

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

Forty-ninth meeting of the Standing Committee
Geneva (Switzerland), 22-25 April 2003

Interpretation and implementation of the Convention

NATIONAL LEGISLATION PROJECT

1. This document has been prepared by the Secretariat and briefly reviews Parties' progress in enacting legislation pursuant to Decisions 12.80, 12.81, 12.82, 12.83 and Annex 4 to the Decisions adopted at the 12th meeting of the Conference of the Parties (Santiago, 2002) (see Annex to this document). Particular attention is paid to Annex 4 because it contains the decisions of the Standing Committee at its 46th meeting (Geneva, March 2002) related to Parties concerned by Decisions 11.15, 11.18 and 11.19 of the Conference of the Parties.

Decision 11.15

2. At its 47th meeting (Santiago, November 2002) the Standing Committee noted the Secretariat's report concerning Fiji (document SC47 Doc. 10.1) and further noted the Secretariat's extension of a project conducted in Indonesia on non-detriment findings related to trade in corals, to include Fiji.
3. At its 48th meeting (Santiago, November 2002), the Committee informed Fiji that it would review at its 49th meeting Fiji's progress in the development of legislation for implementing the Convention.
4. In December 2002 Fiji provided the Secretariat with additional information in connection with the action plan agreed at the 46th meeting of the Standing Committee regarding trade in coral. As a result, the Secretariat issued Notification to the Parties No. 2002/066 of 19 December 2002 temporarily withdrawing the recommendation to suspend trade with Fiji that had been in place since 14 January 2002.
5. To further clarify the effect of this temporary withdrawal of the recommendation to suspend trade, the Secretariat issued Notification to the Parties No. 2003/008 of 7 February 2003 advising Parties that they should not accept any export permits for specimens of CITES-listed coral species from Fiji until the Secretariat had verified and published on the CITES website Fiji's voluntarily reduced quotas for 2003. Fiji provided those quotas to the Secretariat on 7 February 2003 but the Secretariat has requested clarification, concerning the species and specimens that are to be exported in 2003, before publishing them on its website.
6. On 10 February 2003 the Secretariat received a gazetted copy (in English) of Fiji's Endangered and Protected Species Act No. 29 of 2002 signed into law by the President on 23 December 2002. The Secretariat welcomes the enactment of this legislation and finds that it essentially addresses the four minimum requirements for legislation implementing the

Convention. It is seeking clarification from Fiji, however, regarding the process for the Act's entry into force and the development of implementing regulations.

7. Once clarification has been received concerning the operative effect of Fiji's legislation, the Secretariat will inform the Parties that the Standing Committee's recommendation to suspend trade with Fiji, expressed in Notification to the Parties No. 2002/003 of 14 January 2003 and temporarily withdrawn in Notification to the Parties No. 2002/066 of 19 December 2002, is withdrawn definitively.
8. Fiji originally was identified under the National Legislation Project as a country requiring priority attention because of its coral trade. Although CITES-implementing legislation now has been substantially strengthened, Fiji still appears to have some difficulties in controlling its coral trade. In this connection, the Secretariat has written to Fiji advising it that portions of two live rock shipments from its territory, consisting of specimens of CITES-listed hard coral but not accompanied by CITES documents, were recently discovered and seized by the CITES Customs team at Heathrow Airport, United Kingdom of Great Britain and Northern Ireland. It is hoped that cooperation by other Parties and implementation of a CITES capacity-building programme now being jointly developed by Fiji and the Secretariat will help to prevent similar incidents in the future.
9. The Secretariat brings to the attention of the Standing Committee that the four Parties affected by Decisions 11.15 and 11.16 have now enacted legislation to implement the Convention.

Decision 11.18 and Decision 12.83

10. The Secretariat is finalizing its review of additional CITES-related legislation provided by Mozambique and the Russian Federation.
11. In response to Cameroon's request for assistance, IUCN's Environmental Law Centre (ELC) has been contracted to provide specific legal assistance services once they are agreed between the CITES Management Authority of Cameroon, the Secretariat and IUCN/ELC. It is expected that legislation ultimately resulting from the provision of these services could be used as a model for countries in the region.
12. The Dominican Republic and Panama are continuing to make good progress in the enactment of the draft legislation that has been prepared.
13. On 24 January 2003, South Africa provided the Secretariat with a draft National Environmental Management: Biodiversity Bill (containing a number of provisions related to CITES) and the Secretariat has provided comments on this text.
14. Decision 12.82 directs the Standing Committee to "adjust the deadlines for enactment of legislation agreed at its 46th meeting to allow affected Parties that are making good legislative progress additional time in which to complete the legislative process." The Secretariat believes that Cameroon, the Dominican Republic, Panama and South Africa are making good legislative progress.
15. The Secretariat brings to the attention of the Standing Committee that Decision 11.18 has been superseded by Decision 12.83.

Decision 11.19 and Decision 12.83

16. CITES Legislation Plans have been received from Barbados, Chile, China, Cyprus, Ecuador, El Salvador, Indonesia, Kenya, Namibia, Nepal, Saint Lucia, Uganda and the United Republic of Tanzania.
17. The United Arab Emirates enacted federal legislation to implement the Convention during 2002, following guidance provided by the Secretariat. Hungary has advised that new CITES-implementing legislation entered into force in December 2002 and that an English translation of the text will be provided to the Secretariat in the near future. Suriname has similarly advised that new CITES-implementing legislation entered into force in January 2003 and a copy has been mailed to the Secretariat. The legislation of Brazil, Kazakhstan, Malaysia, Mauritius, Monaco, Peru, the Philippines and Venezuela is currently under review. Draft legislation has been prepared by the Bahamas, Ghana and Papua New Guinea but the timetable for its finalization and enactment is unknown because no CITES Legislation Plans have been submitted yet. The Secretariat has been advised by Saint Kitts and Nevis, Seychelles and Sierra Leone that work is being undertaken this year on CITES-implementing legislation but no CITES Legislation Plans have yet been submitted. Brunei-Darussalam has advised that it is in the process of preparing a CITES Legislation Plan, with the assistance of Singapore.
18. The Secretariat's records show that the following countries appear not to have complied with the 31 May 2002 deadline for the submission of CITES Legislation Plans agreed by the Standing Committee at its 46th meeting: Afghanistan, Algeria, the Bahamas, Bangladesh, Belize, Benin, Bolivia, Botswana, Brunei Darussalam, Bulgaria, Burkina Faso, Burundi, the Central African Republic, Chad, Comoros, Congo, Côte d'Ivoire, Djibouti, Equatorial Guinea, Eritrea, Estonia, Gabon, Gambia, Ghana, Grenada, Guinea, Guinea Bissau, Honduras, India, Israel, Jordan, Liberia, Madagascar, Malawi, Mali, Morocco, Myanmar, Niger, Pakistan, Papua New Guinea, Rwanda, Saint Kitts and Nevis, Saint Vincent and the Grenadines, Seychelles, Sierra Leone, Sri Lanka, Sudan, Togo, Trinidad and Tobago, Tunisia, Uruguay, Venezuela and Zambia.
19. At its 46th meeting, the Standing Committee agreed that it would consider further action at its 47th meeting concerning the failure of any Party affected by Decision 11.19 to submit a CITES Legislation Plan by 31 May 2002. The Committee further agreed that it expected the affected Parties to meet the above deadline so that further measures, which could include restrictions on commercial trade, would not be required (see Annex 4).
20. At its 47th meeting, the Standing Committee had before it document CoP12 Doc. 28 on National Laws for Implementation of the Convention. This document explained the contents of a CITES Legislation Plan and the progress to date on their submission by affected countries. The Standing Committee, however, did not specifically consider further action in relation to any Party that had failed to submit a CITES Legislation Plan by 31 May 2002.
21. Decision 11.19 has been superseded by Decision 12.83.

Decision 11.17, Decision 12.80 and Decision 12.81

22. Decision 12.80 directs the Parties and overseas territories identified in Decision 11.17 to submit a CITES Legislation Plan to the Secretariat by 31 March 2003. It further explains what the CITES Legislation Plan should contain. Pitcairn Islands has written to the Secretariat providing a copy of Part III of the Local Government Regulations 2001 that is believed to meet the four minimum requirements for CITES-implementing legislation. The

Secretariat will provide an oral update on any additional compliance with Decision 12.80 at the 49th meeting of the Standing Committee.

23. Decision 12.81 directs the Standing Committee, with respect to Parties referred to in Decision 11.17 that have not submitted a CITES Legislation Plan by 31 March 2003, to consider appropriate measures, which may include restrictions on the commercial trade in specimens of CITES-listed species to or from such Parties.

24. Decision 11.17 has been superseded by Decision 12.80 and Decision 12.81.

Recommendations

25. The Secretariat recommends that the Standing Committee extend the deadline for enactment of legislation by Cameroon, the Dominican Republic, Panama and South Africa, in view of their good legislative progress, and review their further progress at its 50th meeting.

26. The Secretariat also recommends that the Standing Committee consider appropriate measures, which may include restrictions on the commercial trade in specimens of CITES-listed species, for those Parties affected by Decisions 12.80 and 12.83 that have failed to meet the deadline for submission of a CITES Legislation Plan.

RELEVANT DECISIONS ADOPTED AT THE 12th MEETING
OF THE CONFERENCE OF THE PARTIES

National laws for implementation of the Convention

Directed to Parties

- 12.80 a) Parties and overseas territories identified in Decision 11.17¹ should submit a "CITES Legislation Plan" to the Secretariat by 31 March 2003.
- b) The CITES Legislation Plan should include the agreed steps needed for each Party to adopt adequate legislation by 30 June 2004. It should specify the entire legislative process from the date the proposed legislation is drafted until the date it is signed, published in the official gazette and sent to the Secretariat in one of the working languages of the Convention. It should include:
- i) the legal form of enactment (legislative or regulatory);
 - ii) the precise scope and content of the proposed legislation;
 - iii) the schedule for transmittal of the draft legislation to the Secretariat for comments;
 - iv) the legislative and administrative steps that must be taken to adopt the legislation; and
 - v) the time in which the Party can achieve the proposed form of enactment in accordance with its own legal system (time-frames for initiating and completing each stage of the law-making process).
- c) Parties that are preparing national legislation to fulfil the requirements of the Convention may request technical assistance from the Secretariat.

Directed to the Standing Committee

- 12.81 With respect to Parties referred to in Decision 12.80 that have not complied with paragraph a), the Standing Committee shall consider appropriate measures, which may include restrictions on the commercial trade in specimens of CITES-listed species to or from such Parties.
- 12.82 The Standing Committee shall adjust the deadlines for enactment of legislation agreed at its 46th meeting to allow affected Parties that are making good legislative progress additional time in which to complete the legislative process.

¹ *Antigua and Barbuda, Belarus, Cambodia, Dominica, Georgia, Latvia, Mauritania, Mongolia, Myanmar, Saudi Arabia, Somalia, Swaziland, Uzbekistan and three overseas territories, namely Pitcairn Islands, Saint Helena and Dependencies and South Georgia and the South Sandwich Islands. [A dispute exists between the Governments of Argentina and the United Kingdom of Great Britain and Northern Ireland concerning sovereignty over the Falkland Islands (Islas Malvinas)].*

Directed to the Secretariat

12.83 The Secretariat shall:

- a) consider the information on specific legislative measures adopted by the Parties to fulfil the requirements laid down in the text of the Convention and the Resolutions of the Conference of the Parties and amend the analyses of national legislation and the categories according to the criteria stated in Resolution Conf. 8.4;
- b) advise the Parties concerned of any amendments to the analyses of their legislation and to their categories, specifying in the case of legislation in Categories 2 and 3 the requirements that are not yet met;
- c) provide technical assistance to Parties requesting advice in the formulation of legislative proposals for CITES implementation by providing, to the extent resources are available:
 - i) legal guidance in the preparation of necessary legislative measures;
 - ii) training of CITES authorities and other relevant bodies responsible for the formulation of wildlife trade policies or legislation; and
 - iii) any specific support relevant to the fulfilment of the legislative requirements for the implementation of CITES;
- d) report to the Standing Committee on Parties' progress in enacting legislation and, if necessary, recommend the adoption of appropriate compliance measures, including suspension of trade pursuant to the decisions taken at the 46th meeting of the Standing Committee (see Annex 5 to these Decisions);
- e) identify for the Standing Committee any countries that require attention as a priority under the National Legislation Project; and
- f) report at the 13th meeting of the Conference of the Parties on:
 - i) the legislation adopted by the Parties to implement the Convention and any recommendations relating to Parties that have not adopted adequate legislation for implementation of the Convention; and
 - ii) any progress concerning technical assistance provided to the Parties in the development of their national legislation for implementation of CITES.

Annex 5

DECISIONS RELATED TO THE NATIONAL LEGISLATION PROJECT
adopted at the 46th meeting of the Standing Committee
Geneva (Switzerland), 12-15 March 2002

Parties identified in Decision 11.18

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 2003.¹

¹ *Since the adoption of the above decisions at the 46th meeting of the Standing Committee, adequate legislation has been adopted by Greece, Poland and Thailand. The Secretariat has amended the analyses of national legislation and the categories accordingly and advised these Parties that Decisions 11.18 and 11.19 no longer applied to them. The same will be done as other Parties adopt adequate legislation.*

Parties identified in Decision 11.19

The Standing Committee agreed that:

- a) Parties listed in paragraphs 22, 23, 24 and 25 of document SC46 Doc. 11.1¹ 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.²

¹ *Afghanistan, Algeria, the Bahamas, Bangladesh, Barbados, Belize, Benin, Bolivia, Botswana, Brazil, Brunei-Darussalam, Bulgaria, Burkina Faso, Burundi, the Central African Republic, Chad, Chile, China, Comoros, Congo, Côte d'Ivoire, Cyprus, Djibouti, Ecuador, El Salvador, Equatorial Guinea, Eritrea, Estonia, Gabon, Gambia, Ghana, Greece, Grenada, Guinea, Guinea Bissau, Honduras, Hungary, India, Indonesia, Israel, Jordan, Kazakhstan, Kenya, Liberia, Madagascar, Malawi, Malaysia, Mali, Mauritius, Monaco, Morocco, Myanmar, Namibia, Nepal, Niger, Pakistan, Papua New Guinea, Peru, the Philippines, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Seychelles, Sierra Leone, Sri Lanka, Sudan, Suriname, Togo, Trinidad and Tobago, Tunisia, Uganda, the United Arab Emirates, the United Republic of Tanzania, Uruguay, Venezuela and Zambia [list added by the Secretariat].*

² *Since the adoption of the above decisions at the 46th meeting of the Standing Committee, adequate legislation has been adopted by Greece, Poland and Thailand. The Secretariat has amended the analyses of national legislation and the categories accordingly and advised these Parties that Decisions 11.18 and 11.19 no longer applied to them. The same will be done as other Parties adopt adequate legislation.*