

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

Sixty-seventh meeting of the Standing Committee
Johannesburg (South Africa), 23 September 2016

Species specific matters

Ebonies (*Diospyros spp.*) and rosewoods and palisanders (*Dalbergia spp.*) from Madagascar

REPORT OF THE SECRETARIAT

1. This document has been prepared by the Secretariat.
2. At its 66th meeting (SC66, Geneva, January 2016), *the Committee welcomed the progress made by Madagascar regarding the implementation of the Convention for species of rosewood and ebony, but raised concerns with regard to the lack of progress made on the implementation of CITES for species of palisander from Madagascar. The Committee noted that despite significant support to Madagascar provided by the Secretariat and other organizations, there are still serious issues related to the continued illegal logging and export of Dalbergia spp. and of Diospyros spp. While the zero export quota has been in place since August 2013, it does not seem to be effectively implemented on the ground in Madagascar. Serious concerns were expressed regarding the continuation of illegal harvest and exports of these species from Madagascar; the Committee noted that there currently seems to be an imbalance between efforts made by the Party to combat illegal timber trade from its territory, and efforts made to negotiate the return of stocks seized abroad.*

[...]

The Committee advised Madagascar that, if it does not make significant progress by the 67th meeting of the Standing Committee (SC67) in implementing the actions outlined in paragraph a)¹, it will consider additional compliance measures, which may include a recommendation to all Parties to suspend commercial trade in specimens of all CITES-listed species from Madagascar. See page 55 of [SC66 SR](#).

3. Considering the above, the Standing Committee recommended that [paragraph a)] *all Parties suspend commercial trade in specimens of the species Dalbergia spp. and Diospyros spp. from Madagascar until:*
 - i) *Madagascar submits a report to the Secretariat by 25th July 2016, demonstrating that the country has significantly increased enforcement actions at the national level. Madagascar **should in particular report about seizures, prosecutions and sanctions**, in line with point 5 of the action plan adopted at CoP16 and **recommendations b) and c) adopted during SC65²**, as well as implementation of the **recommendations of the WIST** mission presented in paragraphs 11 and 12 of [SC66 Doc. 46.1](#).*
 - ii) *the **Secretariat assess** the report by Madagascar and evaluate in particular how the actions implemented by Madagascar fulfil the requirements presented under point 5 of the action plan adopted at CoP16 and recommendations b) and c) adopted during SC65.*
 - iii) *the Secretariat shares its assessment of Madagascar's report with the Standing Committee at SC67; and*

¹ See paragraph 3 below.

² The text of point 5 of the action plan adopted at CoP16 and SC65 Recommendations b) and c) is provided in paragraph 4 below.

- iv) ***the CITES Standing Committee has approved the results of a stockpile audit and use plan to determine what components of the *Dalbergia* spp. and *Diospyros* spp. stockpiles have been legally accumulated and can be legally exported.***

4. Paragraph 5 of the action plan (see the full Action plan in the Annex to the present document) adopted by the Conference of Parties at its 16th meeting (CoP16, Bangkok, 2013) and, recommendations b) and c) adopted during SC65 read as follows:

Paragraph 5 of the Action plan:

5. *Collaborate, as appropriate, and with key partners, as indicated in paragraph 2³ 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;...*

recommendations b) and c) adopted during SC65:

*...b) request Madagascar to **significantly increase the enforcement actions** at a national level and to **strengthen their enforcement cooperation at the international level**;*

*c) request Madagascar to consider as a matter of urgency the offer from the International Consortium on Combating Wildlife Crime (ICWC) and to **deploy a Wildlife Incident Support Team (WIST)**;⁴*

5. On 8 July 2016, the Management Authority of Madagascar submitted a report to the Secretariat in view of the 67th meeting of the Standing Committee. The report is contained in document SC67 Doc. 19.2. As requested by the Standing Committee at its 66th meeting, the assessment by the Secretariat of the report is contained in the present document.

Implementation of paragraph 5 of the Action plan on enforcement mechanisms

Regarding national legislation

6. Paragraph 3.1 of the report of Madagascar describes the progress made in the adoption of national legislation to address illegal actions involving rosewood and ebony species. In that regard, a new Law No. 2015/056 was promulgated in February 2016 establishing the "special chain to fight against trafficking of rosewood and/or ebony" and repression of rosewood and/or ebony offences. Illegal actions involving palisander species are not addressed by this new law; this raises some concern considering that palisander species constitute the majority of the species in the genus *Dalbergia*. Madagascar also reports in paragraph 3.1 that Ministerial decree n° 10 885/2007 prohibits the export of all categories of timber from natural forests. The Decree states that the export of timber from natural forests in all categories in the rough or semi-worked is prohibited. By referring to all timber species found in the natural forest of Madagascar, this decree addresses the use and export of timber of palisander species in its raw or semi-finished form, but it does not provide sanctions to illegal actions involving those species.
7. In the same paragraph of the report, Madagascar presents a breakdown of the internally agreed distribution of proceeds that could result from a future sale of timber stockpiles. Madagascar has determined that *50% will be used to finance activities related to the management, restoration and protection of biodiversity and protected areas affected by logging*. The Secretariat welcomes this decision and invites Madagascar to consider that the *proceeds of the trade are used exclusively for Dalbergia and Diospyros spp. conservation and community conservation and development programmes within or adjacent to the Dalbergia and Diospyros spp. range*; targeting more specifically the restoration in the wild of the populations of these two genera. This would be in line with the approach used for the Appendix II-listed populations of African elephants in the annotations to that listing [paragraph g) vi)]. Naturally, the preservation of CITES-listed tree species in their natural range cannot be separated from broader forest

³ *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;*

⁴ See page 31 of [SC65 SR](#)

management so targeting these two taxa would also foster regional development and conservation of the entire ecosystem.

Regarding seizures, prosecutions and sanctions

8. In paragraph 3.1 of the report, Madagascar presents its statistics on offences and sanctions related to a range of environmental activities that include illegal trade in *Dalbergia* and *Diospyros* species. A total number of 203 offences are reported as recorded for the period 2007-2016 with penalties ranging from fines to two years of imprisonment (see Table 1 of the report). Of those 203 recorded offences, only 36 are reported as involving rosewood and palisander species, none is reported on ebony species and four seem to be on undetermined precious timber species. The Secretariat notes that the 36 reported infractions seem to represent all cases involving illegal trade in *Dalbergia* species initiated in Madagascar over a period of 10 years. Furthermore, as only aggregate numbers for the period have been reported, it is not possible to determine whether the 203 cases were recorded before or after the listing of *Dalbergia* and *Diospyros* species in Appendix II of CITES.
9. Information provided in Table 2 of the report would seem to indicate that only nine out of 203 infractions have led to a conviction; no prosecutions have been completed in relation to cases involving illegal logging and illegal trade in timber of *Dalbergia* and *Diospyros* species. In addition, two of the arrested suspects involved in this illegal trade in rosewood have escaped, and the report of Madagascar does not elaborate on whether they have been located yet. Although some actions, as reported, have been undertaken in Madagascar to address illegal logging and illegal trade, the lack of prosecutions and convictions gives cause for concern, considering the scale and the nature of illegal trade in Madagascar. There are no investigations nor judicial processes ongoing that could eventually result in sanctions against suspects involved in illegal trade in rosewood, palisander or ebony species from Madagascar. The successful identification, arrest, prosecution and conviction of individuals managing and organizing the illegal trafficking within the country is particularly crucial, and in the absence of successful prosecutions and convictions, the Secretariat believes enforcement actions at a national level and enforcement cooperation at the international level might not have been adequately increased, as has been requested by the Standing Committee. For this reason, the Secretariat believes that further reporting on this should be requested from the Party, as outlined in the proposed draft recommendations presented in paragraph 32 c) of this document.
10. The table on the number of logs that have been seized, in the report from Madagascar prepared for the present meeting, shows a total of 73,518 seized logs. Document [SC66 Doc. 46.2](#) on Report on Madagascar reported 28,523 seized logs. In the light of this, it seems that 44,995 logs have been seized since SC66. This suggests good progress, however, it is not clear from the report to the present meeting if this is indeed the case. It would be useful if the Party could further elaborate on this issue at SC67.
11. In document SC66 Doc. 46.2, Madagascar classifies the total amount of the existing timber stockpiles in five categories. One of these categories is *Stockpiles declared by operators*⁵. Madagascar, in its report for the present meeting, indicates that, to date, a total number of 274,111 logs of species of *Dalbergia* and *Diospyros* have been declared by forest operators. It is also reported that more than 90% of seized stockpiles have been marked, inventoried and secured, while more than 60% of seized stockpiles have been marked, inventoried, secured and audited. While progress has been made in this category, this only represents 10% of the currently declared stockpiles. Ninety per cent of the stockpiles still need to be marked, inventoried and audited before being included in a use plan for future consideration by the Standing Committee. Although good work has been done and progress is being made, most work remains to be done urgently.

Implementation of recommendations b) and c) adopted during SC65

SC65 Recommendation b): Madagascar is requested to “*significantly increase the enforcement actions at the national level*”

12. At the national level, Madagascar reports the acquisition of four speedboats, financed by the World Bank, which have been deployed in high priority areas as patrol boats to combat illegal trafficking. No information on the benefits and impact of deploying these boats has however been reported. According to the report,

⁵ This refers to stockpiles declared by holders of rosewood and ebony after the entry into force of Ordinance 2011-001 of 8 August 2011, detailing penalties for offences relating to rosewood and ebony. In its Article 2, the ordinance included the possibility for holders of rosewood to declare their stockpiles to the authorities within a month after its issuance. It should be noted that the text does not clearly indicate what should be done with these stockpiles. Thus, the difficulty is to determine later on whether such stockpiles are indeed illegal or whether they were obtained with a harvest or export authorization.

between April and May 2016, no maritime vessel transporting illegal timber has been intercepted. It is not possible for the Secretariat to determine if the lack of illegal timber being intercepted is because of the successful prevention of illegal activities, or if it is because effective enforcement operations in the field is still lacking. It would be useful if the Party could further elaborate on this issue at SC67.

13. The interministerial committee on rosewood continues being operational. During discussions in May 2016 (see paragraph 20 below), the Secretariat suggested to broaden the scope of the work of this Committee, from 'rosewood' to '*Dalbergia* and *Diospyros* species'. There was no indication as to whether the Committee intends to act upon this suggestion. In document SC67 Doc. 19.2, Madagascar reports on the creation and operationalization of another committee: an *ad hoc* technical committee on the fight against forest and wildlife crime, following the recommendations of the United Nations Office on Drugs and Crime (UNODC) mission in February 2016. The members of this committee are: the Prime Minister, the Ministry of Foreign Affairs, the Ministry of Justice, the Ministry of Finance and Budget, the Ministry of Interior and Decentralization, the Ministry of Public Safety, the Ministry of Tourism and Transport, the Ministry of Environment, Ecology and Forestry, the State Secretariat for the Police, the Bureau Independent Anti-Corruption BIANCO, civil aviation, the river and sea port agency and INTERPOL. The report does not include specific terms of reference or information on the impact of this new technical committee.
14. Regarding capacity building activities Madagascar reports on a series of training courses that have been provided to customs officers and other enforcement officials (see paragraph 3.1 of the report of Madagascar).
15. Madagascar is in the process of implementing the [Wildlife and Forest Crime Analytic Toolkit](#) of the International Consortium on Combating Wildlife Crime (ICWC). This action responds to one of the recommendations from the ICWC Wildlife Incident Support Team (WIST) led by INTERPOL, deployed to Madagascar in March 2015. The Secretariat welcomes the efforts of Madagascar in this regard, and encourages the Party to work closely with UNODC to progress this work as a matter of urgency.

SC65 Recommendation b): Madagascar is requested to "*strengthen ... enforcement cooperation at the international level*"

16. At the international level Madagascar reports some progress in strengthening cooperation with the International Union for Conservation of Nature (IUCN), the UNODC, the International Tropical Timber Organization (ITTO), the Indian Ocean Forum on Maritime Crime (CFIM), the signatories to the Declaration of Zanzibar, and the Southern African Development Community (SADC).
17. It came to the attention of the Secretariat that the Government of Madagascar, in early 2016, refused to testify in court to clarify the status of the 3,372 tonnes of illegally traded Malagasy rosewood timber seized by Singapore in March 2014 (see document SC66 Doc. 46.1). Close cooperation between CITES Parties is key for an effective implementation of the Convention, and the course of actions taken by Madagascar in this matter gives reason for concern. Moreover, the Secretariat learnt about the return to Madagascar, in late May 2016, of the rosewood stockpiles seized in Mauritius in June 2011 (see document SC66 Doc. 46.2).

SC65 Recommendation c) *Follow up on the CITES WIST mission:*

18. Madagascar reports on capacity building activities that have taken place after SC66 time (see paragraph 15 of the present document).

Stockpile audit and use plan

Regarding timber confiscated in Madagascar

19. Madagascar reports that work on inventory and audit of timber stockpiles is ongoing and does not present an update on the figures reported to SC66. The only figures presented to this meeting are those contained in paragraphs 10 and 11 of the present document. The audit and use plan have been requested since Decision 16.152 was adopted in 2013 during the 16th meeting of the Conference of the Parties (CoP16). No explanation has been provided on the lack of details on this important aspect of the Action Plan.

Additional information and observations

20. The Secretariat undertook a mission to Madagascar in May 2016 in support of the overall implementation of CITES in Madagascar and of the Action Plan adopted at CoP16. The Secretariat would like to thank TRAFFIC and the United States Agency for International Development (USAID) for generously funding this mission. The mission resulted in a thorough exchange with the new Malagasy authorities on the implementation of the recommendations adopted at SC66 and the preparation towards CoP17. A range of scientific matters that were discussed are not pertinent to this report. The main findings regarding progress on the implementation of enforcement actions and timber stockpiles management are the following:
- a) Of the stockpiles that have been seized by the Government, 97% have been marked and add up to 28,666 logs (there is a slight difference of 941 logs with the 27,725 now reported to SC67 as marked, counted and secured). Around 270,000 logs have been declared but are owned by forest operators; these have not been seized. According to the authorities concerned, around 2 million logs are presumed to be hidden. Logs are not only hidden in the forest but some have been sunk in the ocean waters of the Malagasy coast.
 - b) Management, use of and trade in palisander continues being unregulated despite the listing in Appendix II of CITES. Suspects involved in illegal activities in palisander species cannot be sanctioned nor prosecuted due to the lack of national legislation targeting this key group of species of the genus *Dalbergia*. There is an urgent need to adopt legislation that provides for controls on the operations involving palisander species and sanctions in case of offences involving these species.
 - c) The interministerial committee responsible for monitoring developments on biodiversity matters mostly focuses on rosewood and ebony species; it should also include palisander species as part of its mandate. If provisions to address illegal activities in palisanders are not adopted, there will be a continuous gap in the overall implementation of CITES for *Dalbergia* species in Madagascar which may jeopardise efforts made on other fronts regarding other listed precious timber species.
21. Despite the significant support provided to Madagascar by the Secretariat and other organizations and partners, information provided in the Secretariat and Madagascar documents [PC21 Doc. 18.3.1](#), [PC21 Doc. 18.3.2](#), [PC22 Doc. 17.3.1](#) and [PC22 Doc. 17.3.2](#)) and, specifically, on the implementation of paragraph 4 of the Action Plan (see document [SC65 Doc. 48.1](#), [SC66 Doc. 46.1](#) and [SC66 Doc. 46.2](#)) jointly with the present report and document SC67 Doc. 19.2 on Report of Madagascar, indicate that the provisions of the Convention for trade in *Dalbergia* spp. and *Diospyros* spp. from Madagascar are not yet being effectively implemented, in particular Articles IV and VIII.
22. The report of Madagascar states that ministerial decree n° 10 885/2007 that bans exports of timber of palisander species in the raw or semi-finished form is in keeping with the listing of the species in Appendix II of CITES. That statement is not correct, with a 'ban' going beyond CITES requirements for an Appendix II listing. Palisander species belong to *Dalbergia* species listed in Appendix II, therefore CITES provisions for this Appendix require the formulation of non-detriment findings and legal acquisition findings both in keeping with the implementation of Article IV of the Convention, as well as annual reporting of trade. Appendix II does not impose prohibitions of trade nor prevents range States of sustainably using and managing their species listed in it⁶.
23. The Secretariat notes that Madagascar has made some progress with the implementation of recommendation b) adopted during SC65, in particular regarding strengthening of enforcement cooperation at the international level. At the national level, progress on implementation of paragraph 5 of the Action Plan remains modest (see more information on offences contained in documents referred to in paragraph 21). Furthermore, there is no clear indication of the impact that the rosewood interministerial committee has had on enforcement. This committee has been operational since 2014 and leads on the operations of marking and counting of seized stockpiles. However, progress on detection of illegal activities on *Dalbergia* and *Diospyros* spp., on the preparation of legislation on palisander species and on prosecutions leading to convictions, remains insufficient. The report of Madagascar is mainly unclear on the:
- a) number of recorded infractions;
 - b) year/s in which the 203 cases were recorded;

⁶ However, Parties are allowed to adopt stricter measures in accordance with Article XIV of the Convention

- c) status of remaining 89 recorded cases for which no outcome is mentioned (114 out of 203 are recorded as completed prosecutions); and
- d) number of ongoing investigations and/ or judicial processes.

Further to the above, the report presents some inconsistencies in figures about the:

- a) number of infractions that have led to convictions; and
- b) number of seized logs that have been marked and inventoried.

24. The lack of clarity of the report of Madagascar, mainly on the statistics on *seizures, prosecutions and sanctions* (see paragraph 3), offences, convictions, etc., does not allow the Secretariat to conclude that the country has made 'significant increase of the enforcement actions at the national level', as requested by recommendation b) of the SC65.
25. At the time of writing, no detailed up to date results have been submitted on a stockpile audit to determine which volumes of the stockpile have been legally accumulated and can be legally exported (see recommendation of SC66, reflected in paragraph 3) iv) of the present document).
26. Paragraph 7 of the Action Plan directed Madagascar to *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*. However, no document was submitted by Madagascar to report on the overall progress made with the implementation of the Action Plan for consideration at CoP17.
27. Efforts to put an end to illegal trade in timber from Madagascar should be a higher priority than efforts to negotiate the return of seized timber stocks. The apparent imbalance between efforts made by the Party to combat illegal timber trade from its territory, and efforts made to negotiate the return of seized stocks is of continued concern.
28. The Secretariat has submitted document [CoP17 Doc. 55.2](#) on Implementation of the Convention for trade in Malagasy Ebonies (*Diospyros* spp.) and palisanders and rosewoods (*Dalbergia* spp.) for consideration by the Conference of the Parties. This is in line with the request for the Standing Committee to the Secretariat to submit a revised version of Decision 16.152 or a new set of Decisions for consideration at CoP17 in order to ensure effective implementation of the Convention for trade in Malagasy ebonies (*Diospyros* spp.), palisanders and rosewoods (*Dalbergia* spp.).
29. It would appear that the targeted suspension agreed at SC66 is not yet effective in stopping the illegal activities in *Dalbergia* and *Diospyros* species from Madagascar. A recommendation of the Standing Committee to suspend all trade in CITES-listed species may encourage Madagascar and other Parties to further enhance their efforts to combat illegal trade from the country, with particular emphasis on commercial trade in timber of Malagasy ebonies, palisanders and rosewoods.
30. In 2015, Parties had significant success in detecting illegal shipments of CITES-listed Malagasy species. Parties are encouraged to remain vigilant and to take other measures to strengthen the implementation of CITES for the concerned species, such as the incorporation of CoP16 amendments to the Appendices into their national legislation as soon as possible.
31. The report of Madagascar indicates the need for additional support. The Secretariat will continue to support the Party and join other partners to contribute to the overall implementation of CITES for Malagasy species of *Dalbergia* and *Diospyros*.

Recommendations

32. The Secretariat proposes that the Standing Committee:
 - a) recommend that all Parties suspend all trade in specimens of CITES-listed species from Madagascar until:

- i) the Standing Committee has approved the results of an inventory, audit and use plan of at least a third of the stockpile to determine what volumes of the *Dalbergia* spp. and *Diospyros* spp. stockpiles have been legally accumulated and can be legally exported;
 - ii) Madagascar regulates trade in palisander species, prohibits illicit trade and penalizes such trade in accordance with the provisions of the Convention; and
 - iii) Madagascar demonstrates, to the satisfaction of the Standing Committee, a significant increase in enforcement actions, including by detailed reporting of the number of seizures, arrests, investigations and prosecutions of offences involving illegal logging and illegal trade in rosewood, ebony and palisander species from Madagascar.
- b) draw the attention of Madagascar and relevant Parties to the options outlined in paragraph 35 of document SC66 Doc. 46.1, concerning the disposal of seized illegal consignments of timber from Madagascar, namely: auction, transformation, return of seized or confiscated stocks to Madagascar and destruction;
 - c) request Madagascar to provide a report on the implementation of recommendation a) to the 69th meeting of the Standing Committee, expected to take place in December 2017; and
 - d) review the report of Madagascar on implementation of recommendation a) at the 69th meeting of the Standing Committee and take further measures, as appropriate.

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.