

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

PROHIBITING, PREVENTING AND COUNTERING CORRUPTION FACILITATING ACTIVITIES
CONDUCTED IN VIOLATION OF THE CONVENTION

1. This document has been submitted by the European Union and Senegal.*
2. The link between the illegal wildlife trade and corruption has been recognised internationally in several resolutions and declarations. At its first session on 27 June 2014, the UN Environment Assembly adopted a resolution on illegal trade in wildlife, calling on governments to 'promote and implement policies of zero tolerance towards all illegal activities, including corruption associated with the illegal trade in wildlife'. In July 2015, UNGA Resolution 69/314 on tackling illicit trafficking in wildlife called on member states to 'prohibit, prevent and counter any form of corruption that facilitates illicit trafficking in wildlife and wildlife products'. The Declaration from the London Conference on Illegal Wildlife Trade in February 2014 noted that 'the criminal activity and corruption associated with trafficking restricts the potential for sustainable investment and development which is needed in new economic activities and enterprises' and at the follow-up conference in Kasane (Botswana) in March 2015 governments reaffirmed their 'zero tolerance towards corruption'.
3. As described in many recent reports¹, corruption can take place at every stage in the trade chain – from poaching, illegal logging and illegal fishing, the transport of illegally poached or harvested goods, processing and export, to issuing, inspecting and accepting documentation (such as CITES export and import permits), to the sale of illegal wildlife products and the laundering of proceeds. Corruption hampers attempts to apprehend and prosecute those involved in wildlife crime, for example, through the bribing or coercion of investigators, police, prosecutors or judges. Several factors contribute to a climate in which corruption is likely to flourish, particularly in relation to wildlife crime. These include lack of transparency and lack of accountability mechanisms; lack of effective deterrents; legislation and regulations that are complex, ambiguous, confusing or contradictory; conflicts of interest; lack of appropriate awareness education and training; low or irregular pay; and the perception that certain corrupt forms of behaviour are 'victimless' crimes or have no serious consequences. Corruption may facilitate many of the crimes along the wildlife trade route, from poaching (e.g. illegal payments to issue hunting licenses, bribery of forest patrol officers), to trafficking (e.g. bribery of customs officials, illegal payments to issue export certificates, etc.), to law enforcement (e.g. bribery of police officers and prosecutors to avoid investigations; illegal

* The geographical designations employed in this document do not imply the expression of any opinion whatsoever on the part of the CITES Secretariat (or the United Nations Environment Programme) concerning the legal status of any country, territory, or area, or concerning the delimitation of its frontiers or boundaries. The responsibility for the contents of the document rests exclusively with its author.

¹ See e.g. "Corruption, environment and the United Nations Convention against corruption", UNODC, February 2012; "Wildlife crime and corruption", U4 Expert answer operated by Transparency International, 2013 (available at http://www.transparency.org/files/content/corruptionqas/367_Wildlife_Crimes_and_Corruption.pdf); Lawson, K., and Vines, A. (2014) *Global impacts of the illegal wildlife trade: the costs of crime, insecurity and institutional erosion*. Chatham House, London (available at <https://www.chathamhouse.org/sites/files/chathamhouse/public/Research/Africa/0214Wildlife.pdf>); *The role of corruption in Wildlife and Forest Crime*, Environmental Investigation Agency, 2015 <https://drive.google.com/viewerng/viewer?url=https://eia-international.org/wp-content/uploads/The-Role-of-Corruption-in-Wildlife-Forest-Crime-FINAL.pdf>

payments to manipulate court decisions). In addition, corruption and weak regulatory frameworks may offer several opportunities to criminal organisations to launder the proceeds of crime.

4. Taking measures to prohibit, prevent, detect and counter corruption facilitating activities in contravention of the Convention is therefore an essential part of the effective fight against illegal trade in wildlife. It also is an important contribution to achieving the Sustainable Development Goals which contain dedicated targets both on illegal wildlife trade (15.7 Take urgent action to end poaching and trafficking of protected species of flora and fauna and address both demand and supply of illegal wildlife products) and on corruption (16.5 Substantially reduce corruption and bribery in all their forms).
5. Both at international and at regional level, a number of legally binding international agreements against corruption exist which require Parties to implement specific anti-corruption measures. At global level, notably the UN Convention Against Corruption (UNCAC) and the UN Convention against Transnational Organized Crime (UNTOC) contain relevant legal obligations. All these agreements are important general instruments which do, however, not take a sector-specific approach. In addition, not all CITES parties have ratified the Conventions. Therefore, it is important that Parties to CITES, as the key international convention regulating the trade in wildlife, themselves acknowledge the close relation between corruption and the illegal wildlife trade and express their commitment to prohibit, prevent, detect and counter corruption.
6. It is also important to stress the importance of measures regarding training of relevant authorities and the development of anti-corruption strategies regarding wildlife trade at national level, and to acknowledge the support provided in that regard by many organisations, including the partners of ICCWC.
7. The CITES Secretariat plays an essential part in bringing relevant cases to the attention of Parties concerned and, if necessary, the Standing Committee to allow the Committee to adopt appropriate measures in line with Resolution Conf. 14.3.

COMMENTS FROM THE SECRETARIAT

- A. The issue of corruption is also addressed in document CoP17 Doc. 25 on *Enforcement matters*. A number of CITES-listed species are high-value items targeted by organized crime groups, and it is becoming increasingly important for Parties to ensure that adequate measures are in place to prevent, identify and address corruption.
- B. The World Wildlife Crime Report² developed by the United Nations Office on Drugs and Crime (UNODC), with the support of the International Consortium on Combating Wildlife Crime (ICCWC), (see document CoP17 Doc. 14.2 on ICCWC), also emphasizes the importance of implementing measures to prevent and combat corruption.
- C. At SC66, the Standing Committee agreed to submit a draft decision to the present meeting, requesting the ICCWC, subject to external funding, to develop guidelines that could be used to promote adequate integrity policies, and assist Parties to mitigate the risks of corruption in the trade chain as it relates to CITES-listed specimens. This draft decision is presented in Annex 1 to document CoP17 Doc. 25 (see paragraph a) of draft decision 17.A).
- D. The Secretariat recommends that the Conference of the Parties adopt the draft resolution presented in the Annex to the present document, which will further strengthen the measures implemented by Parties to combat corruption. The draft resolution presented in the Annex to the present document will be complemented by the draft decisions presented in Annex 1 to document CoP17 Doc. 25.
- E. The tasks allocated to the Secretariat in paragraph 13 of the draft resolution can be accommodated within the regular work programme of the Secretariat.

² https://www.unodc.org/documents/data-and-analysis/wildlife/World_Wildlife_Crime_Report_2016_final.pdf

- F. The tasks allocated to the Standing Committee in paragraph 14 of the draft resolution might require time during its meetings. However, the Secretariat believes that the work can be accommodated within the regular work programme of the Committee.
- G. The draft resolution presented in the Annex to the present document could benefit from slight editorial changes. In particular, all acronyms should be first spelled in full.
- H. In addition, the Secretariat notes that the new CITES implementation report (formerly known as biennial report), available as Notification to the Parties No. 2016/006,³ asks Parties to report if they have legislative provisions that can be applied to investigate, prosecute and/or sentence CITES offences related to corruption and, in such cases, to advise on how many times such provisions were used during the reporting period. The Secretariat believes this information would be sufficient and recommends that paragraph 12 is deleted as it requests information that extends beyond what is requested in the new CITES implementation report. The Secretariat believes it might also be difficult to provide the additional information requested in paragraph 12 in practice and that this provision would further increase the reporting burden of the Parties.

³ <https://cites.org/sites/default/files/notif/E-Notif-2016-006.pdf>

DRAFT RESOLUTION OF THE CONFERENCE OF THE PARTIES

PROHIBITING, PREVENTING, DETECTING AND COUNTERING CORRUPTION
FACILITATING ACTIVITIES CONDUCTED IN VIOLATION OF THE CONVENTION

AWARE that corruption can play a significant role in facilitating activities conducted in violation of the Convention at all points of the trade chain, in source, transit and market countries;

ACKNOWLEDGING the high degree of involvement of organized criminal groups and networks in violations of the Convention and their frequent use of corrupt practices to facilitate wildlife crime and frustrate efforts to enforce laws against wildlife crime;

RECALLING UNGA resolution 70/1 adopting the outcome document of the UN Sustainable Development Summit, entitled "Transforming our World – the 2030 Agenda for Sustainable Development", which contains dedicated targets on taking urgent action to end poaching and wildlife trafficking (15.7) and on substantially reducing corruption and bribery in all their forms (16.5);

RECALLING FURTHER UNGA resolution 69/80 which calls upon Member States to prohibit, prevent and counter any form of corruption that facilitates illicit trafficking in wildlife and wildlife products and reaffirms that the United Nations Convention against Corruption (UNCAC) constitutes an effective tool and an important part of the legal framework for international cooperation in fighting illicit trafficking in endangered species of wild flora and fauna;

RECALLING that Articles II and VIII of the Convention require that Parties not trade in listed species other than in accordance with the Convention, take appropriate measures to enforce the provisions of the present Convention and to prohibit trade in specimens in violation thereof, including measures to penalize such trade;

RECALLING FURTHER Resolution Conf. 11.3 (Rev. CoP16) on Compliance and Enforcement and in particular recommendation c) under 'Regarding compliance, control and cooperation' that Parties that are not yet signatories to, or have not yet ratified, the UN Convention against Transnational Organized Crime and the UNCAC consider doing so;

RECOGNIZING that 15 of the 182 Parties to CITES are still not Parties to the UNCAC;

RECALLING that UNCAC and UNTOC require Parties to criminalize bribery and a number of related offences;

ACKNOWLEDGING that law enforcement efforts alone will not be sufficient to end corruption in the wildlife sector and NOTING in this context that Article 5 of UNCAC requires State parties to adopt effective, coordinated anti-corruption policies and that Article 7 of UNCAC requires States Parties to endeavour to adopt, maintain and strengthen civil service systems that promote adequate remuneration and education and training programmes which would enable civil servants to meet the requirements for proper performance of their public functions;

FURTHER NOTING that Article 12 of UNCAC recognizes the need to prevent the misuse of procedures regulating private entities, including procedures regarding licences granted by public authorities for commercial activities;

ADDITIONALLY NOTING that Article 13 of UNCAC recognizes the importance of promoting the active participation of individuals and groups outside the public sector in the prevention of and the fight against corruption and to raise public awareness regarding the existence, causes and gravity of and the threat posed by corruption;

NOTING that the CITES National Legislation Project encourages Parties to consider holding government officials responsible for violations of the Convention or relevant national law including considering making it an offence for an enforcement officer to accept any unauthorized personal payment or other form of personal compensation;

WELCOMING the efforts being made by many Parties to CITES, the UN system, intergovernmental organizations, such as INTERPOL, the World Bank, the WCO, the OECD and non-governmental organisations to prevent, detect and counter corruption;

WELCOMING the work of the International Consortium on Combating Wildlife Crime (ICWC) and noting that corruption is an issue specifically identified in the Letter of Understanding establishing the Consortium which also is addressed in the ICWC Wildlife and Forest Crime Analytical Toolkit;

RECALLING Resolution Conf. 14.3 on CITES compliance measures;

THE CONFERENCE OF THE PARTIES TO THE CONVENTION

1. STRESSES that failure to prohibit, prevent, and counter corruption which relates to the implementation or enforcement of CITES greatly undermines the effectiveness of the Convention;
2. URGES therefore all Parties to adopt measures to prohibit, prevent, detect and counter instances of corruption and ensure that any corrupt practices associated with the administration, regulation, implementation or enforcement of CITES are punishable as criminal offences with appropriate penalties under national legislation;
3. REITERATES its call to all Parties that have not yet ratified UNCAC and UNTOC to do so and URGES all Parties that are Parties to UNCAC and UNTOC to fully implement its provisions;
4. ENCOURAGES Parties, and especially CITES Management Authorities, to work closely with existing national anti-corruption commissions, and like bodies, law enforcement agencies, judicial authorities, as well as with relevant civil society organisations, in the design and implementation of integrity policies, which might also include deterrence initiatives, such as mission statements, codes of conduct and 'whistle-blower' schemes, taking into account the relevant provisions of the UNCAC;
5. ENCOURAGES all Parties to continue to build and maintain properly paid, trained and equipped CITES Authorities and authorities responsible for administration, regulation and enforcement of the Convention;
6. FURTHER ENCOURAGES Parties to ensure national enforcement agencies responsible for enforcement of CITES draw upon existing guidance and training materials, prepared by entities such as INTERPOL, the UN Office on Drugs and Crime, the UN Development Programme, the World Bank and the World Customs Organization, and to make use of capacity building opportunities offered by such entities in order to discourage any corrupt behaviour or practices on the part of their personnel;
7. URGES Parties to ensure that agencies responsible for the administration and regulation of CITES, particularly with regard to the issuance, inspection and endorsement of permits and certificates, and the inspection and clearance of shipments authorized by such documents, implement measures which aid in the deterrence and detection of corrupt practices;
8. FURTHER URGES Parties to pay particular attention to corruption associated with corporate gifting or accepting of CITES-listed species or products made from them and adopt zero tolerance policies towards such practices;
9. CALLS UPON Parties, and intergovernmental, international and national non-governmental organizations and the donor community, as appropriate, to provide, upon request, funds and expertise to enable anti-corruption measures, including provision of related training or materials, so as to ensure that all personnel responsible for administration, implementation and enforcement of the Convention are adequately trained, equipped and able to respond to corruption;
10. RECOMMENDS that the International Consortium on Combating Wildlife Crime continues to incorporate anti-corruption efforts into its activities, including those related to anti-money laundering and asset seizure and recovery;
11. RECOMMENDS FURTHER that regional and sub-regional Wildlife Enforcement Networks incorporate anti-corruption activities into their work plans and undertakings, if they have not already done so;

12. REQUESTS all Parties to report on activities they undertake to counter corruption as it relates to CITES implementation or enforcement, and on any instances of corruption they become aware of and respond to, in the implementation reports required to be submitted under Article VIII, paragraph 7 (b);
13. REQUESTS the Secretariat:
 - a) to continue to report credible allegations of corrupt practices, or the results of its own investigations that lead to credible suspicions of corruption, to the relevant national authorities and intergovernmental entities and
 - b) to include relevant information on such instances, and the outcome of investigations, in its report on enforcement matters to each Standing Committee meeting and each regular meeting of the Conference of the Parties, together with details of any anti-corruption activities the Secretariat has undertaken, along with its activities in implementation of Article XIII of the Convention;
14. REQUESTS the Standing Committee to take note of instances of corruption affecting the implementation or enforcement of the Convention and, where appropriate, make recommendations to the Parties concerned and to the Conference of the Parties on ways in which it may be combated more effectively, whilst also considering possible actions that the Committee itself might take under Resolution Conf. 14.3.