

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



Fifty-fourth meeting of the Standing Committee
Geneva (Switzerland), 2-6 October 2006

Interpretation and implementation of the Convention

General compliance issues

NATIONAL LAWS FOR IMPLEMENTATION OF THE CONVENTION

1. This document has been prepared by the Secretariat.

Mandate

2. At its 13th meeting (CoP13, Bangkok, 2004), the Conference of the Parties adopted Decisions 13.79 to 13.83 on National laws for implementation of the Convention pursuant to Resolution Conf. 8.4.

3. Decision 13.82, directed to the Standing Committee, states:

With respect to Parties and dependent territories that do not comply with Decisions 13.79, 13.80 or 13.81, or decisions of the Standing Committee in relation to national laws for implementation of the Convention, the Standing Committee shall consider appropriate measures, which may include recommendations to suspend commercial trade in specimens of CITES-listed species to and from such Parties.

4. Decision 13.83 directs the Secretariat to compile the information submitted by Parties, prepare or revise analyses of national legislation and provide related advice and technical assistance. It also directs the Secretariat to:

d) report at the 53rd and subsequent meetings of the Standing Committee on Parties' progress in enacting adequate legislation and, if necessary, recommend the adoption of appropriate compliance measures, including suspension of trade pursuant to decisions taken by the Standing Committee;

e) identify for the Standing Committee any countries that require attention as a priority under the National Legislation Project.

Legislative progress

5. Since the beginning of the National Legislation Project (NLP), 13 years ago, the legislation of 169 Parties and of 31 territories has been analysed or, if updated in the course of those years, been the subject of a review. In June 2006, 73 Parties and territories (35 % of the legislation analysed or under analysis) were included in Category 1; 53 Parties and territories (27 %) in Category 2; and 47 Parties and territories (24 %) in Category 3. The analysis of the national legislation of a further 20 Parties and territories (10 %) that have been recently included in the NLP is currently under way as well as the review of the new legislation recently adopted by eight countries (4 %).

6. The Annex to document SC53 Doc. 31 contains a chart showing the status of legislative progress by Parties and territories, as of 22 June 2005, with deadlines for the enactment of adequate legislation. An updated version of the chart will be provided during the present meeting as a number of Parties and territories are expected to make significant legislative progress by the time of the meeting.

Regarding Parties with a deadline of 31 March 2003 decided at CoP12 (Santiago, 2002)

7. The Secretariat is pleased to report that Cameroon has provided enacted legislation and that this legislation is under analysis. The other two countries concerned by this deadline are Mozambique and South Africa.
8. Mozambique has requested technical assistance to develop and implement adequate legislation. The Secretariat will conduct a mission from 10 to 13 September 2006 to provide targeted legal assistance on the matters raised by that country. South Africa has not yet enacted adequate legislation for implementation of the Convention but has provided the Secretariat with a copy of its draft implementing legislation. The Secretariat intends to combine the mission to Mozambique with a visit to the authorities in South Africa to discuss the pending steps that are needed to finalize and adopt the legislation.

Regarding Parties with a deadline of 31 December 2003 decided at CoP12

9. Four Parties, namely Djibouti, Guinea-Bissau, Liberia and Rwanda, have not provided a revised CITES legislation plan or draft legislation or enacted legislation. Consequently the recommendation to suspend trade contained in Notification to the Parties No. 2004/024 of 30 April 2004 remains in effect with respect to these four countries.
10. The Gambia provided a revised CITES legislation plan in July 2005 and the Secretariat believes that this Party has shown good progress in the adoption of legislation for implementing the Convention. Accordingly, the recommendation to suspend trade was withdrawn in Notification to the Parties No. 2005/043 of 8 August 2005.
11. China, Madagascar, Malaysia and Peru were identified by the Standing Committee at its 50th meeting (Geneva, March 2004) and Belize, the Comoros, Kazakhstan and Pakistan at its 53rd meeting (SC53, Geneva, June – July 2005) as requiring attention as a priority under the NLP.
12. The Secretariat is pleased to report that Madagascar has provided enacted legislation and that its legislation qualifies for Category 1. Peru has also provided enacted legislation, which is currently under analysis.
13. Belize has provided a revised legislation plan indicating that revised draft legislation was expected by the end of 2005 and enactment by June 2006. The Comoros has provided draft legislation and requested assistance to refine and finalize the text. China has advised the Secretariat that it has enacted comprehensive CITES legislation, which enters into force on 1 September 2006. The Secretariat understands that the legislation is now being translated into English and will then be sent to the Secretariat for analysis. The Secretariat understands that Malaysia has developed a comprehensive draft legislative text but it has not yet received a copy for its review and comments. Kazakhstan has enacted several legislative texts that are being analysed by the Secretariat in order to determine their conformity with the CITES requirements. Finally, Pakistan has sent a draft legislative text which was revised during a national workshop attended by various experts and stakeholders. However, the Secretariat has not yet received a copy of the revised draft legislation.
14. Since SC53, the Secretariat has been in contact with Afghanistan, Algeria, Barbados, the Bolivarian Republic of Venezuela, Bolivia, Botswana, Brunei Darussalam, Chile, Ecuador, Mauritius, Monaco, Morocco, Sierra Leone, Sri Lanka, the Sudan, Uganda, the United Republic of Tanzania and Uruguay on their legislative progress. Afghanistan, Barbados, Botswana, Monaco and the United Republic of Tanzania have enacted legislation. Monaco's legislation has been determined to be adequate for implementation of the Convention and placed in Category 1. Legislation enacted by the other four countries is being analysed by the Secretariat. The Bolivarian Republic of Venezuela, Bolivia and Uruguay are in the final stages of the adoption of CITES legislation. This and other information

received from Parties concerned will be incorporated into the updated legislative status chart to be distributed during the present meeting.

Regarding Parties and territories with a deadline of 30 June 2004 decided at CoP12

15. Mauritania and Somalia have not provided any indication of progress, such as a revised CITES legislation plan or draft legislation, or enacted legislation. Consequently the recommendation to suspend trade contained in Notification to the Parties No. 2004/055 of 30 July 2004 remains in effect with respect to these two countries.
16. The Secretariat has not received any indication of progress from Antigua and Barbuda, Dominica and Latvia since SC53. Cambodia has advised the Secretariat that it has enacted comprehensive CITES legislation but the Secretariat has not yet received a copy in one of the official languages of the Convention. Georgia is in the process of developing a CITES-related project proposal that includes a legislative component. The Secretariat has provided Mongolia with comments on its legislation and is awaiting a response. Myanmar has advised that draft amended legislation is currently with the Attorney General's office for review. Saudi Arabia's implementing legislation remains under review. The Secretariat understands that a legal consultant has prepared draft legislation for Swaziland although it has not yet received a copy.
17. Saint Helena and Dependencies is working to address inadequacies in its legislation, which were identified by the Secretariat.
18. Belarus and Uzbekistan provided English translations of relevant legislative provisions and a revised CITES legislation plan in early August 2005.

Regarding Parties and territories with a deadline of 30 September 2006 decided at CoP13

19. In accordance with the Standing Committee's instruction at SC53, the Secretariat issued formal cautions to Azerbaijan and Croatia. Azerbaijan has submitted a CITES legislation plan informing the Secretariat of the progress and the steps required to meet the 30 September 2006 deadline for the enactment of adequate legislation, as required in Decision 13.81. Croatia has provided the Secretariat with an English translation of the Nature Protection Act, which entered into force on 16 June 2005. It also reported that several pieces of CITES-implementing legislation were adopted in December 2005, January 2006 and April 2006 and that copies of these ordinances would be provided as soon as they were translated into English.
20. Ireland's legislation has been determined to be adequate for implementation of the Convention and placed in Category 1. Lithuania was to have enacted additional legislation by the end of 2005 but the Secretariat has not yet received confirmation of this. The Secretariat has been in contact with Iceland (enacted legislation under analysis), Kuwait (clarification sought on enacted legislation), the Lao People's Democratic Republic (legislative texts and explanations provided during a technical mission), Lesotho (draft legislation provided), Qatar (enacted legislation provided), Slovenia (enacted legislation under review), and the Syrian Arab Republic (additional information requested).
21. The Secretariat has been in contact with France, the Netherlands and the United Kingdom of Great Britain and Northern Ireland about legislative progress being made in their territories. Information on this and other legislative progress will be provided in the updated legislative status chart.

Countries that require attention as a priority

22. In addition to the Parties mentioned in paragraph 11, the following countries require attention as a priority: Djibouti, Guinea-Bissau, Liberia, Mauritania, Rwanda, Somalia, Nigeria, Paraguay and Thailand.
23. Substantial assistance is needed to bring into compliance Parties for which a recommendation to suspend trade has been in place for a long period. Such a recommendation has been in place for Djibouti, Guinea-Bissau, Liberia, Mauritania, Rwanda and Somalia since 2004 and despite sending an additional reminder, the Secretariat has not received any indication of progress.

24. According to Decision 13.80, Nigeria and Paraguay should have enacted adequate legislation for implementation of the Convention by SC53. However, neither Nigeria nor Paraguay has yet enacted adequate legislation nor provided any indication of legislative progress since SC53.
25. The Secretariat wrote to Thailand in May 2006 seeking clarification regarding apparent gaps in its CITES-implementing legislation (e.g. coverage of 'derivative' and non-native species) and the legislative amendments adopted in 2003. In the letter, the Secretariat advised that Thailand's legislation would be downgraded to Category 2 if it were determined that it did not cover all CITES specimens or CITES-listed species. The Secretariat has not received any response from Thailand yet.

Legislative advice and assistance

26. Since SC53, the Secretariat has provided legislative advice and assistance to a significant number of Parties through a variety of ways: electronic or other communication; country missions (Brunei Darussalam, Cambodia, the Lao People's Democratic Republic, Malaysia and Myanmar were visited in the context of a series of country missions in the ASEAN region supported by the European Commission); national CITES workshops (the Bolivarian Republic of Venezuela); sub-regional or regional workshops organized by CITES (a workshop for Anglophone Africa was held with the financial support of the European Commission and UNEP); and global or regional meetings organized by other partners (UNITAR, Regional Office of UNEP for Latin America; Sri Lanka was visited in connection with a UNEP-organized meeting on MEA compliance and enforcement). Such activities have made use of CITES Trust Fund resources and external donor contributions (e.g. the European Union and UNEP).

Legislation database

27. The Secretariat is developing a new legislation database to assist countries in the preparation of their national legislation through the use of information technology. This database will be available on the CITES website before the end of 2006 and will include an updated set of legislative guidance materials and examples of existing legislative provisions. The aim is to enhance access to legislative information by promoting the use of information technology to build capacity of Parties with legislation in Categories 2 and 3 for drafting and adopting adequate CITES legislation. In this connection, Parties whose legislation has been placed in Category 1 are invited to send to the Secretariat their relevant enacted legislation in PDF format for inclusion in the database.

Other related activities

28. In April 2006, the Secretariat participated in a meeting of the Steering Committee of IUCN's Commission on Environmental Law (CEL) held at the offices of the IUCN Environmental Law Centre (ELC) in Bonn, Germany. This allowed the Secretariat to learn more about the various environmental law activities being undertaken by CEL and ELC and to explore the potential for future collaboration with both entities (e.g. involving CEL's network of environmental lawyers in the provision of legislative assistance or using the ECOLEX database, which is hosted by ELC, to provide better access to information on CITES-related court cases). Furthermore, the Secretariat prepared an article regarding the evolution of the National Legislation Project that was published in the ELC's latest newsletter.
29. In May 2006, the Secretariat participated in a panel discussion on "*Quelle politique pénale pour l'environnement?*" which was part of a training course on "*Justice, environnement, développements industriels*" organized for magistrates at the Ecole Nationale de la Magistrature (ENM), in Paris, France. The costs of the Secretariat's participation was covered by the ENM. After the course, the Secretariat visited the offices of the *Office central de répression des atteintes à l'environnement* and the CITES Management Authority of France. In June 2006, the Secretariat participated in a meeting of UNEP's *Ad Hoc* Advisory Committee for Judges held in Geneva, Switzerland. The primary purpose of the meeting was to discuss various training materials and modules for judges on environmental law, including a Judicial Handbook on Environmental Law (available in English on UNEP's website and soon to be available in French) and a compilation of environmental case summaries.

Recommendations

Parties with a deadline of 31 March 2003

30. The Secretariat recommends that the Standing Committee review the legislative progress of Mozambique and South Africa at its 55th meeting.

Parties with a deadline of 31 December 2003

31. The Secretariat recommends that the Standing Committee:
- a) Review at its 55th meeting the legislative progress of those Parties that have provided written indications of their legislative progress since the present meeting; and
 - b) Recommend a suspension of commercial trade in specimens of CITES-listed species with those Parties that have not provided written indications of their legislative progress since the present meeting.

Parties with a deadline of 30 June 2004

32. The Secretariat recommends that the Standing Committee:
- a) Review at its 55th meeting the legislative progress of those Parties and territories that have provided written indications of their legislative progress since SC53; and
 - b) Recommend a suspension of commercial trade in specimens of CITES-listed species with those Parties and territories that have not provided written indications of their legislative progress since SC53.

Parties and territories with a deadline of 30 September 2006

33. The Secretariat recommends that the Standing Committee:
- a) Review at its 55th meeting the legislative progress of those Parties and territories that have provided written indications of their legislative progress since SC53; and
 - b) Issue a formal caution to those Parties and territories that have not provided written indications of their legislative progress since SC53.

Nigeria, Paraguay and Thailand

34. The Secretariat recommends that the Standing Committee:
- a) Maintain the recommendation of suspension of trade already in place for Nigeria until adequate legislation has been adopted;
 - b) Recommend a suspension of commercial trade in specimens of CITES-listed species for Paraguay; and
 - c) Issue a formal caution to Thailand requesting written indications of their legislative progress to correct the apparent gaps in its CITES-implementing legislation.

Countries that require attention as a priority

35. The Secretariat recommends that the Standing Committee considers what kind of assistance should be provided to countries for which a recommendation to suspend trade has been in place for a long period.