

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



Sixty-fifth meeting of the Standing Committee
Geneva (Switzerland), 7-11 July 2014

Interpretation and implementation of the Convention

Species trade and conservation

Elephants

IVORY STOCK IN BURUNDI

1. This document has been submitted by Burundi¹.

¹ *The geographical designations employed in this document do not imply the expression of any opinion whatsoever on the part of the CITES Secretariat or the United Nations Environment Programme concerning the legal status of any country, territory, or area, or concerning the delimitation of its frontiers or boundaries. The responsibility for the contents of the document rests exclusively with its author.*

I. INTRODUCTION.

The Government of the Republic of Burundi is extremely concerned by the large stock of ivory that has been found in its territory for close to 26 years and wishes to once again highlight this stock problem during the sixty-fifth meeting of the CITES Standing Committee which will take place in Geneva from 7 to 11 July 2014.

II. BACKGROUND.

1. On 26 October 1987, the Secretary-General and the Deputy Secretary-General, at the request of the CITES Secretariat, met with the Ambassador of Burundi in Switzerland.

2. On 5 November 1987, the Council of Ministers (of Burundi) decided to prohibit the trade of ivory in Burundi and, at the same time, stated its commitment to protecting all threatened species and its desire to join programmes run by institutions concerned with nature conservation.

3. The Deputy Secretary-General and Mr. Ian Parker, a consultant from the World Wildlife Fund (WWF), were sent to Bujumbura from 29 March to 1 April 1998 where they met with official representatives of the Government of Burundi.

They tried to convince Burundi to accede to CITES.

During these negotiations, Prince Sabudin came to Burundi where he was able to meet with the President of the Republic; in order to remedy the financial issues faced by Burundi he proposed to build a hotel in the Cankuzo park (in the East of the country); this hotel, situated in a nature reserve and aimed at tourists was to compensate for the loss of income that would be caused by the prohibition of the ivory trade.

In addition to this proposal by the Prince, CITES declared to the authorities in Burundi that the existing ivory stock could be sold as was the case in other countries such as Singapore. It was based on these reassuring promises and proposals that Burundi acceded to CITES **WITHOUT RESERVATIONS.**

4. The Burundian Customs and the National Institute for Nature Conservation (INCN), the management body in Burundi, undertook an inventory of all of the existing ivory stock within Burundian territory. The official government figures showed that 16,437 tusks/87,5625 kg were the property of Gaspard Ndikumusabo, Jamal Nasser and Tariq Bashir (three of the four holders of stockpiles in 1986) and were introduced to the country ***before 5 November 1987 and therefore prior to the prohibition of all trade in ivory by the Government of Burundi.***

5. On 20 June 1998, the Chief of Staff to the President of the Republic of Burundi sent a letter to the Chair of the CITES Standing Committee via the CITES Secretariat which, in particular, stated that:

- seals had been affixed to existing stocks in order to prevent handling;
- seized ivory had been confiscated by the Government, which will also be the case for all new arrivals;
- the Government has taken up the cause of CITES;
- the President of the Republic had announced Burundi's accession to CITES.

One solution to the issue was started by the CITES Secretariat during the seventh meeting of the Conference of the Parties that took place in Lausanne from 9 to 20 October 1989, when it said:

"It should be noted that the import into Burundi was legal under the legislation in force in that country. All traders involved were in possession of appropriate licences provided by the Government.

*Burundi is now in a very difficult position, with a large amount of ivory that represents a significant amount of money. **Therefore it is the strong feeling of the Secretariat that whatever decision is made by the Conference of the Parties, the worst would be to maintain the situation as it is. This would be detrimental to Burundi.***

The Government of Burundi has shown a lot of patience and has been able to demonstrate that it intends to play fair with CITES.

6. Based on the fact that the species in question was transferred from Appendix II to Appendix I on 18 January 1990, which was more than two years after the confiscation, private owners and holders of a proper export licence have appealed for Burundi to be obligated to rectify the damages that they experienced as a result of the illegal confiscation of their ivory.

They request payment of damages with no other alternative given that the confiscation deprived them at the time of the possibility of selling their goods on the international market.

III .OPINION AND CONSIDERATIONS:

Today, the Government of Burundi wishes to reopen talks with CITES bodies for the following reasons:

1. Such an ivory stock, of such high value is a heavy burden on the Government of Burundi, which has been responsible for keeping it for more than 25 years.
2. The State of Burundi is facing legal proceedings initiated by private owners on the basis of the confiscation of their ivory that took place without any legal basis in 1987.

In fact, the legal basis is lacking, as indicated in point II b), c) and e) of the communication of 20 June 1988 through which the CITES Secretariat had delivered an update to Burundi regarding the ivory trade.

It is known that the prohibition of trade of the African elephant was voted upon during the seventh meeting of the Conference of the Parties in Lausanne in October 1989. This decision came into force on 18 January 1990.

3. The sanction adopted by the Government of Burundi was not stipulated at the time by any Burundian legal standard as *the ivory was confiscated before the entry into force of the amendments voted upon in Lausanne in October 1989.*

Even if it is accepted that the ivory had been illegally exported to Burundi, it still remains to be proved the ivory could have been legally re-exported from Burundi some months later with CITES certificates.

4. *Moreover, consultation of CITES resolutions clearly shows that the confiscated ivory cannot remain indefinitely in the depots in Bujumbura, and that a sorting of this ivory should be considered. (See in particular Resolution Conf. 9.10 (Rev. CoP15))*

At the time of confiscation of the stocks, Burundi had not yet acceded to CITES since it only joined in 1988, even though the stocks were confiscated in 1987.

The current Convention (See Resolution Conf. 9.10, (Rev. CoP15) covers the use of confiscated and accumulated specimens. It takes into account the fact that no harm should be inflicted on the species, ***this harm is impossible in the case of Burundi as it does not have elephants on its territory.***

5. This international Convention cannot therefore be binding for signatory Parties and their citizens prior to the date of accession. .

6. The private owners are therefore within their rights (and they are well aware of this) to recover the value of their ivory.

In addition, the fact that the ivory has been confiscated for many years leads them to a huge shortfall which will inevitably be borne by the Government of Burundi.

7. Burundi is among the countries in the world that respects private property, with that right established and therefore protected by its Constitution.

As a result it does not wish to be obligated to violate its own Constitution by dispossessing the private owners of goods that they had acquired in compliance with national laws and regulations.

8. Burundi remains ready to collaborate with CITES bodies.

9. During the meeting in Santiago in November 2003, authorizations were granted to other countries to proceed with CITES-monitored sales of their ivory stocks.

10. On the part of Burundi, its request consists of finding a solution to the prickly issue of payment of damages to private owners of ivory that predates the Convention, who are threatening to sue the State of Burundi for the illegal confiscation of their goods.

It should be noted for practical purposes that Burundi, like other States Parties to the Convention is actively fighting against the ivory trade.

We strongly call for the support of the members of the Standing Committee in the search for a definitive solution for the ivory stock in Burundi.

Bujumbura, May 2014