

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



Sixty-sixth meeting of the Standing Committee  
Geneva (Switzerland), 11-15 January 2016

Interpretation and implementation of the Convention

Compliance and enforcement

APPLICATION OF ARTICLE XIII

1. This document has been prepared by the Secretariat.

Background

2. At the 65th meeting of the Standing Committee (SC65, Geneva, July 2014), the Secretariat reported orally that it had sent letters to the Democratic Republic of Congo (DRC) and the Lao People's Democratic Republic (LPDR) pursuant to Article XIII of the Convention. In these letters, it had identified specific concerns about missing annual reports, possible overexploitation of Appendix-II species, trade suspensions pursuant to the Review of Significant Trade [in Resolution Conf. 12.8 (Rev. CoP13)], and ineffective implementation of the Convention. The Secretariat drew the Standing Committee's attention to related Notifications to the Parties concerning DRC. It advised the Committee that it would provide a detailed written report on subsequent developments at SC66.
3. The Committee noted the oral report of the Secretariat and agreed that the Secretariat, as appropriate and respecting the generally confidential nature of communications between the Secretariat and individual Parties on specific compliance matters, would keep the Standing Committee apprised of further developments intersessionally.
4. This document provides a detailed report on the developments concerning the implementation of CITES provisions in the Democratic Republic of Congo. The Secretariat expects to be able to prepare a similar report on the Lao People's Democratic Republic for consideration at the 67th meeting of the Standing Committee.

Article XIII correspondence to the Democratic Republic of the Congo

5. On 19 September 2013, the Secretariat sent a letter to the Management Authority (MA) of DRC pursuant to Article XIII of the Convention. In the light of information available to the Secretariat, it appeared that the provisions of the Convention, notably Articles IV and VIII, were not effectively applied by the Democratic Republic of Congo (copies of the correspondence are available at the request of the Standing Committee).
6. The concerns raised by the Secretariat were grouped in five themes: (a) Quota management and issuance of export permits; (b) Management of exports of *Psittacus erithacus*; (c) Illegal trade; (d) Challenges in CITES implementation in areas affected by conflict (*Prunus africana*); and (e) Trade in *Pericopsis elata*. The letter included 18 recommendations to address these concerns.
7. On 23 September 2013, the Secretariat received an electronic message in which the Management Authority of DRC undertook to implement one of the 18 recommendations mentioned in the letter (i.e. to refrain from cancelling and replacing permits unless there are exceptional circumstances).

8. By letter to the DRC Management Authority dated on 15 November 2013, the Secretariat formally acknowledged receipt of the email of 23 September, noting the stated commitment to refrain from cancelling and replacing permits, and encouraging the DRC authorities to provide targeted responses to the other 17 recommendations in the Secretariat's letter. The Secretariat explained that such responses could help it work more effectively with DRC authorities to resolve the compliance issues raised by the Secretariat pursuant to Resolution Conf. 11.3 (Rev. CoP16) on *Compliance and enforcement* and Resolution Conf. 14.3 on *CITES compliance procedures*.
9. Also on 15 November 2013, the Secretariat issued Notification to the Parties [No. 2013/051](#), inviting Parties to consult the Secretariat before accepting any export permit issued by (or apparently issued by) DRC for specimens of African grey parrot (*Psittacus erithacus*), to verify the permit in accordance with Decision 14.85 of the Conference of the Parties.<sup>1</sup>
10. During the first trimester of 2014, the Secretariat learned of a large number of fake or falsified permits, apparently issued by DRC. In addition, Parties that had sent requests to the Management Authority of that country to verify the validity of permits had sometimes received irregular or contradictory responses, in some cases from non-authorized individuals (pretending to act on behalf of the DRC CITES Authorities). This information emerged with the assistance of several Parties, and in consultation with the General Secretariat for Environment and Nature Conservation of DRC that supervises the CITES Management Authority
11. On 2 April 2014, the Secretariat issued Notification to the Parties No. [2014/017](#), informing that the Government of DRC had reported to the Secretariat that a large number of original blank permits were missing from the files and that it was taking measures to ensure that the issuance of CITES permits is correctly regulated. In addition, the Management Authority had undertaken to provide the Secretariat with copies of all CITES permits that it issued. A list of missing permits was annexed to that Notification.
12. In order to assist the Government of DRC, and with its agreement, the Secretariat recommended in that Notification that, until further notice:
  - a) Parties not accept any CITES export permit or certificate apparently issued by DRC unless its validity has been confirmed by the Secretariat; and
  - b) Parties inform the Secretariat if any of the missing permits listed in the Annex to the Notification is presented, or has been presented to authorize import or re-export of CITES specimens.
13. Since November 2013, and based on information received from the General Secretariat for Environment and Nature Conservation of DRC confirming that permits were issued by its office, the CITES Secretariat has attested when permits in question were signed by an authorized officer of the designated Management Authority. The Secretariat received and reviewed over 450 permits, confirming for practically all that they had been issued by the MA.

#### Interactions with DRC CITES authorities and stakeholders

14. On 3 June 2014, the Secretariat received an official letter signed by the new CITES Management Authority of DRC, dated on 22 April 2014, informing it about staff changes in the CITES Management Authority, and responding to the remedial actions recommended by the Secretariat in its letter of 19 September 2013 (see paragraph 5 above). The letter also communicated that Mr. Léonard Muamba Kanda was replaced by Mr. Augustin Mawalala Nzola Meso as head of the CITES Management Authority.
15. Since then, the Secretariat has been in communication with the DRC authorities about a possible visit to the office in Geneva during 2015. Such a meeting was however not possible owing to logistic and financial constraints faced by DRC authorities. The Secretariat met with DRC CITES authorities and stakeholders on several other occasions, including in the sidelines of the 28th meeting of the Animals Committee (AC28, Tel Aviv, August 2015) and the 22nd meeting of the Plants Committee (PC22, Tbilisi, October 2015).
16. On 9 October 2015, the Secretariat sent an official letter offering a visit to Kinshasa to discuss the five themes mentioned in paragraph 3 above, taking advantage of a regional workshop on National Ivory

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<sup>1</sup> *Decision 14.85: The Secretariat should identify cases where there has been a history of exports in excess of quotas and, as long as necessary, verify export permits issued to ensure that quotas are not exceeded.*

Action Plans (NIAPs) organised by TRAFFIC with the support of the United States Agency for International Development (USAID) and the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ).

17. On 11 November 2015, the Secretariat received a letter from the DRC authorities accepting its offer to visit the country.

#### Secretariat's mission to DRC

18. From 17 to 21 November 2015, the CITES Secretariat conducted an official visit to the DRC at the invitation of the Government.
19. During its mission, the Secretariat met with the CITES Management and Scientific Authorities, the national representatives from INTERPOL, border police, customs and the Ministry of trade. Meetings scheduled with the Minister of Environment had to be cancelled owing to the preparations for the COP21 of the United Nations Framework Convention on Climate Change. The Secretariat further interacted with representatives of the private sector and the civil society.
20. The Secretariat expresses its sincere appreciation to the Government of the DRC, and in particular the CITES Management Authority, for the indispensable support it provided in planning and coordinating the visit, and the openness and generous hospitality it received during its mission. The Secretariat would also like to express its gratitude to TRAFFIC, USAID and GIZ for the logistical and financial support, and for the invitation to attend the NIAPs regional workshop. The NIAPs meeting and the mission afforded the Secretariat a very useful opportunity to work through all pending issues raised in Article XIII correspondence.

#### Main findings of the Secretariat's mission to Kinshasa in November 2015

21. The DRC is extremely rich in natural resources and possesses over 50% of Africa's tropical forests. Dense forests cover half of the DRC's total surface area of 2.3 million km<sup>2</sup>. The institutional capacity of the public administration is regarded as being insufficient to control all the territory, notably the north-eastern part of the country, principally because the lack of financial and other resources, armed conflicts and poverty. A lack of resources, weak State territorial control, challenging terrain and the involvement of armed groups present significant challenges, which can be addressed by recommendations focused on science, compliance, enforcement and sustainable development. The tropical forest of the Congo basin, together with the Amazon basin and the forests of Southeast Asia, contain the bulk of the world's terrestrial biodiversity. These three sub-regions could benefit from South-South 'equatorial' cooperation and from more coordinated assistance from the international community working in the context of CITES, with a focus on the development and implementation of existing laws, commitments and recommendations.
22. DRC shares borders with nine countries (Angola, Burundi, Central African Republic, Congo, Rwanda, Sudan, Uganda, United Republic of Tanzania and Zambia). The presence of armed groups such as the Lord's Resistance Army (LRA) along the border between South Sudan, northern Uganda and DRC, and the cross-border trafficking between DRC's eastern provinces and other neighboring countries, notably Rwanda, Uganda and the United Republic of Tanzania, are important factors to consider when implementing compliance and enforcement measures. Trade in wildlife originated in DRC may be displaced to Cameroon, Guinea, Mali, Nigeria and other countries in Africa in order to evade eventual compliance measures recommended by the Standing Committee.
23. Important CITES trade partners include the European Union, China, Singapore, South Africa, Thailand and Turkey, among others. The compliance measures that are recommended by the Secretariat have implications for transit and destination countries for CITES-regulated trade originating in DRC, and take into consideration the principle of shared responsibility.

#### **a) Quota management and issuance of permits for exports of CITES specimens**

##### *Cancellation of permits and issuance of replacements:*

24. According to the correspondence received since the issuance of Notifications to the Parties referred in paragraphs 9 and 11 and the information received during the visit from various interlocutors, the replacement of export permits with new permits continues. The Secretariat has raised this issue with DRC during the mission and reiterated that the CITES permit and certificate system is designed to ensure the legality, sustainability and traceability of trade in specimens of CITES species. It was noted that this

practice makes it difficult, if not impossible, to properly regulate such trade when permits are repeatedly cancelled and replaced, as is done by the CITES Management Authority of DRC. This practice creates problems of implementation and enforcement for other authorities, as well as for DRC.

25. The Secretariat reminded the authorities of their commitment to refrain from cancelling and replacing permits unless there are exceptional circumstances (see paragraph 7 above). The Secretariat also informed the authorities that it frequently receives copies of emails from the Management Authorities of other Parties to the Management Authorities of DRC describing problems arising from the practice of frequently issuing replacement permits. These relate especially to export permits for parrots, particularly *Psittacus erithacus*, but in some cases also concerns consignments of *Pericopsis elata*.
26. The Secretariat pointed out that there can be legitimate reasons why it may be necessary to very occasionally replace a permit issued previously and nothing in the text of the Convention prohibits the replacement of permits. On this point, the Resolution Conf. 12.3 (Rev. CoP16) states that:

**I. Regarding standardization of CITES permits and certificates**

RECOMMENDS that:

- t) *when a permit or certificate is issued to replace a document that has been cancelled, lost, stolen or destroyed, or that has expired, it indicate the number of the replaced document and the reason for the replacement;*

**II. Regarding export permits and re-export certificates**

RECOMMENDS that:

- a) *exporters be encouraged to apply for permits shortly before the time of intended export;*
- c) *in cases where a replacement is requested for a permit that has not been used, the replacement be issued only if the original has been returned to the issuing authority, unless the original is reported as lost. In the latter case, the issuing Management Authority should notify the Management Authority of the country of destination that the original permit has been cancelled and replaced. (emphasis added)*

27. The Secretariat noted that CITES domestic legislation (Arrêté ministériel No. 056 CAB/AFF-ECNPF/01/00 of 28 March 2000) regulating international trade in listed species foresees in Article 27 that ‘a valid permit or a certificate can be ‘modified’ only once, when the modification does not concern the identification of the species, their number or quantity’. According to private sector interlocutors, this provision allows the practice of cancelling and replacing permits in DRC, which they consider perfectly legal. Article 29 of the same regulation establishes that ‘*the renewability of all permits which validity has expired is strictly forbidden*’ and that ‘*no export permits can be issued exceeding the annual export quota established pursuant to article 20 of the present regulations*’.
28. The Secretariat understands that Article 27 and 29 are systematically implemented in tandem to ‘modify once’ and then ‘renew’ permits before they expire without following rigorously the conditions prescribed in Article 20. This article addresses the three key requirements of CITES for the issuance of export permits of a species listed in Appendix II, namely the non-detriment finding by the scientific authority, which in DRC is assimilated to an annual export quota; the legal acquisition finding, and the transport conditions in case of trade in live specimens.
29. However, Article VI, paragraph 6, of the text of the Convention only refers to ‘cancel and retain’ the export permit or re-export certificate, and this should be done by the Management Authority of the State of import. In the opinion of the Secretariat, it is implied in the provisions of Resolution Conf. 12.3 (Rev. CoP16) that the practice of ‘cancelling and replacing’ of CITES permits and certificates must be the exception rather than the rule. In the past, one reason given by the Management Authority of DRC for this practice was that the exporters applied for a permit to export specimens before these had been captured or had been prepared for export. It was formally reported to the Secretariat during its mission that the Management Authority has organized several meetings aimed at raising awareness within the private sector on the need to apply for permits shortly before the time of intended exports in order to avoid the problem that a permit might expire before the specimens are ready to be shipped.

30. According to the authorities and information received from various interlocutors, the country has experienced in the last 18 months several problems that may be considered as exceptional circumstances, including the spread of Ebola and the temporary suspension faced by DRC because of the lack of submission of a National Ivory Action Plan. These two factors caused important trade disruptions and generated delays in the transactions and changes in the names of the importers, which justifies in their view the cancellation and replacement of a large number of permits.
31. Beyond the justifications provided to cancel and replace permits, which may be more or less reasonable, and the legal basis for authorizing this practice, the underlying causes of this problem appear to be conceptual and structural.
32. The conceptual part is related to the perception of CITES permits in DRC. It seems that CITES permits, printed on security paper and affixed with a security stamp, represent more of a 'right', a 'license to export', a 'marketable security' than a document that authorizes the export of a consignment of specimens of CITES-listed species as stated in Article VI of the text of the Convention. This may generate the false impression that CITES permits are like 'gold' to users and that what is tradable and valuable is the CITES document and less so specimens it covers, which apparently are more easily obtained than a permit. This situation might also explain why permits seem to be granted right after the announcement of the export quota as the first document that starts the paper trail for export transactions. Normally, the CITES export permit should be issued at the end of the paper trail only when the Management Authority of the State of Export is satisfied that the specimen was not obtained in contravention of the laws of that State for the protection of fauna and flora (Article IV, b).
33. The structural part has at least two elements. The first element is related to the general infrastructure (lack of electricity, poor internet connection, insecurity, lack of fuel for transport, etc.) and the physical location of the building where the CITES Management Authority operates. The Secretariat is aware that offices of the CITES Management Authorities are not always located in the main building of the Ministry in charge of wildlife related issues. However, it has rarely witnessed such a difference in the material and security conditions between the two buildings. The Secretariat also witnessed a serious breach of security during its visit to the office of the Director of the CITES Management Authority. Unknown individuals allegedly broke into his office prior to the visit and grabbed some blank CITES permits and security stamps, while others were found on the floor next to the broken drawers. The Secretariat advised the Management Authority to inform the police, INTERPOL and the high-level ministerial authorities and noted that it was extremely challenging to properly regulate trade in precious and valuable specimens operating under these precarious security conditions.
34. The second element is the existing legal and institutional framework. The Secretariat found a pattern in DRC, also observed in other countries, where the staff responsible for CITES implementation is continuously rotating. This may result in institutional instability and weak governance. The Secretariat observed that Directors responsible for signing and issuing CITES documents are appointed for short periods of time (usually several months) and then moved to other divisions of the Ministry.
35. It is of major concern that the relationship between the CITES Management and Scientific Authorities are far from optimal and lacks an integrated and coherent coordination mechanism. This situation complicates the establishment of national export quotas. It also seems to affect the relationship with other parts of the government including Ministry of Trade, customs, police, as well as INTERPOL that do not benefit from clear guidance regarding identification of species, final disposal of seized specimens, the volume of the quota that has been authorized, etc. Finally, during discussion with several donors, it appeared that this situation also impacts the relationship with cooperation agencies and international non-governmental organizations (NGOs), as well as certain reporting obligations. The Scientific Authority is responsible for national parks and has some relevant data for species occurring in their areas of jurisdiction, e.g. elephant poaching and ivory trafficking. They seem to attract more international support, while the Management Authority seems in a closer and more direct relationship with national stakeholders, including the regulated community. It appears that there is a clear need to clarify the roles of both authorities and strengthen the communication channels to improve the exchange of information.
36. There is no fee for the issuance of CITES permits, but there are two Ministerial Regulations establishing fees, taxes and other charges regarding fauna and flora (Arrêté Interministériel 004 and 030 of 26 April 2010). According to information provided during the meeting with the Management Authorities, tipping authorities for services provided and paying other costs associated to the issuance of permits and inspections (e.g. paper, fuel, mailing to the Secretariat, etc.) seems customary, taking into account that there does not seem to be a budget allocated for these activities and there is no a fee for issuing CITES permits.

36. Regarding the legal framework, the Secretariat was informed that a new organic law No.14/003, adopted on 11 February 2014, contains several provisions that regulate trade in wild fauna and flora (e.g. articles 63 to 67), as well as tighter penalties against the illegal trade in wildlife (article 79). The Secretariat noted that the new legislation together with article 20 mentioned in paragraph 28 contain the key elements for a national compliance assessment of CITES implementation in DRC.
37. Regarding the period of validity of permits, correspondence between the Secretariat and a Party that is the destination of CITES specimens exported from DRC shows that the CITES Management Authority of DRC has issued export permits with validity periods in excess of 6 months. This practice is in violation of Article VI of the Convention. The Management Authority made a formal commitment during the mission to respect the provisions of the Convention in this regard.

**b) Management of exports of *Psittacus erithacus***

38. The DRC has an export quota of 5,000 live specimens of *Psittacus erithacus*. This quota was established in accordance with a recommendation of the CITES Standing Committee, resulting from the Review of Significant Trade for that species. The quota, aimed at ensuring the sustainability of the commercial trade in specimens of this species from DRC, has been in place since 2009 and may not be increased until DRC implements certain recommendations made by the Animals Committee, as well as Decisions 14.82 to 14.84. The Management Authority has requested the assistance of the international community to implement these recommendations, including the development of a population survey and other necessary studies. Meanwhile, DRC is expected to respect this quota and not to set or implement any additional voluntary export quota for wild specimens of this species.
39. The information available to the Secretariat from export permits issued by DRC during 2009 and 2010 indicates that the annual quota was filled quickly and that DRC then began to apply an additional quota of 5,000 live specimens, effectively doubling the export quota in each year. This practice was not consistent with the annual quota decided by the Standing Committee, and which the Secretariat has been instructed to publish on its website since 2009.
40. Information obtained from the CITES Trade Database, reflecting the trade data submitted by the Parties, indicates that the export quota of DRC for *Psittacus erithacus* was consistently exceeded (see tables below).

Table 1: Export of live *Psittacus erithacus* from the Democratic Republic of the Congo from 2007 to 2013: Comparison between annual export levels reported by the DRC, and import levels reported by importing Parties. *Source: CITES trade database*

	2007	2008	2009	2010	2011	2012	2013	Total
<i>Quota</i>	5000	5000	5000	5000	5000	5000	5000	35000
Reported by DRC	751	4608	4998	4354	5000	5000	5000	29711
Reported by Importers	4725	6323	7260	7702	3662	12891	6869	49432

Table 2: Export of live *Psittacus erithacus* from the Democratic Republic of the Congo in 2014 as reported by importing Parties. Source: CITES trade database

Year	2014			
Taxon	Psittacus erithacus			
Exporter	Congo, the Democratic Republic of the			
Origin	(blank)			

  

Sum of Quantity				
Importer	Source	Purpose	Reporter Type	Total
Hong Kong, SAR	W	T	I	150
Malaysia	W	T	I	100
Singapore	W	T	I	1697
South Africa	W	T	I	1200
Turkey	W	T	I	6300
<b>Grand Total</b>				<b>9447</b>

41. The Secretariat is concerned about the continued level of exports of specimens of *Psittacus erithacus* in excess of the quota agreed by the Standing Committee.
42. Pursuant to section VIII of the Resolution Conf. 12.3 (Rev. CoP16), recommendation c), the Secretariat requested that DRC provide copies of all permits issued for export of specimens of *Psittacus erithacus* during 2011, 2012, 2013, 2014 and 2015. The permits provided by DRC to the Secretariat did not enable it to detect that export quotas were systematically being exceeded. It was only when annual reports were submitted by importing countries 18 months later that the discrepancy between the numbers reported by DRC and those recorded by importing countries became apparent.
43. The monitoring of the levels of trade in Appendix-II species largely depends on the reliability of the data collected by Parties. If the data in the annual reports is inaccurate, e.g. it does not reflect the actual trade that took place, the proper ISO code, the source or purpose codes or all the permits cancelled and replaced, then the verification of permits becomes a bureaucratic exercise that is not connected to what is happening on the ground. If trades that have effectively occurred are not reported, and there is no effective control system to corroborate information provided in real time, then the information contained in annual reports may in some cases be misleading. This further reinforces the need to put a reliable electronic system in place as a matter of priority.
44. The Secretariat drew DRC's attention to the fact that annual export quotas had been exceeded in 2009 and 2010 in the letter mentioned in paragraph 5. DRC has provided an official response during the mission stating that the quotas were not exceeded and after verification, 4,998 specimens of grey parrots instead of 5,000 were exported in 2009 and 2010 as recorded in the respective annual reports (copies of the response are available at the request of the Standing Committee).
45. The Secretariat stressed during its visit that the authorization to export specimens under a previous year's quota should be exceptional. It also noted that, in Resolution Conf. 14.7 (Rev. CoP15), the Conference of the Parties recommends that:
- A Party may decide exceptionally to authorize export in one year of specimens that were obtained in a previous year, and under the quota for that previous year.*
46. One critical pending issue is the verification of the legal origin of the grey parrots harvested in Maniema and Orientale provinces of DRC. The Secretariat knows little about the value chain for wild grey parrots exported from DRC and the control system that has been put in place to monitor the quota as most of the discussion focused on cancelling and replacing permits and the export of 'leftovers'. However, the Secretariat learned during its mission that the management of wildlife is the responsibility of the provinces that are not well prepared for controlling large volumes of trade. Grey parrots are shipped from the airports of Kisangani and Kindu to agents based primarily in Kinshasa who then export the birds. According to a journalistic article to be published in the edition of January of the Oryx magazine, recorded air shipments over a 4-month period (May–August) in 2015 indicate a minimum of 6,632 birds shipped from the two cities, averaging over 400 per week.



47. Under the Convention, it is the obligation of the Management Authority of the State of export to determine whether the specimens to be exported were acquired in accordance with national law and the Convention. The current verification system, which is based only on documents that can easily be falsified or reutilised along the value chain, has been shown to be susceptible to misuse. DRC should establish as a priority an efficient system to verify the legal origin of specimens in trade. It is clear that, in this case, the export quota system alone cannot ensure sustainability and is not contributing to the management of the wild populations. Furthermore, the annual export quota has been established without a management plan, population survey and appropriate controls in place. Local stakeholders perceive it as an artificial and theoretical limit that does not reflect the real potential of the country.
48. Regarding actions by third parties, the Secretariat noted that the conservation of and trade in grey parrots are issues that affect not only DRC. The Standing Committee's attention has been drawn to DRC in large part because it is currently the range State with the largest volume of exports of wild parrots. Concerns about grey parrots trade, however, also involve other range States, such as Cameroon; countries that trade captive-bred grey parrots such as South Africa; and importing countries such as Turkey and Singapore that appear to be new primary destinations of live wild specimens. It is important for all of these countries to be in communication with the Secretariat regarding their efforts to ensure responsible and sustainable trade in grey parrots.
49. In this connection, the Management Authority of DRC and other interlocutors have reported the negative impacts of the permanent ban in wild birds adopted by the European Union (EU) that replaced a temporary ban as part of measures to prevent outbreaks of the H5N1 strain of avian flu. They stated to the Secretariat that the permanent ban has failed to save a single parrot in the country and has complicated and impoverished the conditions for international trade in this species. The Secretariat cannot verify these statements, but shares them with the Standing Committee given the concerns expressed by DRC.
50. The Management Authority of DRC and other interlocutors have also suggested that a study be conducted on the impacts of permanent bans and imposed quotas on the wild populations and the livelihoods of the rural communities in DRC, as well *ex situ* captive breeding facilities existing in EU countries, South Africa and the United States of America that commercialize grey parrots. DRC requested the international community to assist DRC and the CITES Secretariat in implementing effectively Decisions 14.82 and 14.83. Organizations such as the Central African Forest Commission (COMIFAC), the United Nations Development Programme (UNDP), the Food and Agriculture Organization of the United Nations, GIZ, USAID could be invited by the Standing Committee to join efforts with the CITES Secretariat to assist DRC in this area.
51. The Secretariat recognizes that DRC needs external support to reorganise its trade in wild parrots. At the same time, practical uptake and implementation of sound research findings and management recommendations remain challenging. In this regard, the Secretariat recalls that in 2012-2013, the CITES project *Strengthening Capacity for Monitoring and Regulation of International Trade of African Grey Parrot* was conducted in Cameroon, Côte d'Ivoire, DRC, Liberia and Sierra Leone. The project was supported by the European Union and implemented by the NGO BirdLife International. The results, in French and English, are available from the CITES website (see <https://cites.unia.es/cites/file.php/1/files/cb-africa-grey-parrot-en.pdf>). It would seem that DRC authorities are yet to take measures to implement the various pragmatic recommendations that the project generated regarding population monitoring protocols, management planning and quota setting.

#### Secretariat's compliance assessment regarding trade in grey parrots

52. The Secretariat recognizes the efforts made by the Government of DRC to partially address the issues raised in this section. DRC has demonstrated some commitment, despite the very challenging conditions under which the authorities operate. For instance, the Management Authority has submitted the annual reports for 2011, 2012, 2013, 2014 although the data contained in the reports does not seem to reflect the practice of cancelling and replacing permits and therefore does not appear to provide a clear reflection of the volumes of trade authorized and actually leaving the country. The Secretariat stresses that the accuracy of the annual reports is of critical importance to prevent quotas from being exceeded.
53. Many challenges remain regarding the legal conditions for the issuance of a CITES permit for the export of specimens of CITES-listed species as stipulated in the Convention and article 20 of the Arrêté Ministériel 056 of 2000, namely a) the non-detriment finding (NDF) by the scientific authority, which in DRC is assimilated to an annual export quota; b) the legal acquisition finding; and c) the transport conditions of live specimens.



54. The Secretariat has found that:

- a) DRC exceeded the annual export quota for various consecutive years according to trade records reported by importing countries. DRC has not yet declared or recognized having exceeded the quotas or taken steps to prevent quotas from being exceeded. Authorities have not practiced any quota reduction, nor adopted any specific control measure to prevent that outcome.
- b) With the exception of the localised results of the project indicated in paragraph 51 above, there are no recent scientific studies on the status of the DRC populations of *Psittacus erithacus* to inform a solid non-detriment finding. Interlocutors from civil society organizations suggested that the populations are declining. The Secretariat was also informed that the relationship between the Management and Scientific Authorities is far from optimal. Under these circumstances, it would appear that the first condition established in Article 20 of the Arrêté Ministériel 056 cannot be fully respected. The annual export quota responds to a precautionary recommendation formulated under the Review of Significant Trade Process, but it is perceived by traders as a theoretical limit that does not reflect the real status of the DRC populations.
- c) A partial study of pre-export, transport-related mortality in the project indicated above concluded that 'half or more of all birds captured will perish before they arrive at the point of export in Kinshasa'. If correct, then this high level of mortality needs to be considered when establishing NDFs and developing associated management plans. While more systematic work in this area may be needed, particularly to minimize losses, the Secretariat recognizes that this is an important factor to take into account in the establishment of annual export quotas.

**c) Illegal trade**

55. Information received by the Secretariat from national CITES officials in DRC, border police, other CITES Parties, interlocutors from the private sector and non-governmental organizations indicates that there is substantial factual evidence to establish that illegal exports of specimens of CITES-listed species from DRC are of serious concern, although an estimation of the actual volumes is unknown. Such illicit trafficking often occurs through shared borders with South Soudan and Uganda and sometimes involves rebel militias entering national parks such as Garamba.
56. Anecdotal evidence provided by the border police to the Secretariat indicates that a Chinese citizen was caught with two suitcases containing a total of 49 ivory tusks and a few pieces already worked. The citizen was arrested on Monday 2 November, at the N'Djili International Airport, when she was planning to board a regular flight of Ethiopian Airways to Beijing. Another case of a Vietnamese citizen caught with rhino horns was also reported but further details were not revealed because the criminal investigation is ongoing. The Secretariat was also informed that four gangs are allegedly poaching the remnant elephant population of the Loamami Park and at least 23 elephants have been poached in the area in 2015. On 7 September 2015, 53kg of ivory were confiscated at Kisangani's Bangoka airport. According to reliable sources, two military officers, allegedly supporting elephant poaching were arrested and sent to Kisangani to be judged by a military court. The analysis by Monitoring the Illegal Killing of Elephants (MIKE) and the Elephant Trade Information System (ETIS) provides more detailed statistics and information on the levels of elephant poaching and illegal trade in ivory in DRC.
57. The Secretariat was advised by a representative of the CITES Scientific Authority of DRC that its personnel had been attacked by armed groups in several national parks under its management and that a new security force was created by the Government to protect rangers in the area.
58. The Management Authority of DRC and other interlocutors reported actions to reduce the sale of elephant ivory in Kinshasa markets (for instance Place royale and areas adjacent to international hotels). However, the Secretariat was informed that illegal ivory can still be found openly on sale in certain markets in Kinshasa. The price of ivory in Kinshasa seems to depend on the quality of the ivory and where the transactions occur.
59. Illegal trade also involves corruption and the use of fraudulent export permits. The Secretariat has seen copies of emails from the CITES Management Authorities of other Parties to the Management Authority of DRC requesting confirmation of the validity of permits apparently issued by DRC. In many cases, the Management Authority of DRC has indicated that the documents were false or had been stolen.

60. The Secretariat has two major concerns regarding fraudulent permits. The first is that the fraud takes place, even though DRC uses the standard CITES permit form printed on security paper as well as security stamps. These tools should help keep permit fraud to a minimum, assuming that no blank permits, certificates or security stamps have been stolen. It is therefore unclear why there are so many permits from the DRC in circulation that apparently were not issued by the appropriate DRC authorities, and hence should be considered invalid.
61. The second concern is based on the consideration that Article VIII, paragraph 1, of the Convention requires Parties to take appropriate measures to enforce the Convention, including measures to penalize trade in violation of the Convention. After meetings with the National Central Bureau of INTERPOL in Kinshasa and the border police, the Secretariat noted that action is taken by DRC in instances where authorities are informed of cases of illegal trade or of attempted illegal trade, but that these cases seem very few compared to the alleged or observed levels of illegal trade.
62. The Secretariat was informed of a '*Protocole d'accord de collaboration administrative pour la lutte contre le commerce illicite des espèces CITES*' signed on 19 August 2002 between the CITES Management Authority, OFIDA (customs) and OCC (Office Congolais de Contrôle) which seems to offer an adequate cooperation framework for these three agencies. However, it appears that the levels of implementation of this agreement are not yet satisfactory. The Secretariat understands that, during its mission, the three agencies met for the first time in several years to exchange information. This meeting demonstrated that there is an urgent need for capacity-building and identification material among enforcement officers, as well as clear guidance on how to proceed in cases of alleged illicit trafficking, notably how to control the numerous cages of grey parrots leaving from the cities of Kindu in the Maniema province and Kisangani in the Orientale province. It remains unclear what action, if any, is taken by the Management Authority when it is informed or becomes aware of cases of illegal trade. No standard procedures seem to be in place to act upon such information.

**d) Challenges in CITES implementation in areas affected by conflict (*Prunus africana*),**

63. The Secretariat understands that the main area where *Prunus africana* can be found is the north-eastern part of the country which is affected by conflict. DRC submitted applications to, and received support from, the "Programme for Implementing CITES Listings of Tropical Tree Species", jointly implemented by the International Tropical Timber Organization (ITTO) and the CITES Secretariat to carry out a NDF for trade in this species. The assistance was provided thanks to the financial support of the European Union together with other ITTO donors (United States of America, Switzerland, Germany, Norway, Netherlands, Japan, New Zealand as well as the private sector, including the pharmaceutical industry). Significant work has been done through this programme since 2009 to define and implement methodologies to perform NDFs. DRC used this programme as a basis for their management and export regime for *Prunus africana*.
64. At its 16th meeting (PC16, Lima, July 2006), the Plants Committee categorized the populations of *Prunus africana* from Burundi, Cameroon, the Democratic Republic of the Congo, Equatorial Guinea, Kenya, Madagascar and the United Republic of Tanzania as 'of urgent concern'. This means that the available information indicated that the provisions of Article IV, paragraph 2 (a), 3 or 6 (a) were not being implemented. In consultation with the Secretariat, the Plants Committee formulated recommendations with deadlines for their implementation. These recommendations, which included compliance measures, were transmitted to the range States concerned by the Secretariat in August 2006. Following a decision of the Standing Committee at its 57th meeting (SC57, Geneva, July 2008), trade from DRC and other range States was suspended (with effect from 1 January 2009). Parties were notified on 3 February 2009 (see Notification to the Parties [No. 2009/003](#)).
65. Following a decision of the Standing Committee at its 62nd meeting (SC62, Geneva, July 2012), DRC was able to resume trade in 2012 with an export quota of 72,000 kg, which has increased since then to 232,000 kg for the year 2015. To date, only trade in *Prunus africana* from Equatorial Guinea and the United Republic of Tanzania remains suspended.
66. The Secretariat was not informed during its mission of any particular challenges related to the implementation of the Convention in relation with *Prunus africana*, although it is aware of incidents of bark being smuggled through the Ugandan border.

#### e) Trade in *Pericopsis elata*

67. This section should be read in conjunction with document SC66 Doc. 43, submitted by DRC. The Government of DRC submitted to the Secretariat a comprehensive report on the progress made in implementing a new forestry regime for managing harvesting and trade of *Pericopsis elata*.
68. The Secretariat has been consulted and copied in several exchanges of emails between the Management Authority of DRC and the Management Authorities of Belgium, China, Portugal, and other countries regarding the export of shipments of Afrormosia or 'Afro' as is known in the local market (*Pericopsis elata*). These communications raised a number of concerns. In particular, the period of validity of the permits, the practice of cancelling and reissuing permits and the export of leftovers from the 2014 export quota. The documents submitted by DRC provide information that responds to the questions raised.
69. Furthermore, the Secretariat's mission offered an opportunity to do a quick on-site assessment of DRC's progress in implementing the new forestry regime and to provide related advice to DRC authorities on the issue of permits, quotas and leftovers. The Secretariat wishes to record its sincere appreciation for the support provided by the Government of DRC during its visit to sawmill facilities in Maluku and Kinshasa and for authorizing the visit to the port of Kinshasa.

#### Export quotas and 'leftovers'

70. DRC requested an increase in the quota for 2015 from 23,240 to 31,905 m<sup>3</sup> (see document [PC22 Doc. 12.1](#)). It also reported on leftovers from the export quota for 2014. DRC explained that the leftovers were not exported during 2014 owing to the change of the 'system of management of the quotas'.
71. According to the DRC authorities, "the part of the timber under the 2014 annual felling allowance which could not be exploited or exported in 2014, could not – in the absence of any suitable measure – be exported as part of any export quota whatsoever, despite the fact that such timber had been exploited in accordance with national regulations and with the sustainable use rules then in force". The authorities added that "this particular and exceptional situation, related to the transition from the old to the new system for management of export quotas, renders necessary the establishment of a specific and exceptional measure in order to permit the export of stocks of wood harvested in 2014 or 2015 on the basis of authorizations for industrial cutting of lumber issued in 2014, it not having been possible to export the lumber by the end of 2014. It has therefore been decided to grant a unique and exceptional export quota, known as a transition quota, for the wood in question."
72. Interlocutors from the private sector also explained the three main reasons that in their view justify the continuous need to request the cancelling and replacement of CITES permits: the distances to be covered and the transportation conditions; the seasonal harvesting periods that differed from the calendar year used in the setting of export quotas; and the time required to complete various wood transformation processes. Additionally, the recommendations to suspend trade imposed to exports from DRC following the lack of submission of the NIAP had a very negative impact on the management of the timber trade.
73. DRC has made some progress in the voluntary certification of forests where Afrormosia occurs, and should be encouraged to continue its efforts in this domain, as a complement to its implementation of CITES requirements. The Secretariat was encouraged to note that companies visited are starting to use innovative wood tracking technologies and to implement good practices to ensure that illegally sourced, harvested or traded wood does not enter their supply chains. A robust tracking system throughout the supply chain seems critical to ensure that the specimens in trade are legally obtained. Such a system would also reassure markets about the legal origin of the timber. Without a reliable system in place, it is very difficult to distinguish wood of illegal origin from wood that has been legally obtained.
74. Recent communications between importing countries and the Secretariat on the validity of CITES permit issued from DRC indicate that there is some confusion and legal uncertainty on the way that international trade in *Pericopsis elata* is regulated by CITES, including the quotas and leftovers. The Secretariat has attested the authenticity of several CITES permits and drawn to the attention of the concerned Parties the provisions of the Resolution 12.3 (Rev. CoP16) *Regarding permits and certificates for timber species included in Appendices II and III with the annotation 'Logs, sawn wood and veneer sheets'*, particularly regarding the possibility to extend the validity of the export permit under strict conditions.
75. The Secretariat would nevertheless like to draw the attention of the Standing Committee to three issues that were identified regarding DRC's establishment and use of export quotas for Afrormosia.

#### *Separation of harvest and export quotas and scope of the annotation*

76. Some concessionaires are both harvesters and exporters, but others are harvesters only. Some of the harvested quotas are consumed in the domestic market and another portion might be exported after second transformation. It might be easier to keep track of the amounts being harvested and exported if they were subject to separate quotas and clarify the interpretation of the annotation. With regard to the annotation for *Pericopsis elata*, CITES uses the definition of wood products following the harmonized system (HS) codes. Interlocutors from the timber industry sought guidance on the extent to which a primary processed wood product must be physically altered to qualify as a secondary processed wood product for which an alternative HS code exists and no CITES permits are required. The Secretariat draws the attention of the Parties to the fact that is the responsibility of exporters and importers to accurately classify and declare goods when using the HS system.

#### *Leftovers from harvesting and exports of previous years*

77. It would be useful to clarify the exact volume of leftovers from 2014 and to learn how DRC differentiates them from timber harvested in 2015. To avoid any confusion among or misuse of different leftovers from 2014, DRC might consider exhausting all leftovers by a deadline (i.e. 31 August 2016). It is recognized in Resolution Conf. 14.7 (Rev. CoP15) that it sometimes happens that specimens harvested in a particular year cannot be shipped during that year and, exceptionally, might be authorized for export the following year. The Resolution makes clear, however, that Parties should not make it a regular practice to accumulate leftovers.

#### *Actions by third parties*

78. Transit and importing countries with extensive timber trade and sizeable forestry industries may be able to assist DRC in implementing effectively the new forest management system. Organizations such as the World Bank and the Food and Agriculture Organization of the United Nations could be invited by the Government of DRC to join efforts with ITTO and the CITES Secretariat to assist DRC in this area.

#### General comments about the CITES permit system and Article XIII

79. The Secretariat notes that the CITES permit system is a government to government certification scheme where exporting and importing countries share a responsibility to verify the validity of CITES documents and ensure that export quotas are fully respected.
80. Regarding acceptance and clearance of documents and security measures, section XIV of Resolution Conf. 12.3 (Rev. CoP16) on *Permits and certificates*, urges the Parties to check with the Secretariat when:
- a) *they have serious doubts about the validity of permits accompanying suspect shipments; and*
  - b) *before they accept imports of live specimens of Appendix-I species declared as bred in captivity or artificially propagated.*
81. In section VIII, c) of the same Resolution, the Conference of the Parties recommends that:
- Parties send to the Secretariat copies of permits, electronic and paper, issued for species subject to quotas if so requested by the Conference of the Parties, the Standing Committee or the Secretariat.*
82. The Secretariat deals with Article XIII matters through its core staff, and in particular staff in the Regulatory Services unit. It does not have any core budget for the implementation of Article XIII matters and related remedial actions, nor the capacity to go behind what is stated on the face of a permit to confirm (or otherwise) the validity of permits, e.g. that non-detriment findings and legal acquisition findings requested under Article IV were properly made prior to the issuance of the export permit or certificate, or that export quotas were adhered to. Such matters are subject to obtaining external resources.
83. While the Secretariat is well structured to maximise its available human and financial resources, the Secretariat's capacity is primarily limited to serving as a repository for sample permits and authorized signatures and attest to the authenticity of the documents based on the information received from the Management Authorities, and to alert Parties where information provided suggests something is untoward.

## Recommendations

84. This report shows uneven progress achieved by DRC in its implementation of the Convention, its national legislation and the set of recommendations formulated by the Secretariat to address the five compliance themes: (a) Quota management and issuance of export permits; (b) Management of exports of *Psittacus erithacus*; (c) Illegal trade; (d) Challenges in CITES implementation in areas affected by conflict (*Prunus africana*); and (e) Trade in *Pericopsis elata*,

The Secretariat would like to acknowledge the progress made in some areas by the DRC.

In light of the above, the Standing Committee may wish to recommend that:

### *Regarding quota management and issuance of export permits*

- a) Subject to the availability of external funds, the DRC establish an efficient information system to:
  - i) verify the legal origin of specimens in trade;
  - ii) control and monitor quotas to ensure they are not exceeded;
  - iii) issue CITES electronic permits and annual reports;
  - iv) ensure that export permits and re-export certificates be endorsed, with quantity, signature and stamp, by an inspecting official, such as customs, in the export endorsement block of the document; and
  - v) prepare annual reports that contain information on trade that have effectively occurred.
- b) DRC amend CITES implementing legislation to prevent specimens that have been obtained in contravention of national law to be legalized. Notably, the options provided in Articles 27 and 29 of the 'Arrêté ministériel No. 056 CAB/AFF-ECNPF/01/00 of 28 March 2000' that legalize the practice of modifying and renewing the CITES permits should be abolished.
- b) DRC be strongly encouraged to only issue export permits shortly before the time of intended export.
- d) Export permits and re-export certificates only be endorsed, with quantity, signature and stamp, by an inspecting official, such as customs, in the export endorsement block of the document.
- e) Notifications to the Parties No. 2013/051 and No. 2014/017 be considered as no longer valid.

### *Regarding management of exports of Psittacus erithacus*

- a) All Parties suspend commercial trade in specimens of the species *Psittacus erithacus* from the Democratic Republic of Congo forthwith, until it:
  - i) develops a scientifically-based field survey to establish the population status of the species in the country;
  - ii) develops a National Management Plan for the species and commences implementation of the Plan; and
  - iii) provides a copy of the survey and Management Plan to the Secretariat.
- b) A quota be established by DRC, in consultation with the CITES Secretariat, provided the steps referred to above are first completed:

### *Regarding illegal trade:*

- a) DRC provide information to the Secretariat on any theft of CITES permits, certificates or security stamps, and, in doing so, provide full details of the permits certificates or stamps stolen.

- b) DRC be encouraged to provide to the Secretariat the results of any investigations conducted by the competent national authorities to determine the origin of the fraudulent documents, the identities of individuals involved in detected smuggling, and the results of any legal proceedings against those people.

*Regarding trade in Pericopsis elata*

- a) DRC have until 31 August 2016 to exhaust the annual export quotas for 2015 and other leftovers from 2014 duly communicated to the Secretariat before 31 January 2016.
- b) Regarding quota leftovers from timber harvested in 2014, DRC, by communication to the Secretariat, clarify whether it has already exhausted the export quota of 25,000 m<sup>3</sup> communicated for 2014 before authorizing any new exports.
- c) DRC implement the measures presented in their NDF report (PC22 Doc. 12.1 and Annex). In particular, the Committee encourages DRC to develop and make use of the database mentioned in the NDF report, which would allow for:
  - the monitoring and management of volumes of *Pericopsis elata* harvested and exported by the country, and
  - the systematic conversion of volumes of processed products into round wood equivalent volumes, based on an appropriate conversion rate.

The recommendation above refers to the information system that DRC is encouraged to build in order to increase transparency of the operations.

*Regarding collaboration amongst national CITES authorities*

- a) DRC be encouraged to establish a national CITES committee to strengthen collaboration between Management and Scientific Authorities as well as with customs and other enforcement authorities in DRC in managing and regulating the trade in CITES specimens and in controlling and investigating information regarding illegal trade.
- b) The Government of DRC be encouraged to consider relocating the CITES Management Authority to more secure premises.

85. The Secretariat proposes that the Standing Committee also adopt the following recommendations:

- a) The Secretariat should conduct a technical mission to the Lao People's Democratic Republic and neighboring countries under Article XIII to determine whether the provisions of the Convention are not being effectively implemented.

Subject to available resources, the Secretariat should provide technical assistance to address compliance matters in both DRC and the Lao People's Democratic Republic in order to assist both countries come into compliance with CITES requirements. In doing so, the Secretariat should reach out to UN and other entities to provide such assistance.

Donors are encouraged to provide financial assistance for the mission to the Lao People's Democratic Republic, for capacity-building and technical support.

- b) The Secretariat should continue to monitor progress made by DRC and the Lao People's Democratic Republic in implementing the Convention and their national legislation, and any recommendations adopted at the present meeting, and to report at its 67th meeting.