

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

Malagasy ebonies (*Diospyros* spp.) and Malagasy rosewoods (*Dalbergia* spp.)

REPORT OF THE SECRETARIAT

1. This document has been prepared by the Secretariat.

Background

2. At its 16th meeting (CoP16, Bangkok, 2013), the Conference of the Parties agreed to the inclusion in Appendix II of the Malagasy populations of the genera *Dalbergia* and *Diospyros*, with an annotation restricting the listing to "logs, sawn wood and veneer sheets" (annotation #5). The Conference of the Parties also adopted Decision 16.152 on *Malagasy ebonies* (*Diospyros* spp.) and *Malagasy rosewoods and palisanders* (*Dalbergia* spp.), as follows:

*The Conference of the Parties has adopted the Action Plan attached as Annex 3 to these Decisions to facilitate adequate implementation of the Appendix-II listings of *Diospyros* spp. (populations of Madagascar) and *Dalbergia* spp. (populations of Madagascar).*

The Action Plan is attached as Annex to the present document.

3. Madagascar has created an intersectoral advisory committee (IAC) on management issues regarding rosewood. The membership of the committee comprises representatives of the government, civil society, non-governmental organizations, industry and the World Bank, as well as representatives of other sectors. The Secretariat has been closely following and assisting the work of this committee, which has mainly focused on the implementation of paragraph 4 of the Action Plan.
4. The Secretariat and Madagascar presented to the Plants Committee, at its 21st meeting (PC21, Mexico, May 2014), their respective reports on the overall implementation of the Action Plan (documents PC21 Doc. 18.3.1 and PC21 Doc. 18.3.2). The Action Plan states that the Plants Committee shall "work with Madagascar to implement the Action Plan and provide a format for and guidance on reporting on progress at the 17th meeting of the Conference of the Parties".
5. Paragraph 4 of the Action Plan states that Madagascar shall:

*Put in place an embargo on export of stocks of these timbers until the CITES Standing Committee has approved the results of a stockpile audit and use plan to determine what component of the stockpile have been legally accumulated and can be legally exported;*

6. Paragraph 5 of the Action Plan states that Madagascar shall:

*Collaborate, as appropriate, and with key partners, as indicated in paragraph 2 above, to establish enforcement mechanisms to assist in implementation of any export quota, stockpile control and opening of any legal and sustainable trade utilizing timber tracking systems and other technology as appropriate;*

7. In order to implement the embargo called for under paragraph 4 of the Action Plan, the Management Authority of Madagascar communicated to the Secretariat a zero export quota (initially until 13 February 2014 and subsequently extended) for exports of specimens of *Dalbergia* and *Diospyros*. As a result, the Secretariat issued Notifications to the Parties Nos. 2013/039, 2014/010 and 2014/019. The latter extends the validity of this zero export quota until 11 August 2014.
8. Since the Appendix-II listing of the Malagasy populations of the species of the genera *Dalbergia* and *Diospyros* entered into force, on 12 June 2013, the Secretariat has received numerous reports of suspected illegal exports of rosewood from the country.
9. The President of the Republic of Madagascar and the CITES Secretary-General met in Brussels, Belgium, on 3 April 2014, to discuss urgent actions to stem the illegal timber trade from Madagascar. They discussed at length various elements of the Action Plan on rosewood, palisander and ebonies, and the President noted the challenges faced by Madagascar to control its 5000 km long coastline. He expressly recognized the urgent need to mobilize all necessary legislative and enforcement measures to combat illegal logging and related illegal exports. He also called for international support and cooperation to combat illegal exports and imports of these valuable tree species from Madagascar.
10. The Secretary-General offered immediate support to Madagascar through the International Consortium on Combating Wildlife Crime (ICWC) (see paragraph 19 of the present document), and further offered legal and scientific support, including the possibility of future assistance under the ITTO-CITES programme. A mission from the Secretariat to Madagascar was scheduled to take place in late May 2014.

#### Stockpile audit and use plan

11. As indicated on page 3 of document PC21 18.3.2, Madagascar has undertaken various actions related to the stockpile audit and use plan referenced in the Action Plan. Specifically, Madagascar has reported that:

*The sales and export process will comprise the following stages:*

- *The first stage involves identification of locations where confiscated specimens are currently stored, and preparation of an inventory. Specimens will be marked, and a chain of custody established to ensure that any specimens sold are duly exported.*
- *The sale of stocks will be organized by an international organization with proven experience in the sector.*
- *A key has been established for allocation of the proceeds obtained from sales, based on the recommendations of the CITES Secretariat. The majority of the income obtained will be used for governance, conservation, and community development activities.*

*The first stage has been divided into two phases: (i) an initial study phase, in which the aim is to draft a preliminary support Plan for evacuation of specimens (from confiscation site to port of shipping), and to establish a Logistics Plan (estimation of financial and human resources required); and (ii) a second practical phase, in which an inventory will be made, and specimens will be marked and transported to destination ports.*

*The first phase is currently being concluded.*

*At the same time, the following three studies are underway:*

- *a viability study for the purpose of drawing up an inventory, labelling specimens, and implementing a custody system;*
- *a legal assessment in respect of the sale of these specimens;*
- *evaluation of options available to sell off the illegal stockpile of rosewood in Madagascar.*

12. One of the primary aims of the Secretariat's legal and scientific support mission to Madagascar in late May 2014 is to review with the authorities of Madagascar and their partners (e.g. the World Bank) the status of the above-mentioned actions and to identify the results that would be available for consideration by the Standing Committee at the present meeting.

#### Collaboration with key partners on implementation of the zero export quota

13. On page 3 of document PC21 Doc. 18.3.2, Madagascar has reported that:
- *A system was created for sea controls through the Cooperation Protocol signed by the Ministry for the Environment and Forestry, the Ministry of Fisheries through the Fishing Activities Monitoring Centre, and the Ministry of Transport through the Sea and River Port Authority. The aim of the aforementioned Protocol is to create a system of sea controls and satellite monitoring of the areas affected by the trade in rosewood and mahogany;*
  - *The system is based on a satellite monitoring tool. The terms of reference for satellite monitoring of sea trade in Madagascar, and of the contract entered into with the supplier of this service are currently at the signing stage.*
14. As indicated in Notification to the Parties No. 2014/019, of 17 April 2014, and related Notifications, Madagascar has established a zero export quota for Malagasy ebonies, palisanders and rosewoods, which will be valid until 11 August 2014. Paragraph 7 of Notification 2014/019 reads:

*All Parties are ... urged to continue to assist Madagascar by checking shipments of timber, in order to stop any illegal trade in specimens of Dalbergia and Diospyros species from that country. Parties that seize illegal shipments of these timber species are requested to inform the Management Authority of Madagascar and the Secretariat.*

#### Legislative authority related to Malagasy ebonies, palisanders and rosewoods

15. The Secretariat has been working closely with Parties, INTERPOL and the World Customs Organization (WCO) in response to reports of illegal exports of rosewood from Madagascar. During this process, the Secretariat has learned, through consultations with relevant Management Authorities, that certain Parties have already incorporated into their national legislation the amendments to the Appendices adopted at CoP16, while other Parties are still in the process of doing so. In addition, some Parties are continuing to work on developing national legislation for effective implementation of the Convention (see document SC65 Doc. 22 on National laws for implementation of the Convention).
16. Where Parties have not yet incorporated into their legislation the amendments adopted at CoP16 or enacted CITES-implementing legislation, and where other legislation (e.g. Customs legislation, general criminal legislation, etc.) fails to offer alternative control measures, they may lack the legislative authority to detain suspected illegal shipments of ebony, palisander and rosewood logs from Madagascar or to prosecute the offenders. This situation has caused significant enforcement challenges. The Secretariat has therefore been contacting potential transit and destination countries to ascertain whether the CoP16 amendments to the Appendices have been incorporated into their national legislation or, alternatively, whether existing Customs or other legislation could be used.
17. The experience described above demonstrates the importance of ensuring the timely incorporation into national legislation of the amendments to Appendices I and II after each meeting of the Conference of the Parties (i.e. within 90 days pursuant to Article XV), and after each inclusion of species in Appendix III (i.e. within 90 days after the date of communication by the Secretariat). The Secretariat has brought this issue to Parties' attention in the past, in the context of advice, assistance and reports related to the CITES National Legislation Project [see paragraph 28 of document CoP13 Doc. 22 (Rev. 2) and the standard presentation on CITES Guidelines for Developing Legislation available in the Virtual College]. It will place even greater emphasis in the future on the need for legislative provisions that ensure the automatic or timely incorporation of amendments to the Appendices.

#### Enforcement efforts related to Malagasy ebonies, palisanders and rosewoods

18. In view of the zero export quota established by Madagascar (see above), any exports of rosewoods, palisanders and ebonies from the country are presumed to be illegal. Intelligence reports that have been received by the Secretariat since late 2013 reveal that timber is illegally exported by boat from Madagascar using various routes. Illegal consignments have on a number of occasions transited through ports in east Africa, and were primarily destined for Asia. More than 4000 tons of rosewood suspected to have been illegally exported from Madagascar were seized by authorities in various transit and destination countries between November 2013 and April 2014, and investigations were still ongoing at the time of writing.

19. Since this matter came to its attention, the Secretariat has been working closely with relevant Parties and its ICCWC partners in response to the intelligence reports it has received. The Secretariat provided operational support to authorities during Operation COBRA II,<sup>1</sup> by coordinating and supporting information exchange between authorities, in cooperation with INTERPOL and the WCO. Upon request, the Secretariat also prepared and provided relevant identification material to authorities that detected suspected illegal shipments, and encouraged and supported a number of follow-up investigations.
20. The massive scale of illegal trade in rosewood from Madagascar requires a well-coordinated law enforcement response from authorities within Madagascar, as well as those in transit and destination countries. In response to the unprecedented levels of illegal trade in timber from the country, ICCWC partner agencies considered the support that could be provided to Madagascar and other Parties through the Consortium, to combat the ongoing illegal trade from the country. As a result, the Secretary-General during his meeting with the President of Madagascar, offered, on behalf of ICCWC, the deployment of a Wildlife Incident Support Team (WIST),<sup>2</sup> led by INTERPOL. The deployment of such a WIST in Madagascar is subject to its formal request. At the time of writing (April 2014), INTERPOL was awaiting the formal request.
21. Further to the above, the WCO is currently in the process of arranging a workshop, to be held in May 2014 under the auspices of ICCWC. The workshop will bring together relevant Customs administrations and other authorities, with the objective of developing a strategy with actions to identify and detain suspected illegal consignments of timber from Madagascar and to prosecute the offenders.

#### Final remarks

22. The Secretariat will update the Committee orally on the results of discussions at PC21 as well as any other relevant developments that may occur between the time of writing and the present meeting.

#### Recommendations

23. The Committee is invited to:
  - a) consider the content of this report, and any subsequent oral report of the Secretariat, during its discussion on the implementation of paragraphs 4 and 5 of the above mentioned Action Plan;
  - b) review the report from Madagascar on the implementation of paragraphs 4 and 5 of the Action Plan and any stockpile audit and use plan submitted by Madagascar;
  - c) determine whether to approve any stockpile audit and use plan submitted by Madagascar;
  - d) encourage Parties to remain vigilant in detecting illegal shipments of CITES-listed timber species coming from Madagascar, taking account of the its zero export quota; and
  - e) encourage Parties that are possible destinations or transit countries for shipments of Malagasy ebonies, palisanders and rosewoods and that have not yet done so, to incorporate the CoP16 amendments to the Appendices into their national legislation as soon as possible, and to identify any other legislative authority that might be used in the interim to support appropriate law enforcement actions in case of the discovery of shipments without CITES permits.

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<sup>1</sup> [http://www.cites.org/eng/news/sundry/2014/20140210\\_operation\\_cobra\\_ii.php](http://www.cites.org/eng/news/sundry/2014/20140210_operation_cobra_ii.php)

<sup>2</sup> <http://www.cites.org/eng/dec/valid16/192>

ACTION PLAN FOR *DIOSPYROS* SPP. AND *DALBERGIA* SPP.

**Madagascar shall:**

1. Establish, in collaboration with the CITES Secretariat, a science-based precautionary export quota for the listed taxa where an adequate non-detriment finding can be undertaken and clearly documented for any species planned for export;
2. Establish, as appropriate, and with key partners [including the CITES Secretariat, CITES Plants Committee, International Tropical Timber Organization (ITTO), main importing countries, and national and international research/conservation organizations] a process (research, information gathering and analysis) to identify the main species to be exported. Workshops should be organized for selected species to establish the adequate non-detriment findings required in paragraph 1;
3. Collaborate, as appropriate, and with key partners, as indicated in paragraph 2 above, to prepare identification material and tests for use in CITES enforcement to identify main taxa as they are traded;
4. Put in place an embargo on export of stocks of these timbers until the CITES Standing Committee has approved the results of a stockpile audit and use plan to determine what component of the stockpile have been legally accumulated and can be legally exported;
5. Collaborate, as appropriate, and with key partners, as indicated in paragraph 2 above, to establish enforcement mechanisms to assist in implementation of any export quota, stockpile control and opening of any legal and sustainable trade utilizing timber tracking systems and other technology as appropriate;
6. Provide written reports on progress with the implementation of the plan to the Secretariat and Plants Committee, in compliance with document deadlines for meeting of that Committee; and
7. Provide a document outlining progress with the implementation and any required adjustments to the Action Plan at the 17th meeting of the Conference of the Parties.

**The Plants Committee shall:**

1. Work with Madagascar to implement this Action Plan and provide a format for and guidance on reporting on progress at the 17th meeting of the Conference of the Parties;
2. Receive reports from Madagascar on the implementation of the plan, analyse and assess these, and assist and advise on same at its 21st and 22nd meetings; and
3. Recommend and facilitate the preparation of a standard reference for the names of *Diospyros* spp. (populations of Madagascar) and *Dalbergia* spp. (populations of Madagascar) to be adopted, if appropriate, at the 17th meeting of the Conference of the Parties.

**Importing countries, especially developed country Parties, shall:**

1. Work with Madagascar to implement this Action Plan, make recommendations on sources of funding when necessary, and provide funding and technical support to implement the plan on a voluntary basis.

**The Secretariat shall:**

1. Subject to available resources, assist Madagascar in the preparation of a stockpile audit and use plan, consistent with the Convention and relevant Resolutions and Decisions of the Conference of the Parties, for presentation to the CITES Standing Committee;
2. Seek external funding from interested Parties, intergovernmental and non-governmental organizations, exporters, importers and other entities directly interested in supporting this Decision;

3. Inform relevant Parties of the management of funds that have been raised, of technical assistance available and how they may access these resources;
4. Request technical assistance of ITTO in the framework of Resolution Conf. 14.4 on *Cooperation between CITES and ITTO regarding trade in tropical timber*, and
5. Promote, facilitate and assist capacity building in Madagascar and in importing countries, including as appropriate transit countries, through workshops, training and other activities considered relevant between the 16th and 17th meetings of the Conference of the Parties.