The Secretariat gave an oral report and recommended that the participants in this meeting pass on their views on the International Environmental Governance to their counterparts at the World Summit on Sustainable Development.

19. Report of UNEP and UNON..... Doc. 19

The Standing Committee noted the report presented by the UNEP representative. The Chairman of the Standing Committee raised his concerns over UNEP not complying with the Memorandum of Agreement it has with the Standing Committee. The Standing Committee agreed that the Chairman should write to the Executive Director of UNEP with a view to changing the Memorandum of Agreement.

20. Reports of regional representatives Docs. 20.1 to 20.6

The Committee accepted the reports of the regional representatives.

21. Report of the Chairman of the Animals Committee Doc. 21

The Standing Committee noted the report of the Chairman of the Animals Committee.

22. Report of the Chairman of the Plants Committee..... Doc. 22

The Standing Committee noted the report of the Chairman of the Plants Committee.

23. Identification Manual..... Doc. 23

This item was not discussed at the meeting.

Concluding items

24. Any other business..... no document

The Secretariat gave an oral report of the MIKE and ETIS programmes and of the dialogue meetings on the African elephant.

Kenya stressed that MIKE was at an early stage of implementation in Africa and that no progress on fund raising or implementation had been made in Asia. Therefore Kenya requested the Secretariat to issue a full report from the MIKE Director to all CITES Parties as soon as possible in order to provide a full picture of how operational MIKE was. Kenya also echoed calls from other African countries that the next dialogue meeting of elephant

range States take place in September and not in the days prior to the Conference, which would not allow proper dialogue and discussion with Governments.

The Standing Committee was also informed of the death of Mr Adan Dullo, Director of the Lusaka Agreement Task Force, in a car accident in Kenya the previous week and it offered its condolences to his family.

25 Determination of the time and venue of the next meeting..... no document

It was agreed that the next meeting would be held in Santiago, Chile, on 2 November 2002.

26. Closing remarks..... no document

The Chairman renewed his thanks to the Secretariat for organizing the meeting and thanked the Secretariat and the interpreters for their support throughout the meeting. He also thanked all participants for their cooperation in arriving at the decisions that had been taken.