

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

National laws for implementation of the Convention

MEASURES TO BE TAKEN WITH REGARD TO PARTIES WITHOUT ADEQUATE LEGISLATION

1. This document has been prepared by the Secretariat. It provides an overview of the measures taken in relation to the Parties referred to in Decision 10.18.

Background

2. According to document Doc. 10.31 (Rev.) and Decision 10.18, paragraph a), the Democratic Republic of the Congo, Egypt, Guyana, Indonesia, Malaysia-Sabah, Nicaragua and Senegal have been identified as Parties engaged in significant amounts of international trade in specimens of CITES-species whose national legislation is believed generally not to meet the requirements for implementation of CITES.
3. Decision 10.64 directs the Standing Committee to "*decide whether Decision 10.18, paragraph a), shall apply or not to the Parties in question*". This paragraph states that "*all Parties should, from 9 June 1998, refuse any import from, and export and re-export to, these countries of CITES specimens, if so advised by the Standing Committee*".
4. The Standing Committee at its 41st meeting was advised, through the Secretariat's report, that only three of the seven Parties and territories concerned, namely Indonesia, Malaysia-Sabah and Nicaragua, had demonstrated, since the 10th meeting of the Conference of the Parties, that they had adopted new legislation that generally met the requirements for the implementation of CITES. The four remaining Parties, namely, the Democratic Republic of the Congo, Egypt, Guyana and Senegal, had failed to demonstrate, in the period since the meeting, that they had complied with the requirements of Decision 10.18, paragraph b).
5. At its 41st meeting, the Standing Committee agreed to recommend to the Parties that the trade in specimens of CITES-listed species with Egypt, Guyana and Senegal be suspended from 30 September 1999 unless the Secretariat verified in the meantime that the countries had enacted legislation that generally met the requirements of CITES. It agreed, however, that, in the case of Senegal, there would be no such suspension if the Standing Committee agreed, at its 42nd meeting, on a recommendation from the Secretariat, that Senegal's enacted legislation generally met the requirements for the implementation of CITES. Regarding the Democratic Republic of the Congo, the Standing Committee agreed to defer a decision until its 43rd meeting.
6. The Secretariat sent three letters to the States concerned to remind them of the decision of the Standing Committee, pointing out the need to adopt legislation meeting the criteria specified in Resolution Conf. 8.4 and, in particular, advising Senegal that its case would be considered again at the 42nd meeting of the Standing Committee.
7. At the time of the 42nd Standing Committee meeting, only one of the four countries referred to in paragraph 5, namely Egypt, had provided the Secretariat with the documentation required. None of the other three countries had reported that they had enacted legislation meeting the criteria specified in Resolution Conf. 8.4, nor had they provided in writing "*the text that has been enacted and has taken effect*" and "*translated into one of the three working languages of the Convention*".

Egypt

8. According to Ministerial Decree N° 843/1999 a new structure of the Ministry of Agriculture is now in place. The decree establishes four committees to implement CITES, namely, the National Committee, the Scientific Committee, the Management Committee and a special unit under the name of the Egyptian Standing Committee for CITES (E.S.S.C.).
9. A mission of the Secretariat took place on 1 and 2 September 1999, on an invitation from the E.S.S.C to consult on the implementation of CITES and to assist national authorities in the process of preparing legislation that would fulfil Egypt's obligations under the Convention. After two days of intense work, the Egyptian authorities, with the assistance of the Secretariat, had drafted and submitted to the Minister of Agriculture a Ministerial decree for his signature.
10. On 18 September 1999, Ministerial Decree No. 1150 was published in the Official Journal of Egypt. The Secretariat received a copy on 20 September 1999 and reported at the 42nd meeting of the Standing Committee that Egypt had fully met the requirements established by the Conference of the Parties.

Guyana

11. The Secretariat informed the Parties by Notification to the Parties No. 1999/65, issued on 30 September 1999, of the decision of the Standing Committee that Guyana had not met the requirements established by the Conference of the Parties and that consequently Parties should refuse any import from and export or re-export to Guyana of CITES specimens.
12. On 29 September 1999, Guyana adopted the "Species Protection Regulations, 1999". These Regulations were published in the Official Gazette of Guyana, of which the Secretariat received a copy on 11 October 1999. It was evident from the Regulations that the Government of Guyana had taken the measures necessary to fulfil the conditions established by the Standing Committee at its 41st meeting.
13. Consequently, the recommendation communicated in Notification to the Parties No. 1999/65, was withdrawn by Notification to the Parties 1999/78, issued on 5 November 1999, with immediate effect.

Senegal

14. The most recent analysis prepared by the IUCN Environmental Law Centre points out that the existing legislation of Senegal covers only import, export, transport and possession of certain indigenous protected species. There are no laws applicable to CITES-listed flora. Penalties for infractions against existing legislation are relatively heavy, but confiscation of specimens is possible only for offences involving certain native protected species. For non-protected species of fauna, penalties are light, and confiscation is impossible.
15. The Standing Committee at its 42nd meeting instructed the Secretariat to issue a Notification to the Parties informing them of the Standing Committee's recommendation that Parties should not issue permits and certificates for any import from and export or re-export to Senegal of CITES specimens and should refuse documents issued by Senegal from 30 October 1999 until further notice.
16. On 21 October 1999, the Secretariat issued Notification to the Parties No. 1999/75, communicating the recommendation of the Standing Committee.
17. The Secretariat is assisting the national authorities to prepare the legislation to implement the requirements specified in Article VIII of the Convention.
18. The Secretariat recommends to the Conference of the Parties the adoption of the draft decision in the Annex to this document.

DRAFT DECISION OF THE CONFERENCE OF THE PARTIES
TO REPLACE DECISION 10.18 TO 10.23 AND 10.101

Directed to the Parties

Regarding implementation of Resolution Conf. 8.4

In paragraph 18 of document Doc. 11.21.1, the Secretariat brought to the attention of the Conference of the Parties that four Parties whose legislation was analysed during Phase 3, namely Fiji, Turkey, Viet Nam and Yemen, have high volumes of international trade in specimens of CITES-listed species; and their national legislation is believed generally not to meet the requirements for implementation of CITES (Category 3).

1. These Parties:
 - a) before 31 October 2001 should adopt adequate legislation to implement the Convention; and
 - b) may request technical assistance from the Secretariat in order to prepare such legislation. The Parties that require assistance shall receive the guidelines for the preparation of legislation, training for the CITES authorities and others responsible for the formulation of measures requiring legislation, as well as any technical support specified in their requests relevant to the development of national legislation.
2. All Parties should refuse any import from, and export and re-export to, the Parties listed above of CITES specimens, from 31 October 2001 if, in spite of the assistance, the Parties concerned do not adopt the legislation required under the text of the Convention.
3. The following action should be taken in relation to the Parties whose national legislation is believed generally not to meet the requirements for implementation of CITES (Category 3), that did not comply with Decisions 10.18 and 10.19 directed to the Parties, adopted at the 10th meeting of the Conference of the Parties, by reporting improvements in their legislation, and that have been identified as Parties having high volumes of international trade in specimens of CITES-listed species:
 - a) Any Party listed in Annex 1 of this document or in document Doc. 10.31 (Rev.) as having national legislation that is believed generally not to meet the requirements for the implementation of CITES, that enacts legislation meeting the requirements specified in Resolution Conf. 8.4 should report to the Secretariat regarding such enactment. Such report should be in writing, include the text that has been enacted and has taken effect and be translated into one of the three working languages of the Convention, if necessary. It should be received by the Secretariat no later than 1 March 2001.
 - b) Parties that are preparing national legislation to fulfil the requirements established by the text of the Convention may request technical assistance from the Secretariat.
4. Parties having national legislation in categories 2 and 3, but not having high volumes of international trade in specimens of CITES-listed species, should:
 - a) take all necessary measures to develop national legislation for implementation of CITES and to ensure that this legislation will be in effect by the 12th meeting of the Conference of the Parties;
 - b) report to the Secretariat any progress made in this regard no later than a year before that meeting; and
 - c) provide to the Secretariat copies of all relevant new legislation and, where applicable, a translation of this legislation into one of the three working languages of the Convention.

5. With respect to Parties that have not taken positive steps to implement it, the Conference of the Parties at its 12th meeting shall consider appropriate measures, which may include restrictions on the commercial trade in specimens of CITES-listed species to or from such Parties.
6. If any of the Parties believes that the Secretariat's analysis of legislation is not accurate, it should, by 1 August 2000, provide to the Secretariat:
 - a) copies of all relevant legislation not referred to in the analysis and, where applicable, a translation of this legislation into one of the three working languages of the Convention; and
 - b) its comments as to how such legislation applies to the implementation of CITES.