

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

Eleventh meeting of the Conference of the Parties
Gigiri (Kenya), 10-20 April 2000

Interpretation and implementation of the Convention

Enforcement

REVIEW OF ALLEGED INFRACTIONS AND OTHER PROBLEMS OF
IMPLEMENTATION OF THE CONVENTION

Introduction

1. For each meeting of the Conference of the Parties, the Secretariat prepares a review of alleged infractions of the Convention. These reviews are intended to provide the Parties with an overview of illicit trade and to identify significant problems relating to the issuance and acceptance of CITES documents. The reviews make use of information from a variety of sources, especially details received pursuant to Resolution Conf. 9.8 (Rev.), which recommends that Parties inform the Secretariat about convicted illegal traders and persistent offenders.
2. In December 1997, the Interpol Wildlife Crime Sub Group decided that an analysis of the most recent 'Review of Alleged Infractions and other Problems of Implementation of the Convention' (in document Doc. 10.28) should be conducted. The Environmental Crime Unit of the National Criminal Intelligence Division of the National Police Agency in the Netherlands offered to undertake this work. A copy of their final report was distributed with Notification to the Parties No. 1999/13.
3. The report notes that a substantial number of the cases detailed in the Review of Alleged Infractions in Document Doc. 10.28 are not relevant to an analysis of illegal trade or wildlife crime, as they concern technical problems of permits and certificates. It does, however, acknowledge that information supplied to the Secretariat on incidents of illicit trade are of considerable importance and offer an opportunity to law enforcement agencies to develop targeting and risk-assessment profiles. It was noted that Parties should provide more information to the Secretariat on a regular basis and should do so in a detailed and structured manner. The current supply of information is not sufficiently detailed to allow proper analysis and subsequent targeting of advice to Parties.
4. The report recommended that the Secretariat should develop a computer programme to facilitate the recording, in a meaningful manner, of information received and that it should implement arrangements to exchange information with the World Customs Organization and ICPO-Interpol.
5. The Secretariat has repeatedly sought the co-operation of Parties in supplying information relating to illicit trade. In Notification to the Parties No. 966, of 7 March 1997, it identified the preferred format for the submission of information. The ECOMESSAGE format includes fields for data that are essential for effective assessment and analysis of supplied information.
6. The Secretariat has completed arrangements for the implementation of its computerized intelligence and information system, TIGERS (Trade Infraction and Global Enforcement Recording System), which offers the potential to comply with the suggestions of the report from the Netherlands.
7. The Secretariat already has in place, via formal memoranda of understanding, arrangements for the exchange of information with ICPO-Interpol and the World Customs Organization.

8. Certain Resolutions and Decisions, together with actions that the Secretariat has taken internally, already address all of the recommendations in the report prepared by the Netherlands National Police Agency. It appears that what is needed is greater compliance with those Resolutions and Decisions.
9. The Secretariat urges all Parties to take into account the observations made by the Netherlands National Police Agency following its analysis, which is an important, independent and professional assessment by a law enforcement body of the approach taken to this subject.
10. The Secretariat again urges all Parties to provide it with information on significant cases of illegal trade, convicted illegal traders and persistent offenders. It emphasizes that the current, haphazard reporting is preventing accurate analysis of information relating to illicit trade and wildlife crime. If Parties wish to obtain a meaningful result from the Secretariat's analyses of reports of alleged infractions, they must report accurately and routinely.
11. The Secretariat believes that the observation in paragraph 4 above also reflects comments made by Parties at the 10th meeting of the Conference of the Parties who expressed dissatisfaction with the format in which the Secretariat was presenting its documents on the subject and which prompted Decision 10.122. In contrast to previous reports to meetings of the Conference of the Parties, the Secretariat intends to report only work by Parties that illustrates innovative or particularly significant enforcement action. It hopes these examples will be of use to all Parties in implementing and enforcing the Convention.

Analysis of illicit trade

12. The Secretariat believes that it is counter-productive to publicize any analysis of illicit wildlife trade until the majority of Parties participate in the established reporting systems. An analysis of partial information produces a distorted result, which risks diverting resources in an inappropriate direction.
13. The Secretariat is aware that a significant number of Parties view the reporting of incidents of wildlife crime/illicit trade as, potentially, providing a negative view of their State. Illicit trade and wildlife crime affects almost all Parties, be they developed countries, developing countries or countries with economies in transition. Every Party needs to recognize this and report accordingly. For that reason, among others, the Secretariat believes that the previous manner of reporting alleged infractions is counter-productive and has deliberately chosen not to employ that format for the 11th meeting of the Conference of the Parties. The Secretariat also questions the advisability of detailed reporting of the various *modus operandi* used by wildlife criminal and illicit traders in a document available to the general public.
14. The Secretariat has taken account of observations that the time between the production of the reports on alleged infractions has led to much of the information being out of date and its relevance questionable. Albeit insufficient information is passed to the Secretariat by official sources, the amount in hand has become unmanageable to allow the reporting of multiple incidents in the manner previously adopted and it cannot be undertaken with the resources available within the Secretariat. This is especially true given the passage of time since the 10th meeting of the Conference of the Parties. The Secretariat's new computerized system is designed to provide information in a more operationally practical manner. The Secretariat had hoped to have computerized the considerable backlog of data that has accumulated during the development of the computer system before the 11th meeting of the Conference of the Parties but this has not proved to be possible.

TIGERS (Trade Infraction and Global Enforcement Recording System)

15. The Secretariat has developed the TIGERS computerized system to process reports of wildlife crime and illicit trade from a variety of sources. Special emphasis, however, is placed upon reports from CITES Management Authorities and party State's enforcement agencies. Each information report in the database has credibility and confidentiality ratings.
16. TIGERS may be interrogated by CITES Management Authorities and by any enforcement agency that has been designated to the CITES Secretariat by a Management Authority.

17. TIGERS is designed to complement the reporting format of the ECOMESSAGE (see Notification to the Parties No. 966). If Parties use this format, it facilitates input of data. The Secretariat commends the Management Authorities of the Czech Republic and Italy, which regularly and routinely report information using the ECOMESSAGE format.
18. TIGERS can supply a wide range of outputs for Parties:
 - a) the involvement of countries in wildlife crime reports;
 - b) the frequency of specific species occurring in reports;
 - c) the frequency of species categories occurring in reports;
 - d) the ability to search for the names of individuals/companies that have been involved in wildlife crime or illicit trade;
 - e) the frequency of particular crime types in reports.
19. TIGERS also has the potential to provide information relating to a range of other specific areas of wildlife crime/illicit trade. The system could also act as a focal information point for enforcement agencies to learn of the interest of their counterparts elsewhere in the world. The Secretariat has noted, for example, several instances where Police in one country have started investigations into an individual or company only to discover that they are already the subject of an inquiry by an enforcement agency at the opposite end of the globe.
20. Priority in response to requests for information searches will be given to those Parties that routinely contribute data to TIGERS. TIGERS is designed to support operational enforcement of the Convention; it should not be used to routinely check on applicants for CITES documents.
21. Requests for information searches of TIGERS must be made on the official letterhead of a Management Authority or of an enforcement agency notified to the Secretariat, or from a notified e-mail address, and must include an explanation of the reason for the request. The Secretariat manages TIGERS pursuant to the standard protocols of professional law enforcement agencies and will supply information on that basis.
22. The Secretariat reserves the right to consult its sources of information, i.e. Management Authorities, Interpol and the World Customs Organization before releasing details from the TIGERS database.
23. The Secretariat believes that TIGERS will enable it to provide a better overview of illicit trade and wildlife crime. With increased data input from Parties, it will also allow the identification of crime trends, methods and routes. The Secretariat intends, thereafter, to make increased use of information bulletins, distributed via Notifications to the Parties, and restricted to Management Authorities and law enforcement agencies, such as it has prepared on illicit caviar trade and significant wildlife crime incidents. Such Notifications will not appear on the CITES Web site.

Enforcement actions and illicit trade incidents

24. Since the 10th meeting of the Conference of the Parties, the Secretariat has received a number of reports, from a variety of sources, alleging corruption in CITES Management Authorities. The Secretariat, as a matter of routine, now copies such reports to Interpol since it believes that organization to be better equipped to initiate investigation of such matters.
25. The Secretariat continues to receive reports of diplomats engaged in international travel, accompanied by CITES-listed specimens but without import, export or re-export permits or certificates. In a number of incidents, the quantity of specimens being shipped clearly indicates the movement to be of a commercial nature and is a clear abuse of diplomatic privilege. Several cases have involved substantial quantities of ivory.
26. In three of the incidents involving ivory shipments, the diplomats involved were from the Democratic People's Republic of Korea. The Secretary General consequently met with a representative of the

Permanent Mission of the Democratic People's Republic of Korea to the United Nations Organizations at Geneva and expressed his concern. The Secretary General also wrote in similar terms to that country's embassy in Switzerland. The Secretariat is of the opinion that Decision 10.34 remains highly relevant and that Parties should continue to remind their diplomats that they are not exempted from the provisions of the Convention.

27. Illicit trade in the high profile species of bear, tiger and rhinoceros is discussed in documents Doc. 11.29, Doc. 11.30 and Doc. 11.32 respectively.
28. Illicit trade in the wool of Tibetan antelope (*Pantholops hodgsoni*) continues to give cause for concern, although some excellent enforcement actions have been taken in China (including Hong Kong), India and the United Kingdom since the 10th meeting of the Conference of the Parties. Work by forensic science laboratories in the United Kingdom and the United States of America has created, respectively, DNA profiling and morphological microscopic tests to identify the presence of Tibetan antelope wool (commonly called shahtoosh) in commercially traded shawls and scarves. The latter test has successfully been used in court during a prosecution in Hong Kong. The former is in its final stages of development.
29. The trade in shahtoosh began to receive considerable media attention during the second half of 1999. The Secretariat hopes the increased public awareness generated by such coverage, together with the efforts proposed in document Doc. 11.34, will increase the success of already existing efforts to combat illicit trade in the species.
30. Given the background of extensive poaching and alleged involvement of organized crime in the caviar trade, it was no surprise that the listing of all sturgeon species in the appendices of the Convention resulted in considerable enforcement difficulties after 1 April 1998 when the listing came into effect. The Secretariat attempted to identify the main forms of illicit trade and disseminated this information in August 1998 via Notification to the Parties No. 1998/37. Significant seizures of illegal shipments of caviar occurred in Germany and the United States of America, although other European countries also engaged in enforcement actions.
31. It became apparent that false declaration of pre-Convention stocks was becoming an important means of attempting to obtain genuine CITES documents to be used for illegal shipments. Having consulted with the major exporting, re-exporting and importing countries, and also caviar traders, the Secretariat issued Notification to the Parties No. 1999/23 in March 1999, which recommended that pre-Convention declarations should not be accepted after 1 April 1999. This appeared to be a successful measure in reducing such shipments..
32. The Secretariat has noted, in a number of cases, that circumstances where trade was conducted in what was apparently a financially illogical manner could provide good grounds to justify further investigation. A good example of this occurred in June 1998 when Customs officers at Heathrow Airport, London, United Kingdom checked the documents of a shipment of cockatoos in transit from Singapore to Mexico. Re-export certificates authorizing the movement showed that the birds had allegedly been imported into Singapore from Indonesia. The officers noted that original CITES documents quoted on the Singaporean re-export certificate had been issued some 3 – 13 years previously. It did not appear to make commercial sense to keep birds for such a lengthy period before selling them and Customs decided to investigate the matter.
33. The Secretariat, with the help of the Management Authorities of Indonesia and Singapore, verified that the documents produced and quoted were genuine. The trader in question was adamant that the birds being shipped were those originally imported. British Customs used a veterinary surgeon to examine the birds under anaesthesia and by laparoscopy. Gonadal immaturity showed that the birds could not possibly be the ones imported from Indonesia and the shipment was seized. The authorities in Singapore subsequently took action against the trader.
34. In another case, the Secretariat was impressed by the work carried out by Spanish authorities, which became aware of an individual who was advertising in newspapers in South American countries, using different names but the same contact address, offering to buy butterflies and other insects. After close liaison with a number of countries and careful surveillance and monitoring, a search warrant was executed in April 1997. This resulted in the seizure of 1,642 butterflies subject to

CITES controls that had apparently originated in Indonesia. A further 124,489 butterflies and 4,458 beetle and tarantulas were also seized. Countries of origin included China, Malaysia Peru, and the Philippines. The list of the specimens seized was over 70 pages in length.

35. Forensic science, and the support of species specialists, is increasingly being called upon by enforcement staff in their efforts to gather evidence against illicit traders. Belgian authorities demonstrated the value of working closely with scientists during a reptile smuggling inquiry when they were able to demonstrate by the use of DNA profiling and species specialists' expert evidence that a trader's claims to be breeding significant numbers in captivity simply could not be true.
36. The work by the Belgian authorities reflects an apparently ever-increasing interest in the reptile trade in Europe; the demand being primarily for exotic pets. Regular seizures are made of tortoises and lizards from persons attempting to smuggle specimens into European (including eastern European) countries in luggage and beneath clothing. In general, the interest in exotic pets in Europe appears to be increasing significantly and there is little doubt that illicit traders are actively seeking to supply the demand.
37. A number of Parties have intercepted illicit shipments and conducted several seizures, their enforcement agencies having established close working relationships with postal authorities. The general postal services, but especially courier and parcel delivery services, are increasingly used to smuggle a wide range of live specimens and wildlife products. Raising awareness of CITES among staff who process mail can lead to worthwhile seizures. The Australian Customs Service had an interesting case when summoned by postal workers who wondered why scratching noises should be coming from a parcel declared as containing crockery. A total of 24 reptiles were subsequently seized that had been destined for Japan.
38. The Secretariat continues to note significant seizures resulting from X-ray examination of passenger baggage. It encourages all Parties to raise consciousness of the Convention among port security staff, who may often observe items in luggage but may not be aware of their significance and that the fact that their movement may be illegal.
39. It continues to be very apparent that specialized wildlife enforcement units and teams, as recommended in Resolution Conf. 9.8 (Rev.), prove their worth. The Secretariat has also noted that liaison between existing national units is leading to increased arrests of international smugglers and dealers. It has, in particular, observed significant co-operation between the U.S. Fish and Wildlife Service, the Wildlife Enforcement Group of New Zealand, the Enforcement Division of Environment Canada, Okokrim of Norway, the CITES Enforcement Team at London Airport in the United Kingdom and the French Customs Service.
40. The Secretariat is aware that several Parties are engaged in research with forensic science potential and asks that it be supplied with information when new techniques are developed, so that it may publicise these among the Parties. It notes, for example, the recent work conducted in the United Kingdom to establish DNA profiles and identification tests for tiger parts and derivatives.
41. The Secretariat notes that the Lusaka Agreement Task Force has established its headquarters in Kenya and is now operational. It has discussed with the Task Force Director the concept of establishing a Memorandum of Understanding between the two organizations.

Permit confirmation

42. At the 41st meeting of the Standing Committee (Geneva, Switzerland, February 1999), the Secretariat presented document Doc. SC.41.3.1 in which it recommended that routine confirmation work by the Secretariat should cease and that the Secretariat should concentrate on providing assistance in cases of specific difficulty and/or where Parties suspect illicit trade.
43. The Standing Committee agreed to the recommendation, on an experimental basis, and instructed the Secretariat to provide guidance to the Parties on when to request assistance. Such guidance was distributed with Notification to the Parties No. 1999/27.

44. At its 42nd meeting (Lisbon, Portugal, 28 September – 1 October 1999), the Standing Committee agreed that the experimental cessation of routine permit confirmation had been a success. The Committee requested the Secretariat, however, to provide further detailed guidance to the Parties in its report to the 11th meeting of the Conference of the Parties relating to alleged infractions and other problems of implementation of the Convention. Annex1 has been prepared to assist Parties in the issuance and acceptance of documents.
45. Decision 10.122 calls for the Secretariat to make a clear distinction in its reports on alleged infractions between those relating to the provisions of the Convention and those relating to non-compliance with the provisions laid down in Resolutions of the Conference of the Parties. The format adopted for the report to the 11th Conference of the Parties, which has excluded the previous approach of quoting numerous case summaries, makes Decision 10.122 somewhat redundant.
46. Instead, the Secretariat proposes to bring to the attention of the Conference of the Parties only those instances where it is of the opinion that a Party has flagrantly or deliberately flouted or ignored the provisions of either the Convention or Resolutions or where the Secretariat is unable to resolve matters of dispute.
47. In the vast majority of cases, the Secretariat is able to resolve any issues of dispute or misunderstanding with Parties on a bilateral basis. For example, following the inclusion of all sturgeon species in the appendices and its impact upon trade in caviar, the Secretariat had considerable exchanges of correspondence with the Management Authorities of Iran and Turkey, both of which were issuing documents that the Secretariat subsequently declared invalid on a regular basis during its permit confirmation work. After the Secretariat explained the reasons for this, the problems were resolved and eliminated.
48. Since the 10th meeting of the Conference of the Parties, the Secretariat has only made one formal communication to a Party in terms of Article XIII, paragraph 1, of the Convention. This was to the United Arab Emirates. During the summer and early autumn of 1999, a number of re-export certificates were issued by the Management Authority of the United Arab Emirates authorizing shipments of caviar declared as having the Russian Federation as its country of origin. Permit confirmation work by the Secretariat indicated that false or forged Russian Federation documents were being used to obtain such re-export certificates. The Secretariat communicated its concerns to the United Arab Emirates, and provided guidance on checking applications for re-export permits, but invalid certificates continued to be issued. In early November 1999, the Secretariat wrote to the United Arab Emirates advising it that the Secretariat believed that the provisions of the Convention were not being effectively implemented and recommending that investigations be made by the Management Authority. It further recommended that the United Arab Emirates should co-operate with the Sturgeon Management Authority of the Russian Federation to identify the source of forged documents.
49. The United Arab Emirates subsequently advised the Secretariat that the traders in Dubai who were involved in these shipments had become bankrupt. No further information was supplied. The Secretariat understands that requests from the Russian Federation to the United Arab Emirates to be supplied with the original forgeries went unanswered.

Guidelines for issuance and acceptance of permits and certificates

Issuance

1. The Secretariat, regrettably, has regularly to recommend rejection of permits or certificates because of what might be regarded as very basic mistakes by issuing authorities. A greater degree of care on the part of some authorities could eradicate these problems. The number of errors in the issuance of permits and certificates and control indicate a requirement for increased training in some Management Authorities, Scientific Authorities and Customs agencies.
2. The issuance of export permits for wild specimens of species that do not occur in the country of export or for species that should not be traded commercially are, however, serious infractions of the Convention. It is apparent that several Parties should increase their scrutiny of permits and certificates with regard to these matters. The Secretariat believes that fraudulent applications are also relatively common, and these could be detected at an earlier stage if Management Authorities increase scrutiny.
3. Management Authorities should emphasize to their staff that one of the most direct influences they can have over implementation and enforcement of the Convention is through a strict review of the information provided in applications for permits and certificates. Experience has shown that the use of genuine documents, issued by designated Management Authorities, to trade illegally obtained specimens is one of the most prevalent methods of fraud against CITES.
4. The following are the most common grounds that have prompted the Secretariat to recommend rejection of permits and certificates. Management Authorities should consider these problems when issuing documents for export/re-export of specimens:
 - a) a permit or certificate has been altered and the issuing authority has not endorsed the amendment;
 - b) incorrect reference to exporting country's quota for species in question;
 - c) a pre-convention certificate gives no date of acquisition;
 - d) a permit form and/or signature does not correspond to samples held by the Secretariat;
 - e) insufficient details provided for species, source and/or prior exporting country;
 - f) species does not occur in the wild in the country of export or the declared country of origin;
 - g) incorrect use of purpose or source codes;
 - h) a re-export certificate quotes a number of an export permit that does not relate to the specimen being shipped or quotes an export permit number that does not correspond to any issued by the exporting country;
 - i) a permit is issued for commercial trade in specimens of an Appendix-I species (other than captive-bred or artificially propagated specimens);
 - j) declarations of captive-breeding or artificial propagation do not comply with Resolution Conf. 10.16;
 - k) incorrect period of validity of a permit or certificate;
 - l) consignee/importer's details quote an address in the country of issuance

5. Persons tasked with the issuance of documents may also find some of the guidance given below, relating to acceptance, to be of use.

Acceptance of permits and certificates

6. Offices reviewing the authenticity and validity of permits and certificates should have the following documents or publications available to them. Some of the information is available on the CITES Web site at <http://www.cites.org>.
- a) valid examples of the documents used by Parties and non-Parties and the signatures of persons authorized to sign them (examples are regularly distributed by the Secretariat with Notifications to the Parties);
 - b) the CITES Directory, which provides details of all CITES Management and Scientific Authorities and of the authorities non-Parties have notified to the Secretariat as being competent to issue comparable documents;
 - c) a copy of the Convention and the most recent edition of Appendices I and II and Appendix III;
 - d) current Resolutions of the Conference of the Parties to CITES. Resolution Conf. 10.2 relates specifically to permits and certificates but reference will also have to be made to others, for example, trade with non-Parties (Resolution Conf. 9.5), definition of primarily commercial purposes (Resolution Conf. 5.10), pre-Convention specimens (Resolution Conf. 5.11), specimens of animal species bred in captivity (Resolution Conf. 10.16), etc.;
 - e) a copy of valid Notifications to the Parties, especially those relating to export quotas and registered breeding/artificial propagation operations. Notifications relating to such subjects as lost or stolen security stamps, stricter domestic measures and other specific aspects of trade will also be of use and the Secretariat recommends the creation of a file in which valid Notifications relating to permit work can be stored and kept to hand;
 - f) a current copy of the Checklist of CITES Species.
7. The Secretariat recommends that the following questions be used as a form of checklist when reviewing permits and certificates:
- a) Does the document match the specimen document of the issuing country?
 - b) Is the issuing authority listed in the CITES Directory?
 - c) Is the document in one of the three working languages of the Convention?
 - d) Does the signature appear to be that of an authorized person (if known)?
 - e) Is the issuing authority's stamp or seal on the document?
 - f) Does the period of validity comply with the Convention and Resolution Conf. 10.2?
 - g) Is it clear whether the document is an export permit, import permit, re-export certificate or other form of certificate? Is it appropriate to the type of transaction proposed?
 - h) If it is a re-export certificate, have the details of previous re-export certificate/export permit been quoted (date, number and country of issuance)?
 - i) Have the names and addresses of the exporter and importer been given in sufficient detail?
 - j) Does the document require the applicant's signature? Is it signed?

- k) If the issuing authority uses security stamps, is there a stamp on the document? Has it been cancelled by a signature and stamp or seal? Is the security stamp number correctly quoted on the document?
 - l) What is the purpose of the transaction? Is it in accordance with the Convention? For example, an import permit authorizing commercial trade in a wild-caught Appendix-I animal would be invalid.
 - m) Is the source of the specimen(s) specified? Is it compatible with the proposed purpose of the transaction?
 - n) If the source is given as 'W' on an export permit, is the issuing country a range State?
 - o) Have the scientific names of the species been given?
 - p) Is the quantity of specimens specified?
 - q) Is the appendix number specified?
 - r) If the registration number of a captive breeding operation is required, is it specified? If the specimens are marked, have numbers/details been given?
 - s) If the transaction involves live animals, does the document contain a statement that they must be transported in accordance with CITES/IATA guidelines and regulations?
 - t) Are quota details given? Does the quota correspond to the details given in the Notification to the Parties?
8. If the answer to the last question at any of the points above is, 'No', then the document is technically invalid. If it appears that a simple typographical or administrative error has taken place and there is otherwise no suspicion of fraud, then contact should be made with the issuing authority to resolve the issue. On the other hand, Management Authorities should not hesitate to contact the Secretariat if it is thought that an infraction of the Convention has occurred.