

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



Seventy-fourth meeting of the Standing Committee
Lyon (France), 7 - 11 March 2022

Interpretation and implementation matters

General compliance and enforcement

Compliance matters

IMPLEMENTATION OF ARTICLE XIII AND
RESOLUTION CONF. 14.3 (REV. COP18) ON
CITES COMPLIANCE PROCEDURES

1. This document has been prepared by the Secretariat pursuant to paragraph 36 of Resolution Conf. 14.3 (Rev. CoP18) on *CITES compliance procedures* stating that the Secretariat reports to the Standing Committee on compliance matters.

Background

2. The approach of CITES towards compliance matters is “supportive and non-adversarial” with the aim of ensuring long-term compliance. Compliance matters are handled as quickly as possible. Such matters are considered by the Standing Committee and ensuing compliance measures are applied in a fair, consistent and transparent manner. Resolution Conf. 14.3 (Rev. CoP18) contains, in its Annex, a *Guide to CITES compliance procedures* to assist CITES bodies in dealing with compliance matters. There are four steps for handling compliance matters in a diligent manner:
 - a) identification of potential compliance matters;
 - b) consideration of compliance matters;
 - c) measures to achieve compliance; and
 - d) monitoring and implementation of such measures and reporting.
3. Compliance matters handled under Article XIII cover a number of obligations under the Convention, particularly the designation of authorities (Article IX), permitting procedures and trade conditions (Articles III, IV, V, VI, VII and XV), domestic measures taken to enforce the Convention (Article VIII, paragraph 1), and maintaining and submitting records of trade (Article VIII, paragraphs 7-8). In addition, paragraph 30 of the Annex to Resolution Conf. 14.3 on *CITES compliance procedures* also specifies other Resolutions under which the Standing Committee may recommend measures. These measures can include the suspension of commercial or all trade in specimens of one or more CITES-listed species and other compliance measures.
4. The present document contains information on matters related to trade in specimens of CITES-listed species that have not yet been identified as compliance matters under Article XIII but that are emerging as potential compliance matters. The Secretariat is reporting on the progress made by individual countries subject to Standing Committee recommendations under Article XIII in separate documents.

Identification of potential compliance matters

Trade in live Asian elephants (Elephas maximus)

5. In October 2020, the Secretariat wrote to China and the Lao People's Democratic Republic regarding the trade in live Asian elephants (*Elephas maximus*) from the Lao People's Democratic Republic during the period from 2010 to 2018. The letters to the two Parties drew attention to the following main concerns, amongst others:
 - a) The number of live Asian elephants reported as exported by the Lao People's Democratic Republic over the period was lower than the number of 99 reported as imported by China;
 - b) The exports of live Asian elephants with CITES documents had been done with source code C (captive-bred) and documentation for the fulfilment of the definition of specimens of animal species bred in captivity set out in Resolution Conf. 10.16 (Rev.) was requested by the Secretariat; and
 - c) If the animals did not meet the definition of captive-bred, concerns were raised about compliance with the conditions in Article III, and relevant Resolutions.
6. Following the first letters sent to China and the Lao People's Democratic Republic in October 2020, the Secretariat subsequently exchanged several letters and emails with the two Parties concerning this matter during 2021. With regard to the number of live elephants imported from the Lao People's Democratic Republic to China over the period of 2010-2018, the two Parties agreed that the correct number is 87 specimens. China submitted documentation to the Secretariat to substantiate this number and the CITES trade database was corrected accordingly. However, there remains an export of 50 specimens in 2016 that the Lao People's Democratic Republic has not accounted for. No explanation for the lack of reporting and no copies of any export permits pertaining to the export of the 87 elephants has been received from the Lao People's Democratic Republic. The Secretariat notes that, at the time, the CITES Management Authority of the Lao People's Democratic Republic was placed in the Ministry of Environment and, in 2016, moved to the Department of Forestry.
7. With regard to the use of source code C for the export of the live elephants, the Lao People's Democratic Republic indicated that "as captive breeding Asian Elephant is a tradition in the Lao PDR, it is natural that the source code of them is C." The Secretariat notes that the definition of 'captive bred' in the context of CITES is contained in Resolution Conf. 10.16 (Rev.) on *Specimens of animal species bred in captivity*. To be traded with source code C under CITES, the specimen must have been (i) born or otherwise produced in a controlled environment, (ii) to captive-bred parents that (iii) mated in a controlled environment and the parental stock must have been established in accordance with the Convention. The Secretariat understands that it is the tradition and common practice in the Lao People's Democratic Republic that the mating of elephants occurs in the wild (i.e. not under controlled conditions) between a wild male and a captive female (i.e. not between two captive-bred parents): "Nearly 80% of calves born in captivity in Laos during the past decade are from wild genitors from the Nam Pouy Protected Area", according to a scientific article.¹ If this is indeed the case, the offspring does not fulfil the definition of 'captive-bred' in Resolution Conf. 10.16 (Rev.) and cannot be exported with the source code C. As the Secretariat has not received any further documentation from the Lao People's Democratic Republic regarding the source of the specimens, the Secretariat considers that there may be a potential compliance matter with respect to the use of source code C.
8. On this matter, China indicated that "unless there is a sufficient reason to indicate the opposite, China generally trusts the validation and authenticity of the permits issued by the competent CITES Management Authorities." The Convention clearly states the compliance requirements for importing country and exporting country, respectively. "China further noted that the provisions on due diligence included in Resolution Conf. 11.3 (Rev. CoP18) were only included by the end of 2019".
9. With regard to compliance with Article III, the Lao People's Democratic Republic indicated that: "Lao PDR complies with all the conditions in Article III of the Convention, as well as those in the relevant Resolutions regulating the trade in endangered species. As you are aware, in some circumstances, we have more strict measures than CITES requires."

¹ <https://www.nature.com/articles/s41598-017-13907-x.pdf>

10. China indicated that: “China complies with all requirements on trade in specimens of CITES-listed species according to the Convention. China is among the few countries that require import permits as stricter measures towards all Appendix-list specimen importation. Before issuing import permit, it is necessary to evaluate the situation by consulting practitioners and experts on the cage safety, breeding conditions, purpose of trade, etc. The China CITES Management Authority also consults the Scientific Authority for non-detriment finding, housing and care condition, and purpose code according to the Convention. This year, the National Forestry and Grassland Administration has instructed a thorough inspection on rescue and safety management towards all wildlife captive-breeding facilities, including those for elephants. According to the regulation, no problems in elephant facilities were identified to this date.”
11. After thoroughly considering the available information, the Secretariat considers that the trade in live elephants from the Lao People’s Democratic Republic represents a potential compliance matter concerning the use of source code C in the documents, and with respect to the conditions for trade in specimens of species included in Appendix I as set out in Article III.
12. In accordance with section B of Resolution Conf. 14.3 (Rev. CoP18), the Secretariat hereby brings the matter to the attention of the Standing Committee to decide on next steps. In this regard, the Secretariat notes that it is already working closely with the Lao People’s Democratic Republic to address compliance matters identified earlier and propose that this matter be considered in the broader context of the application of Article XIII in the Lao People’s Democratic Republic. (See SC74 Doc. 28.2.1 on *Application of Article XIII in the Lao People’s Democratic Republic*).
13. With regard to the State of import, it is recalled that the import of live Asian elephants (*Elephas maximus*) is governed by Article III (3), paragraph (c) of the CITES Convention which *inter alia* states that:

The import of any specimen of a species included in Appendix I shall require the prior grant and presentation of an import permit and either an export permit or a re-export certificate. An import permit shall only be granted when the following conditions have been met:

[...]

(c) *a Management Authority of the State of import is satisfied that the specimen is not to be used for primarily commercial purposes.*
14. Requirement (c) should be read in conjunction with Resolution Conf. 5.10 (Rev. CoP15) on *Definition of ‘primarily commercial purposes’* to ensure that the specimens imported are “not to be used for primarily commercial purposes”. Resolution Conf. 5.10 (Rev. CoP15) reminds the Parties “of the fundamental principle in Article II, paragraph 1, of the Convention that trade in specimens of Appendix-I species must be subject to particularly strict regulation and only authorized in exceptional circumstances.”
15. Pursuant to Article II, paragraph 1, of the Convention, and the final paragraph of the Annex to Resolution Conf. 5.10 (Rev. CoP15), the Secretariat would like to establish, during a verification mission, how the Management Authorities of the State of export and the State of import are satisfied that the specimens traded are not to be used for primarily commercial purposes. In particular, the Secretariat would like to conduct a visit to the facility(ies) to verify the type of trade controls that are put in place, once the specimens had been introduced, to ensure compliance with this requirement. The aim of the visit to the facility(ies) hosting the live elephants would also be to have a clearer understanding of the purpose of the transaction and the specific characteristics and objectives of the reported trade.
16. The Secretariat will appreciate to be able to keep close communication and strengthen the cooperation with China and Lao PDR on this potential case.

Trade in Pericopsis elata from Cameroon

17. In June 2021, the Secretariat received information from several Parties regarding various irregularities in trade in *Pericopsis elata* from Cameroon. *Pericopsis elata* is listed in Appendix II of the Convention and subject to annotation #17, meaning that the listing applies to logs, sawn wood, veneer sheets, plywood and processed wood. In addition, according to national legislation recorded under the CITES National Legislation

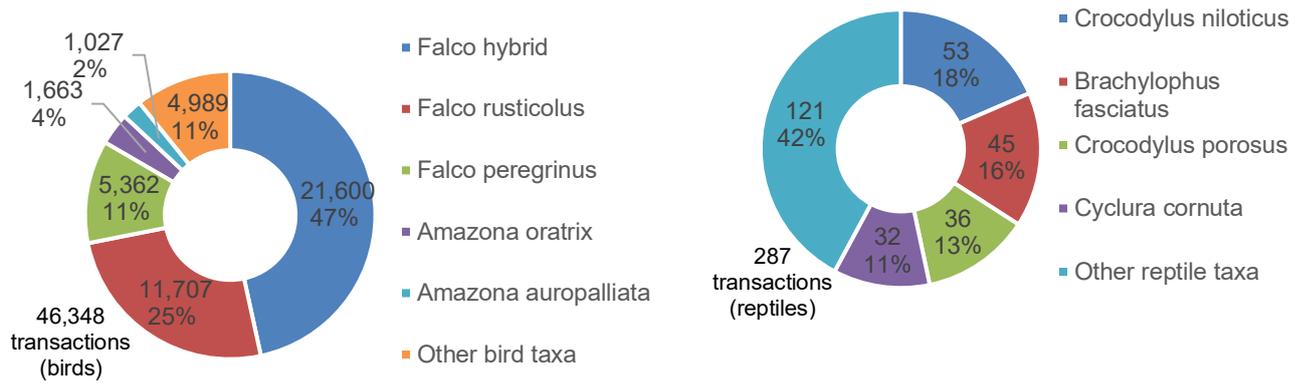
Project, the export of *Pericopsis elata* logs from Cameroon is prohibited, with only processed *Pericopsis elata* wood allowed for export².

18. Some of the irregularities brought to the attention of the Secretariat relate to the making of the legal acquisition findings, and internal controls regarding the legal origin of the timber. Further information from reliable sources suggests that more recent (2021) export permits delivered for *Pericopsis elata* from Cameroon do not correspond to the relevant non-detriment findings (NDF) and annual quotas, and that CITES documents may be falsified and trafficked to facilitate trade in *Pericopsis elata*. At the time of writing, the Secretariat is still examining the additional information received.
19. In the meantime, the Secretariat verified all information on trade in *Pericopsis elata* from Cameroon as well as the export quotas set for this species over the last 10 years. While Cameroon has submitted its annual reports on a regular basis in recent years, the Secretariat noticed that no annual reports were submitted for the years 2010 and 2012. Furthermore, the annual reports submitted for the years 2009, 2011, 2017, 2018, 2019 and 2020 remain incomplete as only information on the export of fauna species is included, without information on the export of flora species. In this context, on 23 July 2021, the Secretariat sent a letter to the Management Authority of Cameroon inviting the authorities to submit the missing information.
20. Following this letter, Cameroon indicated that exports of CITES flora species from Cameroon between 2009 and 2020 involved only three species: *Pericopsis elata*, *Guibourtia demeusei* and *Prunus africana*. Cameroon sent the missing annual reports to the Secretariat, but these reports were incomplete. The Secretariat therefore requested Cameroon to provide additional information on these three species such as: export quotas for the years 2010, 2012, 2013, quantities of specimens exported for these same years, and the types of specimens (trade terms) exported following the codes specified in the *Guidelines for the preparation and submission of CITES annual reports*. At the time of writing the present document, Cameroon has not provided the Secretariat with the requested information.
21. Pursuant to Article II, paragraph 1, articles IV and VI and Resolution Conf. 12.3 (Rev. CoP18), the Secretariat would like to provide in-country assistance to manage and mitigate identified vulnerabilities, conduct a technical assessment and a verification mission to Cameroon to understand how the CITES authorities ensure that timber species are legally acquired and exported in full compliance with CITES requirements. The Secretariat will appreciate to be able to keep close communication and strengthen the cooperation with Cameroon on this potential case.

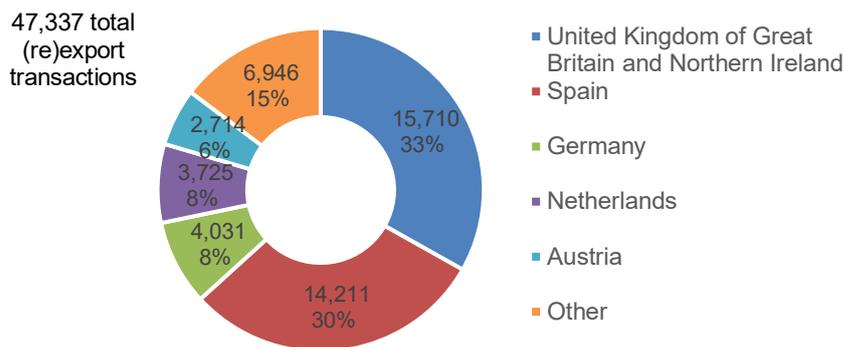
Registration of operations that breed Appendix-I animal species in captivity for commercial purposes – European Union and the United Kingdom of Great Britain and Northern Ireland

22. During the past months, the Secretariat has received several queries concerning trade from the European Union of live birds and reptiles listed in Appendix I. The CITES documents issued by the EU Member States for the trade in those specimens used source code C and purpose code T. According to explanations provided, it would appear that specimens of Appendix-I species bred in captivity in the European Union are considered by its Member States as specimens that had not been “bred to obtain economic benefit, whether in cash or otherwise, where the purpose is directed toward sale, exchange or provision of a service or any other form of economic use or benefit” [Resolution Conf. 12.10 (Rev. CoP15)], but were considered just offspring that were produced in the course of keeping them by hobby breeders and therefore could be exported under Article VII (5).
23. According to data extracted from the annual reports submitted by the EU Member States, from 2011 to 2020, there were 47,337 export and re-export transactions in captive-bred specimens of Appendix-I animals for commercial purposes (using purpose code ‘T’) by EU Member States (then still including the United Kingdom of Great Britain and Northern Ireland). Eighty-four percent of those (or 39,757 transactions) were direct trade (export) from EU Member States.
24. The 47,337 transactions involved 149 Appendix-I taxa. Trade in birds accounted for approximately 98% of these transactions (46,348 transactions), and mainly involved falcons (85%) and parrots (13%). There were 287 transactions involving reptiles, mainly crocodiles and iguana. A further 300 transactions involved Lemnaceae.

² Order No. 0021 of 19.02.2018 amending the classification of forest species in relation to the export of timber



25. The United Kingdom of Great Britain and Northern Ireland accounted for nearly two-thirds of export and re-export transactions of captive-bred Appendix-I (source code C) animals traded for commercial purposes, as reported by EU Member States in the period 2011-2020. The other main (re)exporters were Spain (30%), Germany (8%), the Netherlands (8%) and Austria (6%). The data included transactions of 1 specimen of the species *Cyanopsitta spixii*, 1027 *Amazona auropalliata*, 879 *Ara macao*, 137 *Psittacus Erithacus*, 136 *Anodorhynchus hyacinthinus*, etc.



26. According to the provisions of Resolution Conf. 12.10 (Rev. CoP15), the term 'bred in captivity for commercial purposes', as used in Article VII, paragraph 4, shall be interpreted as referring to any specimen of an animal bred to obtain economic benefit, whether in cash or otherwise, where the purpose is directed toward sale, exchange or provision of a service or any other form of economic use or benefit. The exemption of Article VII, paragraph 4, should be implemented through the registration by the Secretariat of operations that breed specimens of Appendix-I species in captivity for commercial purposes. The determination of whether or not to apply the exemptions in Article VII, paragraph 4, for the export of specimens of Appendix-I animals bred in captivity for commercial purposes remains the responsibility of the Management Authority of the exporting Party on the advice of the Scientific Authority that each operation complies with the provisions of Resolution Conf. 10.16 (Rev.).

27. The Secretariat notes that there are no operations registered for birds and reptile species by the European Union or its 27 Member States, except for the breeding of falcons (i.e. Czech Republic, Denmark, Germany and Spain). Only five operations are registered for bird species in the United Kingdom of Great Britain and Northern Ireland. Four of these operations involve falcons and one involves parrots (*Guarouba guarouba* and *Psephotus dissimilis*). Even if certain Appendix-I species breed very readily in captivity and may have evolved into 'domesticated forms', the CITES requirements remain applicable and the purpose of the breeding is one of the key factors to determine whether registration of the operation is required or not.

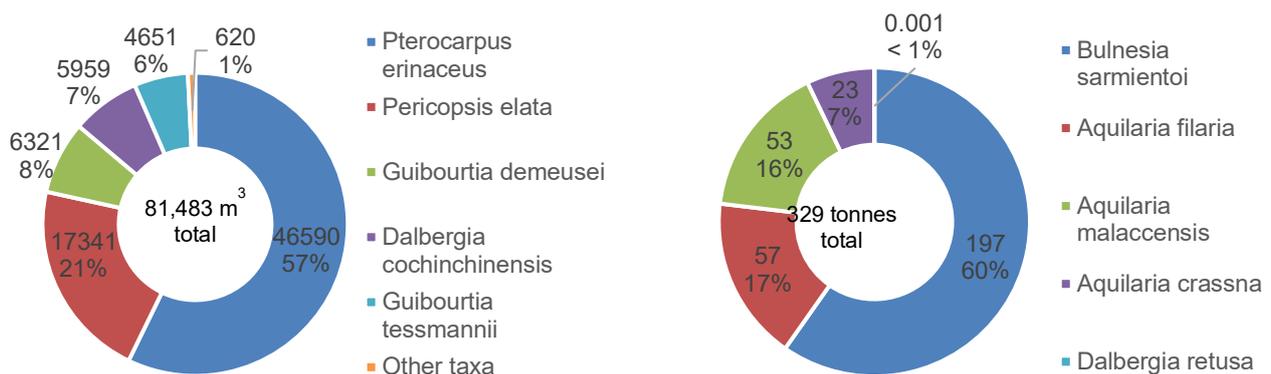
28. Regarding specific cases that would require further clarification, the import in 2018 of 2 Imperial (*Amazona imperialis*) and 10 Red-necked (*A. arausiaca*) parrots from Dominica's Parrot Conservation and Research Centre in Roseau transported on a private charter plane to Germany was identified as one that requires

particular attention. It is unclear whether the export of these live birds was authorized by Dominica's CITES Management Authority following the CITES requirements.

29. Pursuant to Article II, paragraph 1, Article VII paragraphs 4 and 5, Resolution Conf. 5.10 (Rev. CoP15) and Resolution Conf. 12.10 (Rev. CoP15), the Secretariat would like to understand the reasons for only registering falcon and a few parrot captive breeding operations. It would be useful to conduct a technical assessment and a verification mission to several selected operations to verify how the CITES authorities are satisfied that the specimens are not bred in captivity for commercial purposes. In particular, the Secretariat would be interested in conducting a visit to selected facilities to know the type of trade controls that are put in place, to verify the legal origin of the parental stock and the commercial or non-commercial nature of the operation, in order to ensure compliance with CITES requirements. The aim of the visit would be to have a clearer understanding of the purpose of the breeding and the specific characteristics and objectives of the operations breeding bird and reptile species listed in Appendix I.
30. The Secretariat will appreciate to be able to keep close communication and strengthen the cooperation with European Union and the United Kingdom of Great Britain and Northern Ireland on this potential case.

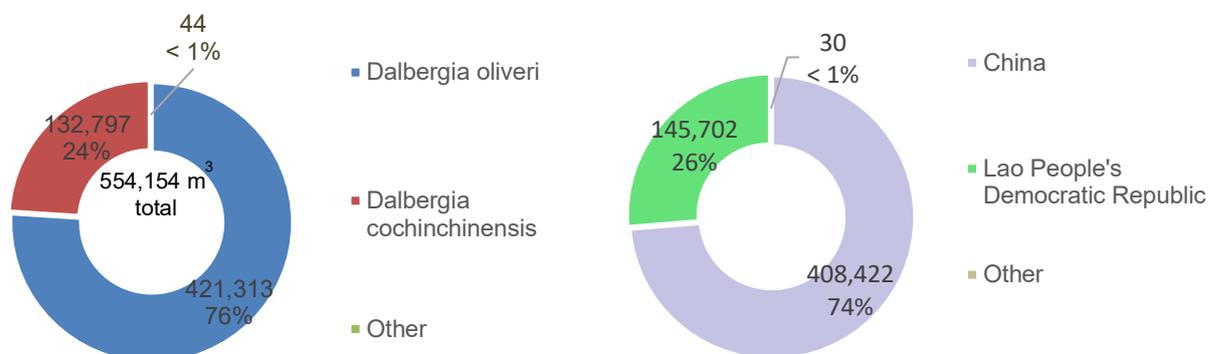
Timber trade – Viet Nam

31. Over the period 2015-2019, Viet Nam reported that eleven timber species were directly imported by volume (m³), amounting to a total of 81,483m³. Trade in *Pterocarpus erinaceus* and *Pericopsis elata* accounted for over three-quarters of this trade. Viet Nam also reported that a total of five timber species were directly imported by weight (kg) by Viet Nam over the period 2015-2019, amounting to a total of 329 tonnes. Trade in *Bulnesia sarmientoi* accounted for approximately 60% of direct imports by weight, with the remaining trade comprising predominantly of taxa within the genus *Aquilaria*.



32. Viet Nam reported that, during the period 2015-2019, 64% of direct imports by Viet Nam of timber taxa by volume (m³) were exported from West Africa, predominantly from Nigeria (39%), Ghana (8%) and Gabon (6%). Other major direct exporters of timber to Viet Nam included the Democratic Republic of the Congo (20%) and the Lao People's Democratic Republic (7%). Approximately 60% of direct imports by Viet Nam of timber taxa by weight (kg) over that period were exported by Paraguay. A further 18% and 15% came from Indonesia and Malaysia according to reports from Viet Nam.

33. Timber re-exports by volume (m³) from Viet Nam during the period 2015-2019 were almost entirely comprised of species from within the genus *Dalbergia*, including *Dalbergia oliveri* (76%) and *Dalbergia cochinchinensis* (24%) and were primarily imported by China (74%) and the Lao People's Democratic Republic (26%). According to the data provided by Viet Nam in its annual report, the Lao People's Democratic Republic appears as a major trade partner of Viet Nam for the species *D. cochinchinensis* during the period that a recommendation to suspend trade was in effect.



34. The Secretariat would like to clarify with Viet Nam the transactions of *D. cochinchinensis* that occurred following the recommendation to suspend trade from or to the Lao People's Democratic Republic adopted by the Standing Committee.
35. The Secretariat has received further allegations related to Viet Nam's possible engagement in trade in timber that has been illegally harvested or traded, including timber that has been traded contrary to CITES provisions or recommendations made by the Standing Committee. Those allegations raise discrepancies in reported quantities of rosewood coming from neighbouring countries, suggesting that trafficking of illegally harvested logs from those countries may be occurring. Document PC24 Doc. 13.2, Annex 1 contains evidence submitted by Cambodia as part of the Review of Significant Trade of Siamese rosewood (*D. cochinchinensis*) that Viet Nam repeatedly accepted fake CITES permits when authorising imports of Siamese rosewood between 2013-2015.
36. On 15 December 2021, the Secretariat has received a message from the Management Authority of Viet Nam, informing that a Vietnamese company had lost CITES permits No. 211494N/CITES-VN and No. 211495/CITES-VN in Los Angeles Airport. The company wanted to use other permits No. 212287N/CITES-VN and No. 212288N/CITES-VN which had the same information than the two above permits but different dates of issuance to import this shipment into the United States of America. This seems to suggest that Vietnamese companies receive several permits for the same shipment and the Secretariat would like to receive more information from Viet Nam on this practice.
37. Pursuant to Article II, paragraph 1, articles III, IV and VI and Resolution Conf. 12.3 (Rev. CoP18), the Secretariat would like to provide in-country assistance to manage identified vulnerabilities, conduct a technical assessment and a verification mission to Viet Nam to understand how the CITES authorities ensure that timber species are imported and re-exported in full compliance with CITES requirements.
38. The Secretariat will appreciate to be able to keep close communication and strengthen the cooperation with Viet Nam on this potential case.

Trade in birds – Bangladesh

39. At the time of writing this report, the Secretariat has received allegations related to bird imports into Bangladesh, including species listed on the CITES Appendices being considered to be "non-CITES" species. As CITES-listed parrots appear to be authorised for import as non-CITES species, the CITES Secretariat is reaching out to the CITES authorities of Bangladesh and will report to the Committee orally on the results of those communications.

Other information

40. The Secretariat has established a new page on its website on compliance, containing all relevant information with regard to the compliance procedures established under the Convention. This is currently being

expanded with a search function to allow to search for all Parties affected by one or more of the established compliance procedures. The Secretariat has furthermore created new country profiles on the CITES website to facilitate access to information regarding the compliance status of the Parties. The new website regarding the Review of Significant Trade (RST) is presented in document SC74 Doc. 30.1.

Recommendations

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

Regarding trade in live Asian elephants (Elephas maximus)

- a) The Secretariat continue to keep close communication and strengthen the cooperation with China and Lao PDR on this potential case and seek an invitation from China and Lao PDR to provide in-country assistance, conduct a technical assessment and a verification mission to understand the type of trade controls that are put in place, once the specimens had been introduced, to ensure compliance with Article III with respect to the import of live Asian elephants (*Elephas maximus*). The technical assessment of the facility(ies) hosting the live elephants should focus on clarifying the purpose of the transaction and the specific characteristics and objectives of the reported trade. The Secretariat shall present its findings and recommendations to the 77th meeting of the Standing Committee (SC77).
- b) The export of live Asian elephants from the Lao People's Democratic Republic be incorporated into the application of Article XIII in the Lao People's Democratic Republic to be considered under agenda item 28.2.1.

Regarding trade in Pericopsis elata from Cameroon

- c) The Standing Committee take note of the information provided on *Pericopsis elata* from Cameroon and request the Secretariat to further investigate this case and make recommendations to the Standing Committee.
- d) Pursuant to Article II, paragraph 1, articles IV and VI and Resolution Conf. 12.3 (Rev. CoP18), the Secretariat continue to keep close communication and strengthen the cooperation with Cameroon on this potential case and seek an invitation from Cameroon to provide in-country assistance, conduct a technical assessment and a verification mission to understand how the CITES authorities ensure that timber species are legally acquired and exported in full compliance with CITES. The Secretariat shall present its findings and recommendations to SC77.

Registration of operations that breed Appendix-I animal species in captivity for commercial purposes – European Union and the United Kingdom of Great Britain and Northern Ireland

- e) The Secretariat continue to keep close communication and strengthen the cooperation with the European Union, its member States and the United Kingdom of Great Britain and Northern Ireland regarding this case and seek an invitation from the European Union and from the United Kingdom to provide in-country assistance, conduct a technical assessment and a verification mission to several selected operations to know the type of trade controls that are put in place to verify the legal origin of the parental stock and the commercial or non-commercial nature of those operations. The aim of the visits would be to have a clearer understanding of the purpose of the breeding and the specific characteristics and objectives of the operations breeding bird and reptile species listed in Appendix I. The Secretariat shall present its findings and recommendations to SC77.

Regarding timber trade from or to Viet Nam

- f) The Secretariat continue to keep close communication and strengthen the cooperation with Viet Nam to understand how the CITES authorities ensure that timber species are imported and re-exported in full compliance with CITES. The Secretariat shall seek an invitation from Viet Nam to provide in-country assistance, conduct a technical assessment and a verification mission to further investigate allegations related to Viet Nam's possible engagement in trade in timber that has been illegally harvested or traded, including timber that has been traded contrary to CITES provisions. The Secretariat shall present its findings and recommendations to SC77.