

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



Sixty-first meeting of the Standing Committee
Geneva (Switzerland), 15-19 August 2011

Interpretation and implementation of the Convention

Species trade and conservation

Bigleaf mahogany

MANAGEMENT OF BIGLEAF MAHOGANY IN PERU

1. This document has been prepared by the Secretariat.

Background

2. At the 59th meeting of the Standing Committee (SC59, Doha, March 2010), the Secretariat noted that “the Standing Committee had been working with Peru since 2004 to address concerns about its mahogany trade. Some progress had been made, but the SC57 recommendations were still not fully met and that situation was starting to appear persistent.” The Secretariat also expressed concern that Peru had achieved formal or ‘paper’ compliance but not necessarily real ‘on-the-ground’ compliance with the Standing Committee’s recommendations.
3. The Standing Committee subsequently agreed that Peru would have until 30 September 2010 to fulfil three indicators for achieving ‘on-the-ground’ compliance with the Convention in relation to its mahogany trade:
 - Installation of a modern, effective information system which is operational;
 - Alignment of the forestry and CITES legislation and the work of relevant institutions in relation to quota determination and authorization for export; and
 - Government's purchase of the additional timber authorized for harvest in 2008, which had been the subject of attempted *ex post facto* revision of the 2008 quota.

The Committee also agreed that, if Peru did not make sufficient progress on these indicators by 30 September 2010, the Secretariat, in consultation with the Chair, would initiate a postal procedure on a proposal to recommend suspension of trade in bigleaf mahogany species from Peru.

Information provided by Peru after SC59

Official written communications

4. Following SC59, Peru submitted information on its implementation of the three compliance indicators in several official written communications. These communications were complemented by a series of bilateral consultations between Peruvian officials and the Secretariat.
5. On 19 May 2010, the Ambassador and Permanent Representative of Peru to the United Nations at Geneva transmitted a letter to the Secretary-General in which he explained Peru’s interpretation of the three compliance indicators and how Peru intended to implement them. A copy of Resolution No. 036-2009-AG-DGFS, abrogating Resolution No. 001-2009-AG-DGFS which had approved the inclusion of an additional quantity of trees in the 2008 export quota, was attached.

6. In a letter dated 3 August 2010, the Director General of Forestry and Wildlife, Ministry of Agriculture, informed the Secretariat about the steps Peru had taken to implement each of the SC59 compliance indicators.
7. On 11 October 2010, the Director General of Forestry and Wildlife sent the Secretariat an email containing a letter dated 15 September 2010 and several attachments (e.g. a report on the additional mahogany whose exploitation was authorized in 2008, a draft decree aimed at defining the respective tasks of and strengthening the cooperation among the CITES Management, Scientific and Enforcement Authorities, and a draft user's manual for the information system to administer CITES export permits).
8. In addition to the documents mentioned above, the Secretariat received from Peru the following information of relevance: Peru's Strategic Action Plan for the Conservation and Sustainable Management of Bigleaf Mahogany (PAEC) 2008-2012 and the final Supreme Decree which defined the respective tasks of and strengthened the cooperation among the CITES Management, Scientific and Enforcement Authorities, signed on 30 December 2010 by the President of Peru, the Minister of Agriculture and the Minister of Environment.
9. As a follow-up to bilateral discussions held between Peru and the Secretariat in April 2011, the Director General of Forests and Wildlife sent a letter dated 10 June 2011 to the Secretary-General which provided a May 2011 report on the development of a Control Module for the National System for Forestry and Wildlife Information.

Bilateral meetings

10. Over the past 15 months, the CITES Secretariat and representatives of Peru met nine times. On each occasion, the Secretariat provided advice and assistance about the scope and meaning of the three SC59 compliance indicators. The Secretariat stressed to Peru that the set of indicators should not be perceived as a punitive measure but rather as a facilitative measure aimed at helping Peruvian CITES authorities to strengthen their governance of a complex natural resource sector.
11. Bilateral meetings between Peru and the Secretariat occurred in the offices of the CITES Secretariat in Geneva on 12 April 2010, 3 June 2010, 17 September 2010, 19 January 2011 and 24 February 2011.
12. The Secretariat and Peruvian government officials also met to discuss Peru's implementation of the indicators in the margins of the 10th meeting of the Conference of the Parties to the Convention on Biological Diversity (Nagoya, October 2010), in the margins of a CITES regional capacity building workshop (Bogota, December 2010) and in the margins of a CITES regional preparatory meeting (Bogota, July 2011).
13. In the margins of the 19th meeting of the CITES Plants Committee (Geneva, April 2011), a five-person Peruvian government delegation comprising CITES authorities from the Ministry of Agriculture, Ministry of Environment and Ministry of Foreign Affairs made a comprehensive presentation to the Secretary-General on Peru's implementation of the three SC59 indicators.
14. During these meetings, Peru and the Secretariat sought to reach a common understanding of the indicators and the work that Peru should and could achieve on them. They also discussed the implementation status of the indicators, with particular emphasis being placed on Indicator 1 regarding the installation of a modern, effective information system which is operational. At one point, it was agreed that Peru needed to 'show its work' on all three compliance indicators. Representatives of the Permanent Mission, through electronic communications and visits in Geneva and Lima, discussed with other CITES authorities how this might best be done.

Initial analysis of information provided by Peru

15. Based on the several sets of written material submitted by Peru regarding its efforts to fulfil each of the three SC59 indicators for achieving compliance with the Convention in relation to its mahogany trade, the Secretariat determined that Peru had arguably made substantial progress on the indicators by 30 September 2010 and therefore did not, in consultation with the Chair, initiate a postal procedure on a proposal to recommend suspension of trade in the bigleaf mahogany from Peru.
16. The Secretariat thereafter began a series of consultations with Peru to better assess and clarify the information that Peru had submitted. In parallel with these consultations, Peru (i) provided more detailed

information on the efforts it had undertaken to fulfil the compliance indicators and (ii) undertook additional efforts to fulfil the indicators.

Analysis of information provided by Peru

Indicator 1 – Installation of a modern, effective information system which is operational

17. The Secretariat reported at SC59 that the:

Peruvian authorities could not rely on the existing information system to give them quick and complete access to mahogany trade information, such as the current status report on annual quotas, the amounts traded under the quotas and the quantity of leftovers. The Secretariat understood that the current information system had been in existence since 2004 but was outdated. It was a high priority under the National Action Plan for Mahogany ('PAEC') (approved by the President) – and in national legislation – to create a new system. According to the PAEC, the system was to have been developed during 2008-2009, but work was only now beginning and it was unclear how long it would take to put a new system in place. The Secretariat further understood that Peru may have access to external funds which could help expedite the development and implementation of a sound system. Without such a system, the Secretariat believed that Peru could not effectively manage its mahogany trade.

Peru's information system for forest and wildlife resources has multiple parts. The overarching information system is called the National System for Forest and Wildlife Information (SNIFFS). Within this system, there is a supportive software system called the Forest Information System – Local Application (SIF AL) which administers and maintains forest information generated by regional governments and forest and wildlife technical administrations under the Ministry of Agriculture. There is also a System for the Administration of Export Permits (SAPE). In addition, Peru has been working for several years to develop a Control Module for SNIFFS under what is called Project SNIC. This work was prompted by Peru's adoption of the United States- Peru Trade Promotion Agreement in 2007 and the Agreement's entry into force in 2009.

18. In relation to indicator 1, Peru has focused its efforts on making SAPE (the export permit system) an effective and operational information system which allows the user to access documents that verify the origin of timber which is harvested for export, authorize its export and indicate the export volume as compared to the applicable quota. The latter information should enable the calculation of leftovers for a particular annual quota.
19. Peru's initial information about SAPE (the export permit system) indicated that it was a web-based database that would be placed on the Ministry of Agriculture's website (<http://cites.minag.gob.pe/>). It was later populated to include a partial rather than a complete set of information (concerning some but not all recent years) that had been digitalized and entered into the system. Following bilateral discussions with the Secretariat, Peru loaded additional information into SAPE. As of April 2011, SAPE appeared to be fully installed and accessible, reasonably complete and up-to-date, operational and used by government officials. Peru has indicated that it is not a real-time system but is regularly updated every few days. It should be noted that SAPE is an archive rather than a system that allows verification on real time of the legal origin of the timber.
20. Simplified schemes showing the procedures and requirements for the approval, transport and trade of mahogany are accessible on <http://minag.gob.pe/dgffs/pdf/CITES/Diagrama-Cites.pdf>. An interactive user manual is also accessible online.
21. Peru has advised the CITES Management Authority of the United States of America about the SAPE online database and the US Management Authority had indicated that it will be very useful to them as they confirm the validity of documents that accompany shipments from Peru.
22. SAPE, SNIFFS and SIF – AL (see an explanation of these acronyms in paragraph 17 above) are systems that have existed for some time in Peru. SNIC (the timber tracking system) is the most modern component of the system and it is potentially comparable to timber tracking systems that have been developed in other Amazonian countries and elsewhere.
23. It is Project SNIC (timber tracking system) that responds to one of the major actions contained in Peru's Strategic Action Plan for the Conservation and Sustainable Management of Bigleaf Mahogany (PAEC) 2008-2012, that is, the strengthening of the timber monitoring system to better guarantee the legal

provenance of harvested and traded timber. Although Project SNIC was originally planned to become operational in 2012, that timeline has now been pushed to July 2014 with a pilot application scheduled to take place in December 2013.

24. Peru has indicated that it is committed to further improving all of its forestry information systems and has identified specific ways in which those improvements are to be made.
25. As a result of the work done on SAPE, and the design work done on SNIC (see an explanation of these acronyms in paragraph 17 above), Peru believes that it has fulfilled compliance indicator 1. The Secretariat recognizes the effort that has gone into SAPE and its usefulness as an archive. It has nevertheless indicated to Peru that indicator 1 envisaged that SNIC would be the “modern, effective information system which is operational”. The Secretariat has also asked whether a pilot application of SNIC could not be put in place sooner than December 2013.

Indicator 2 – Alignment of the forestry and CITES legislation and the work of relevant institutions in relation to quota determination and authorization for export

26. At SC59, the Secretariat reported that it had:

determined that [Peru had] two different approaches [to quota determination and authorization for export] [which] stemmed not just from the work of two different institutions (Management Authority and Scientific Authority) but also from two different pieces of legislation: the forestry legislation (which provides for a system of approved concessions) and the CITES legislation (which provides for a non-detriment finding underlying a national export quota for mahogany). These two pieces of legislation, which currently seemed to be inconsistent or even in conflict, needed to be made coherent or to be implemented in a coherent fashion.

27. The Secretariat learned in October 2010 that a draft Supreme Decree had been jointly elaborated by the CITES Management and Scientific Authorities with the support of the primary enforcement authority (i.e. the Supervisory Body for Forestry Resources and Wild Fauna, also known as OSINFOR). It was thereafter signed by the President of Peru (as well as the Ministers of Agriculture and Environment, respectively) in December 2010 and entered into effect in 2011. The Decree contains articles on issues such as: forest management plans, including their supervision; field verification by the CITES Management Authority of Peru; non-detriment findings by the Scientific Authority; silvicultural plans; approval of annual operational plans; establishment of the national export quotas for mahogany; transmission of information to OSINFOR; and compliance monitoring.
28. Peru is to be congratulated on the development and adoption of the Supreme Decree. As the Supreme Decree is quite recent, however, the Secretariat has not been able to obtain a great deal of information about actions that Peru has taken on the ground to align the work of relevant institutions in relation to quota determination and authorization for export. Moreover, the Supreme Decree does not cover in depth the issues mentioned in paragraph 27 above and this means that a number of operational details are still to be worked out.
29. The Supreme Decree envisages that Peru’s 2011 bigleaf mahogany quota will be established in accordance with the Decree but Peru has advised the Secretariat that this is not possible and the Decree will only be fully applied in relation to the 2012 quota for bigleaf mahogany.
30. Peru has several CITES Management Authorities (e.g. for official correspondence, environmental policy, permits covering terrestrial wild species of flora and fauna, permits covering hydrobiological resources coming from aquaculture and permits covering hydrobiological resources coming from the natural environment) as well as a Scientific Authority and a number of enforcement authorities, which requires that attention be paid to ensuring strong and regular communication as well as coordination among them. A recent example of inter-agency coordination occurred during the April 2011 bilateral meeting between Peruvian officials and the Secretariat.
31. The Secretariat would note that, although the Ministry of Foreign Affairs is designated as Peru’s communication focal point for CITES authorities in other countries as well as the Secretariat, the Ministry of Agriculture ordinarily writes directly to the Secretariat and not through the Ministry of Foreign Affairs. It is unclear from the letters that are received by the Secretariat whether they have been copied to the Ministry of Foreign Affairs, the Ministry of Environment and OSINFOR. The Secretariat also receives direct

communications from the Ministry of Environment, and it is unclear whether those communications have been copied to other CITES authorities.

32. With the adoption of the Supreme Decree, Peru believes that forestry and CITES-related legislation have been aligned and that joint management between the Management and Scientific Authorities has been improved, particularly in relation to the setting of quotas and authorization of export. It has noted that the Decree clarifies the role of OSINFOR and regional governments. Peru has indicated in bilateral discussions with the Secretariat that it now requires verification of matters involved with forest management and will no longer rely on mere declarations.
33. The Secretariat believes that the Supreme Decree provides more clarity about the respective roles of government authorities in relation to mahogany trade and has the potential to help improve communication and coordination among CITES authorities. This can only be measured, however, with the passage of time.

Indicator 3 – Government's purchase of the additional timber authorized for harvest in 2008, which had been the subject of attempted ex post facto revision of the 2008 quota.

34. The Government of Peru has advised the Secretariat that it did not execute an increase in the 2008 export quota for mahogany because the initial Resolution (issued in May 2009) approving the inclusion of additional trees in the quota was later abrogated by another Resolution (issued in November 2009), when it was determined that the existence of the trees could not be verified in the field. Since 1 January 2010, no mahogany export permits have been issued under the 2008 quota.
35. The additional trees were declared in annual operative plans for six native communities and had been verified by the relevant Technical Forest Administrations. When the Standing Committee recommended that the Government of Peru purchase the trees, the CITES Management Authority undertook an *in situ* verification process in 2009 which revealed that the trees did not exist. OSINFOR thereafter initiated a procedure to obtain administrative sanctions against the six native communities. One native community, a forest advisor and a public servant were sanctioned by one regional government.
36. The Secretariat does not know whether any administrative procedures remain pending or whether any sanctions have been imposed on other wrongdoers.
37. Peru considers this matter to have shown how the control and verification system which is now in place can detect irregularities and prevent the export of illegally-acquired timber. The Secretariat recognizes this positive outcome but also notes that it was the Standing Committee which brought to Peru's attention the misuse of legal instruments and the potentially inappropriate or illegal activity which occurred in relation to this matter.

Conclusion

38. Peru believes that it has fully implemented the three SC59 compliance indicators and that its implementation of the indicators offers a good example of a success story under CITES. Peru also believes that the evolution of the management of bigleaf mahogany in Peru shows how CITES can have a positive influence on the development and enhancement of information and control procedures which ensure that international trade does not compromise the survival of the species.
39. The Secretariat appreciates Peru's engagement with this matter, particularly after CoP15. It recognizes the efforts which Peru has made to implement the SC59 compliance indicators and notes that Peru has taken action in relation to all three of the indicators. The question remains, however, whether there has been partial or complete fulfilment of those indicators. In determining whether complete fulfilment of the indicators has been achieved, the Standing Committee may wish to consider whether Peru has internalized (and institutionalized) the means to ensure effective and sustainable implementation of the Convention with regard to bigleaf mahogany.

Recommendation

40. The Secretariat recommends that the Standing Committee, based on the information provided above as well as the Secretariat's oral report to the present meeting and any intervention made by Peru, determine whether Peru has fulfilled the three SC59 indicators for achieving compliance with the Convention in

relation to its mahogany trade and, if it has not done so, decide whether to recommend a suspension of trade in bigleaf mahogany from Peru.