

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



Seventeenth meeting of the Conference of the Parties
Johannesburg (South Africa), 24 September - 5 October 2016

Interpretation and implementation matters

General compliance and enforcement

NATIONAL LAWS FOR IMPLEMENTATION OF THE CONVENTION

1. This document has been prepared by the Secretariat.

Background

2. The National Legislation Project (NLP) is a compliance and technical assistance process unique to CITES, established in 1992. The primary aim of the NLP is the analysis of Parties' enabling and implementing legislation, taking into account the requirements laid down in the text of the Convention and the provisions of Resolution Conf. 8.4 (Rev. CoP15) on *National laws for implementation of the Convention*. Under the project, the legislation of Parties is placed in Category 1 (requirements fully met), Category 2 (requirements partly met) or Category 3 (requirements generally not met).
3. In the *CITES Strategic Vision: 2008-2020*, annexed to Resolution Conf. 16.3, the first objective 1.1. reads: "Parties comply with their obligations under the Convention through appropriate policies, legislation and procedures." The indicator to measure progress against this objective focuses on the number of Parties with legislation in Category 1 under the NLP (indicator 1.1.1). This reflects the importance that Parties have placed on the enactment of legislation for the effective implementation of the Convention.
4. At its 16th meeting (CoP16, Bangkok, 2013), the Conference of the Parties adopted Decisions 16.33 to 16.38 as follows:

Directed to Parties

- 16.33 *By the 66th meeting of the Standing Committee (SC66), Parties whose legislation is in Category 2 or 3 under the National Legislation Project and which have been party to the Convention for more than five years as of March 2013 should submit to the Secretariat, in one of the working languages of the Convention, appropriate measures that have been adopted for effective implementation of the Convention.*
- 16.34 *For any Party affected by Decision 16.33 that has been party to the Convention for less than 20 years, should exceptional circumstances prevent them from adopting appropriate measures for effective implementation of the Convention, that Party should advise the Secretariat in writing of those exceptional circumstances by SC66.*
- 16.35 *Parties whose legislation is in Category 1 under the National Legislation Project are encouraged to provide technical or financial assistance to one or more Parties whose legislation is in Category 2 or 3 under the National Legislation Project.*

Directed to the Standing Committee

- 16.36 *The Standing Committee shall review at its 65th, 66th and 67th meetings the progress of Parties in adopting appropriate measures for effective implementation of the Convention.*

16.37 *At its 66th meeting, the Standing Committee shall recommend a suspension of commercial trade in specimens of CITES-listed species with those Parties affected by Decision 16.33 that have failed to adopt appropriate measures for the effective implementation of the Convention. This recommendation shall take effect 60 days after the conclusion of SC66. Should exceptional circumstances prevent any Party affected by Decision 16.33 that has been party to the Convention for less than 20 years from enacting legislation by SC66, the Standing Committee shall review the situation and determine appropriate measures for addressing it. Any Party affected by Decision 16.33 that has been party to the Convention for 20 years or more and has failed to adopt appropriate measures or agree an appropriate legislative timetable with the Secretariat by SC66 will be subject to recommendations to suspend trade. The Standing Committee will not make recommendations to suspend trade where a Party has submitted its final draft or an appropriate legislative timetable to the Secretariat by the SC66 deadline and it is pending action from the Secretariat.*

Directed to the Secretariat

16.38 *The Secretariat shall:*

- a) *compile and analyse the information submitted by Parties on measures adopted before the 17th meeting of the Conference of the Parties (CoP17) to fulfil the requirements laid down in the text of the Convention and Resolution Conf. 8.4 (Rev. CoP15);*
- b) *subject to external funding, provide legal advice and assistance to Parties on the development of appropriate measures for effective implementation of the Convention, including legislative guidance for and training of CITES authorities, legal drafters, policymakers, the judiciary, parliamentarians and other relevant government officials responsible for the formulation and adoption of CITES-related legislation;*
- c) *cooperate, in the provision of legislative assistance, with the legal programmes of United Nations bodies and intergovernmental organizations, such as the Food and Agriculture Organization of the United Nations, UNEP, the World Bank and regional development banks, as well as regional organizations such as the Africa, Caribbean and Pacific Secretariat, the Amazon Cooperation Treaty Organization, the Association of South East Asian Nations, the League of Arab States, the Organization of American States and the Pacific Regional Environment Programme;*
- d) *report at the 65th, 66th and 67th meetings of the Standing Committee on Parties' progress in adopting appropriate measures for effective implementation of the Convention and, if necessary, recommend the adoption of appropriate compliance measures, including recommendations to suspend trade;*
- e) *identify for the Standing Committee any countries that require attention as a priority under the National Legislation Project; and*
- f) *report at CoP17 on progress made with regard to the implementation of Resolution Conf. 8.4 (Rev. CoP15) and Decisions 16.33-16.38.*

Summary of progress

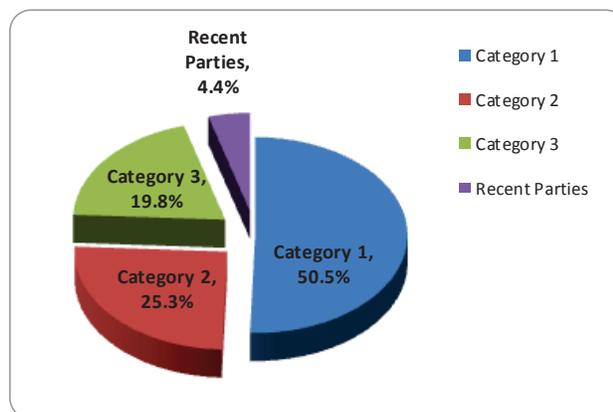
5. At its 65th and 66th meetings (SC65, Geneva, July 2014; SC66, Geneva, January 2016), the Standing Committee considered the Secretariat's reports on Parties' progress in adopting appropriate measures for the effective implementation of the Convention, and on legislative and technical assistance to Parties with legislation in Category 2 or 3, provided by the Secretariat and partners (see document SC65 Doc. 22 and documents SC66 Doc. 26.1 and SC66 Inf. 19).
6. Since CoP16, Angola, the European Union, Iraq, Lebanon, and Tajikistan have become Parties to the Convention, bringing the total number to 182. The legislation of the EU has been placed in Category 1, and that of Angola has been placed in Category 3. The submission and review of the legislation of the other recent Parties is still pending.
7. In accordance with Resolution Conf 8.4 (Rev. CoP15) and Decision 16.38, the Secretariat continues to monitor legislative progress made by the Parties and their dependent territories. Since CoP16, the

Secretariat has analysed the draft or final legislation of many Parties with legislation in Categories 2 and 3. Ten of these are among the 17 on the list of Parties whose legislation requires attention as a priority under Decision 16.38, paragraph e). The Secretariat has also analysed the legislation of several dependent territories of the United Kingdom of Great Britain and Northern Ireland and one territory of China. The Secretariat's comments on draft legislation for a number of Parties helps to ensure that the legislative process will result in legislation that meets the minimum requirements.

8. On the basis of its analyses, at the time of writing the Secretariat has agreed with five additional Parties (Plurinational State of Bolivia, European Union, Paraguay, Republic of Moldova and Serbia) to place their legislation in Category 1, making a total of 92 Parties (50 %) and 17 dependent territories (57 %) with legislation in Category 1. It is expected that the agreement with an additional 4-5 Parties on placing their will be reached before the meeting of the CoP.

National Legislation Project Apr-16

Category	Parties	Percent
Category 1	92	50.5%
Category 2	46	25.3%
Category 3	36	19.8%
Recent Parties	8	4.4%
Total	182	100.0%



9. The Secretariat has made every effort to analyse the legislation of all the Parties that have submitted enacted legislation or final drafts of legislation. However, in some instances, the legislation has not been submitted in one of the working languages of the Convention and for some Parties this process requires the analysis of many different pieces of law and secondary legislation that are not always submitted together with the main implementing law, or not submitted in one of the working languages. This delays the conclusion of the analysis and of placing the legislation in the appropriate category. According to the information available, 17 Parties with legislation currently in Category 2 or 3 have enacted CITES-implementing or CITES-relevant legislation for which final agreement between the Party and the Secretariat on the analysis is still pending.¹
10. The updated legislative status chart contained in Annex 3 to the present document reflects the progress made by all Parties and dependent territories since the update for SC66 on 8 January 2016² (see further below). The table shows that legislative progress in the form of "agreed legislative timetables" and draft legislation continues to be made by many Parties. However, the slow pace of submission for parliamentary, cabinet or ministerial approval and subsequent enactment delays the move to Category 1. In addition, some 30 Parties have not provided written indications of their legislative progress (e.g. revised CITES legislation plans or draft and enacted legislation) since the 16th meeting of the Conference of the Parties, in 2013.
11. The Secretariat is grateful to Norway for the assistance provided to the legislative analysis under the NLP and to translation of national legislation submitted in other languages; as a member of the Standing Committee, Norway has generously offered to translate the legislation of at least one other European Party requesting such assistance.
12. Through its analyses of national legislation, the Secretariat has noted that a recurrent gap in national legislation is the absence of prohibition of the possession of illegally traded specimens of CITES-species. Resolution Conf. 8.4 (Rev. CoP15) on *National laws for the implementation of the Convention* does not list

¹ Albania, Azerbaijan, Belarus, Burundi, India, Israel, Kazakhstan, Kyrgyzstan, Lao People's Democratic Republic, Mauritius, Montenegro, Morocco, Myanmar, Philippines, Saint Kitts and Nevis, The former Yugoslav Republic of Macedonia

² A revised table will be produced before the meeting of the Conference of the Parties containing the latest information.

such prohibition as one of the basic requirements of legislation. The Secretariat always recommends that Parties prohibit possession of illegally traded specimen of CITES-species when it reviews and provides comments on draft national legislation, in accordance with Article VIII, paragraph 1(a), of the Convention. The Conference of the Parties could consider amending the Resolution to more clearly requires that domestic measures prohibit possession of specimens obtained in violation of the Convention, to facilitate enforcement of the prohibition of trade in violation of the Convention

Current and future compliance measures

13. Past reports of the Secretariat to the Conference of the Parties on the subject of national legislation have stressed that “Parties see appropriate legislation as a primary factor in ensuring the Convention achieves its purpose” and that “Effective implementation of, compliance with and enforcement of the Convention depend on [the enactment of Category-1] legislation” (see document CoP16 Doc. 28, CoP15 Doc. 20, and document CoP14 Doc. 24). It could be argued that Parties whose domestic measures are not adequate for implementation of the Convention should generally not be engaging in trade under the Convention. Moreover, the enactment of Category-1 legislation is a necessary precursor to effective law enforcement. The Conference of the Parties, in Resolution Conf. 8.4 (Rev. CoP15), reflected the importance of legislation in instructing the Standing Committee “to determine which Parties have not adopted appropriate measures for effective implementation of the Convention and to consider appropriate compliance measures, which may include recommendations to suspend trade, in accordance with Resolution Conf. 14.3”. The Conference also recognized, however, the need to provide Parties with financial or technical assistance for the development and effective implementation of their measures to implement the Convention.
14. The approach taken towards Parties with legislation in Category 2 or 3 that continue to be in non-compliance with the Convention has been to encourage them to take action to demonstrate commitment and progress. In the spirit of Decision 16.37, the Secretariat is proposing to formalize the use of legislative timetables as a means to monitor progress towards full implementation and compliance. It is suggested that such legislative timetables are signed off by the Management Authority as well as the minister or a senior official in the relevant ministry and by the Secretary-General of CITES. To further formalize these commitments, the Secretariat will make agreed legislative timetables available to the Standing Committee for information.
15. On the basis of such commitments taken by a Party to make progress towards development and enactment of appropriate measures, it will be possible to assess the need for technical and financial assistance to implement the plan and achieve the expected results. Such needs can then be addressed by relevant bilateral and international partners, including the CITES Secretariat.
16. Since 1999, the Standing Committee has applied compliance measures, including recommendations to suspend trade, to encourage Parties to enact legislation. A total of almost 20 Parties have thus been subject to a recommendation to suspend commercial trade over the years, some more than once. Since mid-2004, Mauritania and Somalia have been subject to a recommendation to suspend commercial trade in specimens of CITES-listed species for their failure to provide a revised CITES legislation plan, or draft or enacted legislation (see Notification to the Parties No. 2004/055 of 30 July 2004). Both of these Parties took part in the CITES-UNEP workshop organized on 4-5 April 2016 in Gigiri (see below) and both showed a very high degree of interest and commitment to engage and make progress. Mauritania has already submitted a draft timetable, as well as a request for assistance. Somalia has also committed to prepare a legislative timetable that will prioritise the analysis of existing legislation and the preparation of draft new legislation. However, Somalia also emphasized the need for additional support and capacity-building for practical implementation and enforcement of the Convention. Djibouti has also been subject to a recommendation to suspend all commercial trade since mid-2004. Unfortunately Djibouti did not take up the invitation to the workshop in April 2016 and the Management Authority of Djibouti has been unresponsive to both the Secretariat and the Ministry of Foreign Affairs of Djibouti.

Compliance measures adopted at SC66

17. Pursuant to Decision 16.37, at SC66 the Standing Committee agreed to compliance measures for all Parties with legislation in Category 2 and 3, to set a public record of the compliance matter (as set out in paragraphs 18-20, below), and invited the Parties concerned to accelerate the legislative process and increase efforts to ensure legal compliance with the Convention.

Recommendations to suspend commercial trade

18. Specifically, the Standing Committee decided to recommend that Parties suspend commercial trade in specimen of CITES-listed species from Parties whose legislation was in Category 2 or 3, that required attention as a priority and that had failed to adopt appropriate measures for the effective implementation of the Convention or agree an appropriate legislative timetable. This compliance measure concerned Guinea-Bissau, Liberia and the Bolivarian Republic of Venezuela and would take effect 60 days after the meeting of the Standing Committee.

Warning letters

19. The Standing Committee further decided to send warning letter to other Parties that required attention as a priority, and that were making progress but had not yet adopted the appropriate measures, advising that they were in non-compliance and reminding them of the need to accelerate their efforts to enact adequate legislation by SC67, Johannesburg, September 2016). This compliance measure concerned Belize, Plurinational State of Bolivia, Kazakhstan, Mauritania, Mozambique, Pakistan and Paraguay.

Public notification to all Parties

20. Finally, the Standing Committee requested the Secretariat to publish a Notification to the Parties, advising that this matter had been brought to the attention of Parties whose legislation was in Category 2 or 3 under the National Legislation Project and which had been party to the Convention more than five years.

Implementation of the compliance measures adopted by SC66

21. Further to these decisions by the Standing Committee, the Secretariat issued Notification to the Parties No. 2016/030 on 23 March 2016, recommending that all Parties suspend commercial trade with Guinea-Bissau and Liberia. The recommendation did not apply to the Bolivarian Republic of Venezuela as it had submitted a legislative timetable to which the Secretariat had agreed.
22. The Secretariat sent warning letters to the seven Parties listed in paragraph 19 above on 11 February 2016. These letters also contained information on available technical assistance. In response, the Secretariat received communications from all Parties except Kazakhstan. The Secretariat subsequently received enacted legislation Plurinational State of Bolivia and Paraguay, and agreed to place it in Category 1. With regard to seven Parties (Algeria, Belize, Kenya, Liberia, Mozambique, Rwanda, United Republic of Tanzania and Bolivarian Republic of Venezuela), the Secretariat has received final draft legislation and discussed the legislative timetable, indicating that these Parties are on track to adopt appropriate measures, possibly even before the 17th meeting of the Conference of the Parties (CoP17). With regard to another four Parties that require attention as a priority (Comoros, Guinea-Bissau, Mauritania and Somalia), the Secretariat has received strong indications of a commitment to make progress but also of the necessity of financial and technical assistance. According to the information available to the Secretariat, Kazakhstan has enacted legislation but has not yet submitted it in one of the working languages of the Convention.
23. On 21 March 2016, the Secretariat issued a Notification to the Parties No. 2016/025, alerting all Parties that the compliance matter had been brought to the attention of all Parties with legislation in Category 2 or 3 that had been party for more than five years. This Notification concerned 68 Parties. The intention of this Notification was to alert all Parties to the fact that there continued to be an issue with the legislation in these countries and to put this on a public record. The Secretariat is aware that efforts to make progress are under way by many of these Parties and is encouraging all Parties to keep the Secretariat abreast of any new development at any time.
24. The Secretariat will continue to monitor progress and will send reminders to all Parties to provide the latest update in advance of SC67. It will recommend that the Standing Committee consider appropriate compliance measures, including recommendations to suspend trade, in particular for Parties that have given no indication of progress.
25. The legislative status chart contained in Annex 3³ to the present document indicates the legislative status of all Parties and contains a summary of the actions being taken by Parties with legislation in Category 2 or 3 (e.g. a CITES legislative timetable, draft legislation, submission of legislation for enactment, or enactment of legislation). In an attempt to encourage more rapid legislative progress among a smaller

³ A revised table will be produced before the present meeting, containing the latest information.

group of Parties, the Secretariat identified, for the Standing Committee, countries that required attention as a priority under the National Legislation Project, in compliance with Decision 15.41, paragraph e). At the time of writing (April 2016), there were 15 priority countries at various stages of legislative progress⁴. As noted above, most of these Parties were working towards adopting appropriate measures. The Secretariat proposes to review, and possibly expand, the list after CoP 17.

26. On the basis of the list submitted to the Standing Committee at SC66 (document SC66 Inf. 19), the Secretariat has merged tables 1, 2 and 3 into a single table (Annex 3, Table 1). Parties listed in bold have been identified by the Standing Committee as requiring attention as a priority. Table 2 in Annex 3 lists the Parties for which the Convention entered into force after March 2008.
27. The formalization of CITES legislative timetables and the provision of such timetables to the Standing Committee for information is intended to put on record the commitment of the Parties, to bring about more transparency in the process, to enable a closer monitoring of progress, and also to provide more visibility of the needs for financial and technical assistance. It remains to be seen whether this approach will provide the required engagement and political attention in the concerned States.

Planned technical and financial assistance activities

28. The Secretariat is working closely with the Standing Committee, Parties with legislation in Category 1 and entities with relevant expertise in legislative drafting, in order to support legislative progress. The Secretariat is facilitating the provision of technical and financial assistance activities undertaken by: individual Parties such as Australia, New Zealand and the United States of America; externally-funded activities of the Secretariat (e.g. using funds generously provided by the European Commission, Japan or the United Kingdom of Great Britain and Northern Ireland); and activities organized by the Secretariat in collaboration with UNEP. The Secretariat would like to express its thanks to European Union and the Governments of Japan, Norway, the United Kingdom and the United States for the financial and technical assistance provided to the National Legislation Project.

CITES National Legislation web portal

29. In 2015, the Secretariat launched a dedicated web portal on national legislation on the CITES website (in the three working languages), to assist Parties in the implementation of the Convention, Resolution Conf. 8.4 (Rev. CoP15) and relevant CoP Decisions. The web portal, entitled "National laws for implementing the Convention"⁵, features all the supporting legislative material developed so far to assist Parties in preparing and adopting appropriate measures. This includes the model law, a guiding questionnaire, and a presentation of the key requirements of the Convention, as well as the relevant Resolutions and Decisions adopted by the Conference of the Parties. Some of this material has also been translated into Arabic, Portuguese and Russian to provide more effective legal assistance to countries where none of the three working languages is widely spoken. The Secretariat also collects and make available examples of legislation that has been placed in Category 1, to serve as inspiration for other Parties.
30. The four requirements set out in Resolution Conf. 8.4 (Rev. CoP15) were explained in some detail in a document presented to the Conference of the Parties at its 12th meeting (Santiago, 2002) and also developed in a standard presentation, available on the CITES website and in the Virtual College. The Secretariat has recently updated the presentation (in English and French) making a clear distinction between the legal requirements of the Convention for national legislation and the recommended or desirable provisions, intended to facilitate the analysis of compliance by Parties themselves.

Joint CITES/UNEP Workshop, April 2016

31. Using the external funds mentioned above, the CITES Secretariat and UNEP jointly organized a regional workshop on Strengthening National Legal Frameworks for the Effective Implementation of CITES and for Combating Illegal Wildlife Trade, which took place on 4-5 April 2016 in Nairobi. The workshop focused on the requirements for national implementing legislation as set out in the Convention and relevant Resolutions. The workshop also featured a legal roundtable discussion on the need to revise Resolution Conf. 8.4 (Rev. CoP15), which did not, however, produce any clear guidance. Sixteen Parties were

⁴ *Algeria, Belize, Comoros, Djibouti, Guinea-Bissau, Kazakhstan, Kenya, Liberia, Mauritania, Mozambique, Pakistan, Rwanda, Somalia, United Republic of Tanzania and Bolivarian Republic of Venezuela.*

⁵ See <https://cites.org/legislation>

represented at the workshop, among them most of the African Parties requiring attention as a priority (Algeria, Comoros, Guinea-Bissau, Kenya, Liberia, Mauritania, Mozambique, Rwanda, Somalia and United Republic of Tanzania) as well as other African Parties with legislation in Category 3 (Angola, Burkina Faso, Central African Republic, Cote d'Ivoire, Ghana, Guinea and Niger). In most cases, the Parties were represented by a technical person from the national Management Authority and by a lawyer or other member of legal staff involved in the development of national legislation.

32. The participants demonstrated a strong commitment to take action to accelerate the legislative process in their countries and to submit, before 30 April 2016, legislative timetables to be agreed with the Secretariat. A number of the participants emphasized the need for technical and financial assistance for the implementation of the timetable in their countries. In particular, assistance is required to analyse relevant existing legislation to identify gaps and ways to fill them. Participants from several Parties highlighted the need for assistance to facilitate internal and external consultation and public participation. The feedback from the participants indicated a very high degree of satisfaction with the workshop, and the Secretariat and UNEP are considering organizing a second workshop for the other Parties in Africa, subject to available funds.

Legal Round Table

33. At SC66, the Standing Committee invited the Secretariat, in collaboration with relevant agencies of the UN system and subject to the availability of external funding, to organize a Legal Round Table to:
 - a) discuss a possible revision of Resolution Conf. 8.4 (Rev. CoP15) and new decisions from CoP17 on the National Legislation Project;
 - b) explore efficient approaches to further assist Parties in strengthening their national legal frameworks for the effective implementation of CITES and combating illegal wildlife trade; and
 - c) identify ways to raise awareness and provide support to the judiciary in a timely manner.
34. The Secretariat took the opportunity offered by the first IUCN World Environmental Law Congress (WELC), held in Rio de Janeiro from 27 to 29 April 2016, to co-organize a side event focused on the last two subjects, with the following partners: CMS Secretariat, Organization of American States, IUCN, Red de Observancia y Aplicación de la Normativa de Vida Silvestre de Centroamérica y República Dominicana (ROAVIS), Red Latinoamericana de Ministerios Públicos Ambientales, the Asia-Pacific Centre for Environmental Law (APCEL) and the WELC organizers. The event took place on 26 April and was attended by prosecutors, representatives of academia, IGOs and NGOs.
35. Referring to UNGA Resolution 69/314 on *Tackling illicit trafficking in wildlife*, participants in the event expressed concern about the increasing scale of poaching and illegal trade in wildlife and wildlife products, and their adverse economic, social and environmental impacts. Participants explored the need for legal frameworks that define the meaning and scope of wildlife crime, including a clear description of the types of conduct and the level of penalties involved. They also recommended the development of tools and guidelines for prosecutors and judges and more practical guidelines on investigating and sentencing conduct involving several countries and transnational crime. Corruption was highlighted as a major problem and the importance of linking wildlife crimes to other crimes, such as money laundering, was emphasized. The role of civil society was also stressed.
36. The participants also suggested some practical activities and invited the existing sub-regional enforcement networks of prosecutors and other initiatives created to prevent and combat wildlife crime to exchange views on best practices, gaps and needs. They emphasized the need to explore coordination mechanisms to enhance their cooperation and to create a regional wildlife enforcement network for intelligence sharing and judiciary cooperation.

Legislative assistance missions

37. Since CoP16, the Secretariat has undertaken legislative assistance missions to a number of Parties in the Caribbean (Dominica, Grenada, Saint Lucia, Saint Vincent and the Grenadines, and Trinidad and Tobago) and in Africa (Angola, Kenya, Lesotho, Mozambique and Swaziland). Commendable progress has been made by Angola, Kenya and Mozambique as well as most of the Caribbean Parties, although additional assistance seems to be required by some of them to complete the process. The Secretariat considers that

such missions are effective to secure commitment in the countries visited but they require significant resources from the Secretariat.

38. For the future, the Secretariat suggests that it would be more cost-effective to use a combination of bilateral legal advice and support together with regional or subregional workshops that not only allow the Secretariat to reach a much larger group of Parties in a shorter time but also enable exchange of experience and information among the Parties and participants present.

Small-scale financial assistance

39. The availability of external funds from the European Union, Japan and the United Kingdom of Great Britain and Northern Ireland, has enabled the Secretariat to conclude small-scale funding agreements with the CITES Management Authorities of Maldives, Mauritania, Mozambique and Suriname. Through such agreements, a small amount of funding is made available to assist a Party in the legislative process. Funds are generally used to recruit a local legal expert to review existing legislation and prepare new draft legislation or to organize stakeholder consultations or national validation workshops. The Secretariat is consulting with Parties that have submitted requests for legislative assistance. The aim of these discussions is to identify the specific activities and budget required, and to determine whether existing external funds are sufficient to cover the costs. The approach is to tie the support closely to the agreed legislative timetables. In some cases, assistance might be available from other sources, either bilateral or through UNEP or other international programmes and organizations. If not, the Secretariat will propose a small-scale funding agreement to support the implementation of the plan. Discussions on such agreements are underway with *inter alia* Central African Republic, Comoros, Côte d'Ivoire, Guinea, Guinea-Bissau, Niger, Saint Lucia and Syria.
40. The Secretariat estimates that at least USD 500,000 will be required to meet the demands for technical assistance that are currently under review by the Secretariat, as set out in the Annex 2 to the present document. The Secretariat strongly encourages other partners to collaborate and coordinate closely with the Secretariat to address the needs for assistance.

Strengthened links between legislation and SDGs, including illegal trade in wildlife

41. In the past few years, a number of important political declarations and decisions have been taken at the international level to advance a balanced and comprehensive approach to sustainable management of natural resources and wildlife protection. These commitments at the highest level further underscore the necessity for Parties to adopt appropriate measures to implement and enforce the Convention. Legislation and law enforcement are two sides of the same coin. Each one depends upon and supports the other. As a result, virtually any activity related to law enforcement will include references to and consideration of legislation. The focus on ending illegal trade in protected wildlife has increased over the past few years both at the national and international levels. For an overview of key events and measures since 2012, see the calendar on the CITES web site: <https://cites.org/sites/default/files/eng/news/sundry/2015/IWT-events.pdf>.
42. Together, the UN Sustainable Development Goals (SDGs) and UNGA Resolution 69/314 on *Tackling illicit trafficking in wildlife* provide the UN framework to support a coherent response from the UN system. Resolution 69/314 emphasizes that wildlife protection must be part of a comprehensive approach to achieving poverty reduction, food security, sustainable development, economic growth, social well-being and sustainable livelihoods, and recognizes that the illicit trafficking in wildlife and forest resources is both an environmental issue and a broader criminal, economic and sustainable development issue. It encourages Member States to consider wildlife crime as a 'serious crime' with consequent priority and commensurate resources directed to the issue from governments. It also makes clear the interlinkages between national legislation and the eradication of illegal trade, in paragraphs 2 and 3 by stating:
 2. *Encourages Member States to adopt effective measures to prevent and counter the serious problem of crimes that have an impact on the environment, such as illicit trafficking in wildlife and wildlife products, including fauna and flora as protected by the Convention on International Trade in Endangered Species of Wild Fauna and Flora, and poaching;*
 3. *Urges Member States to take decisive steps at the national level to prevent, combat and eradicate the illegal trade in wildlife, on both the supply and demand sides, including by strengthening the legislation necessary for the prevention, investigation and prosecution of such illegal trade as well as strengthening enforcement and criminal justice responses, in accordance*

with national legislation and international law, acknowledging that the International Consortium on Combating Wildlife Crime can provide valuable technical assistance in this regard;

43. Goal 15 of *Transforming our world: the 2030 Agenda for Sustainable Development, Sustainable Development Goals*, (SDGs) is to

Protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss.

Goal 15.c of the SDGs is to:

Enhance global support for efforts to combat poaching and trafficking of protected species, including by increasing the capacity of local communities to pursue sustainable livelihood opportunities.

44. At the regional level, 2015 saw important commitments to sustainable use and conservation and to combating illegal trade in wildlife. The African Strategy on Combating Illegal Exploitation and Illegal Trade in Wild Flora and Fauna, was adopted in Brazzaville, Congo on 30 April 2015. The final comprehensive Strategy contains references to the importance of strengthening national legislation under several of the seven components. For instance action 1 of Component 7 on Governance reads:

7.1 Promote inclusive governance of wildlife – particularly with Indigenous Peoples and local communities, including strengthening legal frameworks.

46. The Ministers attending the 10th ASEAN⁶ Ministerial Meeting on Transnational Crime, on 30 September 2015, adopted the *Kuala Lumpur Declaration in Combating Transnational Crime*, in which they, “Endorse illicit trafficking of wildlife and timber and people smuggling as new areas of transnational crimes under the purview of the AMMTC⁷. (This followed from the Declaration of the East Asia Summit (EAS) on Combating Wildlife Trafficking, adopted in November 2014). With regard to the role of legislation in combating the illicit trafficking of wildlife, the Ministers declared that they:

Consider the formulation of regional legal instruments and harmonisation of relevant national policies, laws and regulations among ASEAN Member States to further strengthen regional efforts to combat transnational crime.

47. The European Union’s *Action Plan against Wildlife Trafficking*, adopted on 26 February 2016, underscores the importance of ensuring that appropriate national legislation is in place and effectively applied in all EU Member States. Hence, the European Commission is expected to assess shortcomings in implementing EU wildlife trade regulations in each Member State and make recommendations for improvements.
48. The Transpacific Partnership (TPP) among 12 countries in the Asia-Pacific region was recently signed (but has not yet been ratified or entered into force). It sets a higher target for combating wildlife trafficking and ensuring legal and sustainable trade, where applicable, including enforceable obligations requiring all TPP partners to implement their CITES obligations, promote the long-term conservation of species at risk, protect natural habitats, such as wetlands, and implement strong anti-corruption measures, as bribery and corruption are often at the root of illegal trafficking schemes. TPP also provides a new international platform for enhanced regional and global cooperation among national and international authorities.
49. The forthcoming report on *World Wildlife Crime: Trafficking in protected species*, produced by the UNODC in collaboration with partners, provides an attempt to understand the international market for illegal trade in CITES-species based on data on 164,000 seizures in 120 countries. One of the policy implications of the report reads:

Illegal trade could be reduced if each country were to prohibit, under national law, the possession of wildlife that was illegally harvested in, or illegally obtained from, anywhere else in the world.

50. The issue of illegal possession is addressed by the Convention Article VIII, paragraph 1(a). When reviewing draft and enacted national legislation submitted to it by Parties, the Secretariat recommends that such legislation clearly prohibits and penalizes possession of CITES specimens that have been obtained

⁶ Brunei Darussalam, Cambodia, Indonesia, Lao People’s Democratic Republic, Malaysia, Myanmar, Philippines, Singapore, Thailand and Viet Nam

⁷ AMMTC is the ASEAN Ministerial Meeting on Transnational Crime that convenes on an annual basis.

contrary to the Convention. As noted above, this is a recurrent gap in national legislation. The Conference of the Parties could consider amending the Resolution to more clearly reflect that national measures should prohibit possession of specimens obtained in violation of the Convention, to facilitate enforcement of the prohibition of trade in violation of the Convention.

Conclusions

51. Appropriate national legislation to enforce the provisions of the Convention is a critical element to prevent, reduce and eliminate illegal trade in protected wildlife. Clear and precise legislation on illegal trade also facilitates legal trade so that it can take place in a sustainable manner, be traceable and contribute to economic growth and sustainable development. Adoption and enforcement of appropriate national measures by all Parties to the Convention is thus a prerequisite for legal trade and for combating illegal trade.
52. The Secretariat therefore believes it is appropriate to continue the dual approach of compliance measures combined with technical and financial assistance for Parties that fail to adopt appropriate measures to meet the minimum requirements of the Convention. The Secretariat suggests that particular attention should be paid to Parties with legislation in Category 3 as well as to Parties with legislation in Category 2 that have high volumes of trade in CITES-species.

Recommendations

53. The Secretariat recommends that Parties whose legislation is still in Category 2 or 3, should be requested to enact appropriate legislation before the 70th meeting of the Standing Committee (SC70, scheduled for October 2018) and submit this legislation to the Secretariat in one of the working languages. They should also be requested to submit to the Secretariat a legislative timetable, to be agreed with the Secretariat, which should be made available to the Standing Committee for information. Parties that fail to meet this deadline should be subject to appropriate compliance measures decided by Standing Committee at SC70, which may include a recommendation to suspend commercial trade in specimens of CITES listed species. A recommendation to suspend trade would take effect 60 days after the conclusion of SC70, unless the Party adopts appropriate measures before. Should exceptional circumstances prevent a Party from enacting legislation by SC70, the Standing Committee would have the authority to review the situation and determine appropriate measures.
54. Parties with legislation in Category 2 or 3 could benefit from the assistance of those with legislation in Category 1. Parties with legislation in Category 1 should therefore be encouraged to provide technical and financial assistance to Parties whose legislation is in Category 2 or 3. Other potential sources of assistance could also be mobilized by the Parties themselves and by the Secretariat to provide specific support to Parties requesting such support in order to make progress.
55. The Secretariat recommends that the Conference of the Parties adopt the draft decisions contained in Annex 1 to the present document.
56. If the Conference adopts the draft decisions in Annex 1, the Secretariat believes that they should replace Decisions 16.33 – 16.38 which should therefore be deleted.

DRAFT DECISIONS OF THE CONFERENCE OF THE PARTIES

National laws for implementation of the Convention

Directed to Parties

- 17.A Parties whose legislation is in Category 2 or 3 under the National Legislation Project (NLP), are urged to submit to the Secretariat as soon as possible, and no later than by the 70th meeting of the Standing Committee, in one of the three working languages of the Convention, details of appropriate measures that have been adopted for the effective implementation of the Convention. Such Parties are called on to provide an update of their legislative progress by SC69.
- 17.B Such Parties, are urged to submit to the Secretariat by 3 January 2017 (i.e. 90 days after the 17th meeting of the Conference of the Parties) a legislative timetable, to be agreed with the Secretariat, if they have not already done so. Such timetables should clearly set out the steps that the Party commits to take in order to adopt appropriate measures to implement the Convention; relevant actors; deadlines and outputs, based on the format provided by the Secretariat.
- 17.C Parties whose legislation is in Category 1 under the National Legislation Project are encouraged to identify potential loopholes in their national CITES-implementing legislation, in particular with regard to the possession of illegally traded specimens of CITES-listed species, and to adopt any necessary amendments. Those Parties are also encouraged to provide technical or financial assistance to one or more Parties whose legislation is in Category 2 or 3 under the National Legislation Project, either directly or through the Secretariat.

Directed to the Standing Committee

- 17.D At its 69th meeting, the Standing Committee shall review the progress of Parties in adopting appropriate measures for effective implementation of the Convention and monitor the implementation of agreed timetables. The Standing Committee shall identify Parties requiring attention as a priority, with the assistance of the Secretariat.
- 17.E At its 70th meeting, the Standing Committee shall review the progress of Parties in adopting appropriate measures for effective implementation of the Convention and shall take appropriate compliance measures with regard to Parties affected by Decision 17.A that have failed to adopt appropriate measures for the effective implementation of the Convention or failed to submit a timetable. For Parties that have acceded to the Convention since March 2008, the Standing Committee may decide to allow more time to adopt appropriate measures.
- 17.F Such compliance measures may include a recommendation to suspend commercial trade with Parties affected by Decision 17.A that have failed to adopt appropriate measures for the effective implementation of the Convention or failed to submit a timetable, in particular Parties requiring attention as a priority. Any recommendation to suspend commercial trade with the Party concerned shall take effect 60 days after it is agreed, unless the Party adopts appropriate measures before the expiry of the 60 days or submit a legislative timetable, to be agreed with the Secretariat.

Directed to the Secretariat

- 17.G The Secretariat shall:
- a) compile and analyse the information submitted by Parties on measures adopted before the 18th meeting of the Conference of the Parties (CoP18) to fulfil the requirements laid down in the text of the Convention and Resolution Conf. 8.4 (Rev. CoP15);
 - b) review and agree to appropriate timetables, submitted by Parties, to the Secretariat and make such agreed timetables available for information to the Standing Committee;

- c) assist the Standing Committee in identifying countries with legislation in Category 2 or 3 requiring attention as a priority;
- d) subject to external funding, provide legal advice and assistance to Parties on the development of appropriate measures for effective implementation of the Convention, including legislative guidance for and training of CITES authorities, legislative drafters, policymakers, the judiciary, parliamentarians and other relevant government officials responsible for the formulation and adoption of CITES-related legislation;
- e) cooperate, in the provision of legislative assistance, with the legal programmes of United Nations bodies and intergovernmental organizations, such as the Food and Agriculture Organization of the United Nations, UNDP, UNODC, UNEP, the World Bank and regional development banks, as well as regional organizations, such as the African, Caribbean and Pacific Group of States, the Amazon Cooperation Treaty Organization, the Association of South East Asian Nations, the League of Arab States, the Organization of American States and the Pacific Regional Environment Programme;
- f) report at the 69th and 70th meetings of the Standing Committee on Parties' progress in adopting appropriate measures for effective implementation of the Convention and, if necessary, recommend the adoption of appropriate compliance measures, including as a last resort, recommendations to suspend commercial trade in specimens of CITES-listed species; and
- g) report at CoP18 on progress made with regard to the implementation of Resolution Conf. 8.4 (Rev. CoP15) and Decisions 17.A-G.

TENTATIVE BUDGET AND SOURCE OF FUNDING FOR THE IMPLEMENTATION OF DRAFT DECISIONS

In Resolution Conf. 4.6 (Rev. CoP16) on *Submission of draft resolutions, draft decisions and other documents for meetings of the Conference of the Parties*, the Conference of the Parties decides that any draft resolutions or decisions submitted for consideration at a meeting of the Conference of the Parties that have budgetary and workload implications for the Secretariat or permanent committees must contain or be accompanied by a budget for the work involved and an indication of the source of funding. The Secretariat proposes the following tentative budget and source of funding for the implementation of the draft decisions in Annex 1.

1. The Secretariat considers that implementation of draft decision 17.G, paragraphs a), c), f) and g) can be absorbed within existing human and financial resources, in particular considering the recent restructuring of the Secretariat to reallocate functions to have a dedicated legal affairs officer.
2. For the implementation of draft decisions 17.G, paragraphs d) and e), the Secretariat is dependent on additional external funding. Currently, at least 20 Parties have requested assistance from the Secretariat to advance their legislative process. Most of these requests have not yet been fully budgeted. However, based on past experience, the Secretariat estimates that each country would need support in the range of USD 10,000 – 30,000 depending on the size of the country in geographic and population terms, the volumes and diversity of trade, the capacity constraints, etc. Programme support costs and costs of any bilateral missions undertaken by the Secretariat would bring the total need for external funding for the National Legislation Project to USD 500,000.
3. The Secretariat would like to encourage bilateral donors and international partners to continue to provide technical and financial assistance directly to Parties requesting such support for developing and adopting appropriate measures to effectively implement the Convention in close collaboration with the Secretariat.