

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



Eighteenth meeting of the Conference of the Parties  
Colombo (Sri Lanka), 23 May – 3 June 2019

Interpretation and implementation matters

Regulation of trade

DUE DILIGENCE BY CITES PARTIES AND  
OBLIGATIONS OF IMPORTING COUNTRIES

1. This document has been submitted by the United States of America.\*

Background

2. Article II, paragraph 4, of the Convention states that the Parties shall not allow trade in specimens of species included in Appendices I, II and III except in accordance with the provisions of the Convention.
3. Additionally, Article VIII, paragraph 1, of the Convention provides that the Parties shall take appropriate measures to enforce the provisions of the Convention and to prohibit trade in specimens in violation thereof.
4. At its 17th meeting (CoP17; Johannesburg 2016), the Conference of the Parties adopted Decisions 17.65 to 17.68 as follows:

**17.65 Directed to Parties**

*Parties are encouraged to provide to the Secretariat with: any examples and relevant information regarding methodologies, practical tools, legislative information, forensic expertise and other resources used to monitor compliance with the Convention and to verify the legal acquisition of specimens of CITES-listed species to be exported in accordance with Article III, paragraph 2(b), Article IV, paragraph 2(b), and Article V, paragraph 2(a) of the Convention (referred to as a 'legal acquisition finding').*

**17.66 Directed to the Standing Committee**

*The Standing Committee shall, with the assistance of the Secretariat:*

- a) *consider whether a Compliance Assistance Programme (CAP) should be established to assist countries with difficulties in achieving compliance, including how such a CAP would be funded;*
- b) *consider further guidance for verifying the legal acquisition of specimens of CITES-listed species to be exported;*

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\* *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.*

- c) *provide guidance on verifying the legal acquisition of founder stock of captive-bred CITES listed species to be exported; and*
- d) *make appropriate recommendations for consideration at the 18th meeting of the Conference of the Parties.*

**17.67 Directed to the Secretariat**

*Subject to the availability of external funding, the Secretariat, in collaboration with other relevant institutions, cooperation agencies and potential donors, shall:*

- a) *organize an international workshop on guiding principles, methodologies, practical tools, information, forensic expertise, compliance risk assessments and other legal resources needed by Management Authorities to verify the legal acquisition of specimens of CITES-listed species to be exported; and*
- b) *prepare and submit for consideration by the Standing Committee, a proposal for further guidance for verifying the legal acquisition of specimens of CITES-listed species to be exported.*

**17.68 Directed to the Secretariat**

*The Secretariat shall assist the Standing Committee in the preparation of its findings and recommendations with regard to the implementation of Decision 17.66.*

5. As called for in Decision 17.67, the Secretariat organized a workshop on guidance for verifying the legal acquisition of specimens of CITES-listed species to be exported in June 2018, in Brussels, Belgium, which was attended by more than 80 participants representing 31 Parties from each of the six CITES regions, six IGOs, and more than ten NGOs and academic institutions. The Secretariat also organized side events on the topic at the 30th meeting of the Animals Committee (AC30; July 2018) and 24th meeting of the Plants Committee (PC24; July 2018). The work resulted in the development of a draft resolution that will be considered at the present meeting on guidance for verifying the legal acquisition of CITES specimens [(SC70 Sum. 12 (Rev. 1) pp. 5-6)].
6. During the workshop and subsequent discussions at the 70th meeting of the Standing Committee (SC70; October 2018), Parties also considered issues with regard to the obligations of importing countries in verifying the validity of CITES documents and ensuring due diligence in the clearance of CITES documents. Those considerations included ensuring that CITES documents contain all required information and have been issued by a designated Management Authority, and where questions arise concerning the authenticity of documents or whether any required CITES finding (e.g., legal acquisition finding, non-detriment finding, etc.) has been made, consult with the Management Authority of the exporting or re-exporting Party to determine the validity of the documents.
7. Although these are fundamental elements of the Convention, they are not part of the process of verifying legal acquisition of specimens prior to the granting of a CITES document. As such, we believe that they are more appropriately included in Resolution Conf. 11.3 (Rev. CoP17) on *Compliance and enforcement*.

Recommendations

8. The Conference of the Parties is invited to adopt the revisions to Resolution Conf. 11.3 (Rev. CoP17) on *Compliance and enforcement* related to obligations of importing Parties and due diligence, contained in Annex 1 to the present document. The United States also proposes a number of minor editorial changes to the Resolution, which are also shown in the document in the Annex.

COMMENTS OF THE SECRETARIAT

- A. The Secretariat welcomes the proposal to adopt recommendations with regard to the obligations of importing Parties in verifying the validity of CITES documents and ensuring due diligence in clearing them.

- B. The Secretariat notes that it had made similar proposals in its document on guidance on legal acquisition submitted for consideration by the Standing Committee at its 70th meeting. While the Secretariat recognizes that the issues do not strictly concern the obligation of the exporting Party to verify legal acquisition contained in Articles III, IV and V of the Convention, it is conscious of the shared responsibility of exporting and importing countries for ensuring that international trade is in accordance with the provisions of the Convention. Therefore, the Secretariat would support including the recommendations proposed in the present document, in the new draft resolution on *Legal acquisition findings* or in Resolution Conf. 11.3 (Rev. CoP17) on *Compliance and enforcement*.
- C. The Secretariat generally supports the proposed amendments. The recommendations will help importing States better meet their obligations in paragraph 4 of Article II of the Convention to “not allow trade in specimens of species included in Appendix I, II and III except in accordance with the provisions of the present Convention”. The proposed revised recommendations in paragraphs 1 and 2 reinforce the shared responsibility mentioned above.
- D. The Secretariat has the following specific comments to the proposed revised resolution contained in Annex 1 to the present document (in the order in which they occur):
- i) The Secretariat proposes to delete the first sub-heading of the operative part of the resolution (*Regarding compliance, control and cooperation*) to avoid having two sub-headings for the same section.
  - ii) Paragraph 2 a) contains references to “other CITES-required finding” as well as “other required CITES finding”, the Secretariat notes that this term is not used in the Convention or in other Resolutions. As legal acquisition and non-detriment finding are the two findings that are required for trade to be in accordance with the Convention, the Secretariat is uncertain what “CITES-required finding” refers to and would prefer to see the references and the text around them deleted. Alternatively, the Secretariat proposes to use the terminology “CITES requirement (s)” which is broader and could refer to other aspects of Articles III, IV and V, such as those related to transport of live specimens.
  - iii) Paragraph 2 a) v) proposes that “where possible, the Party should make use of the provisions of Article XIV, paragraph 1 (a), of the Convention to take stricter measures with regard to that transaction”. The Secretariat notes that if the transaction is not in conformity with the Convention, it should not be necessary to have to resort to stricter domestic measures, as the proposed import or re-export can be rejected based on the violation of the Convention itself. The Secretariat therefore considers that the provision referring to stricter domestic measures [paragraph 2 a) v)] is not necessary and suggests that it be deleted from the proposal. Further, the Secretariat understands that measures in paragraph 1 (a) of Article XIV refer to legislative provisions regarding the conditions for trade, taking, possession or transport of specimens of species included in Appendices I, II and III, or the complete prohibition thereof – not to measures taken with regard to a specific trade transaction. Therefore, should the Parties wish to maintain this provision, the Secretariat proposes to reword the provision as follows:
 

~~“v) where possible if needed, make use of any available stricter measures taken in accordance with the provisions of Article XIV, paragraph 1 (a), of the Convention to take stricter measures with regard reject the that transaction.”~~
  - iv) The Secretariat fully supports the proposed paragraph 2 b). If adopted, the Secretariat suggests that this be included in the draft resolution on *Designation and roles of Management Authorities* (see the annex to document CoP18 Doc. 38). This could for instance be done by adding a new paragraph in the *Section VI Regarding communication with the Secretariat and other Parties*, that could read as follows:
 

*“16 bis. AGREES that Management Authorities should be responsible for communication and cooperation on matters relating to the validity of CITES documents;”*
  - v) With regard to the proposed paragraph 4, the Secretariat believes that the proposed paragraphs 1 and 2, if adopted, make this paragraph redundant and therefore suggests that it be deleted from the proposal.
- E. With those amendments, the Secretariat supports the adoption of the proposals to amend Resolution Conf. 11.3 (Rev. CoP17) contained in Annex 1 to the present document.

- F. Finally, the Secretariat notes that the Resolution Conf. 11.3 (Rev. CoP17), which replaced former Resolutions Conf. 7.5 and Conf. 9.8 (Rev.), has evolved significantly and in a rather *ad hoc* manner since it was adopted at the 11th meeting of the Conference of the Parties. It has a very long preamble (probably the longest of all the Resolutions) and has become lengthy, covering a wide range of issues related to different aspects of control, coordination, compliance and enforcement. Time and human resources permitting, the Secretariat therefore intends to give the Resolution a closer look in the next intersessional period with the aim of restructuring it to ensure more effective implementation of the recommendations.

Proposed amendments to Resolution Conf. 11.3 (Rev. CoP17) on  
*Compliance and enforcement*

New text is underlined, deleted text is indicated by ~~strike-through~~. Text moved from one place to another in the Resolution is indicated by double underline and ~~double strike-through~~.

## Conf. 11.3 (Rev. CoP17~~8~~)\*

### Compliance and enforcement

RECALLING the provisions of Article II, paragraph 4, which states that the Parties shall not allow trade in specimens of species included in Appendices I, II and III except in accordance with the provisions of the present Convention;

RECALLING that Article VIII, paragraph 1, of the Convention provides that the Parties shall take appropriate measures to enforce the provisions of the Convention and to prohibit trade in specimens in violation thereof, and that these shall include measures to penalize trade in, or possession of, such specimens, or both; and to provide for the confiscation or return to the State of export of specimens illegally traded;

RECOGNIZING that the Preamble of the Convention states that international cooperation is essential for the protection of certain species of wild fauna and flora against over-exploitation through international trade;

AFFIRMING the obligation of Parties to collaborate closely in the application of the Convention, through expeditious exchange of information on cases and situations related to wildlife trade suspected to be fraudulent, so as to enable other Parties concerned to apply legal sanctions;

RECALLING Resolutions Conf. 6.3 and Conf. 7.5, adopted by the Conference of the Parties at its sixth and seventh meetings (Ottawa, 1987; Lausanne, 1989), Resolution Conf. 2.6 (Rev.), adopted at its second meeting (San José, 1979) and amended at its ninth meeting (Fort Lauderdale, 1994), Resolution Conf. 3.9 (Rev.), adopted at its third meeting (New Delhi, 1981) and amended at its ninth meeting, Resolution Conf. 6.4 (Rev.), adopted at its sixth meeting and amended at its ninth meeting, and Resolution Conf. 9.8 (Rev.), adopted at its ninth meeting and amended at its 10th meeting (Harare, 1997);

AWARE that, in the past, ~~several cases of~~ violation of the Convention ~~has~~ occurred because of inadequate or insufficient implementation by Management Authorities in both exporting and importing countries regarding surveillance, issuance of documentation and control of compliance with the provisions regulating trade in live and dead animal and plants, and their parts and derivatives;

CONSIDERING that it is of utmost moral, biological, ecological and economic interest for all Parties to the Convention that such violations not re-occur and that the mechanisms established for the Convention to this end are fully implemented, so as to ensure their normal and efficient functioning to control trade in, and afford effective protection to, endangered animal and plant species;

AWARE that there is considerable variability among Parties in their capacity to implement and enforce the provisions of the Convention;

RECOGNIZING that the developing countries, because of their special socio-economic, political,

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\* Amended at the 13th, 14th and 15th, 16th and 17th meetings of the Conference of the Parties.

cultural and geographic circumstances have major difficulties in meeting appropriate control requirements, even though this does not exempt them from observing the highest possible degree of effectiveness;

RECOGNIZING the ~~extreme~~ difficulties that all producer countries are facing in implementing their own CITES controls, and that such difficulties exacerbate enforcement problems in other Parties, while there are still consumer countries that continue ~~allowing~~ to allow illegal imports as a result of a lack of adequate CITES control;

~~RECOGNIZING that illegal exports from producing countries of specimens of species included in the Appendices cause serious damage to the valuable resources of wildlife, and reduce the effectiveness of their management programmes;~~

WELCOMING the establishment of the International Consortium on Combating Wildlife Crime (ICCWC);

AWARE of the important role of ICCWC in bringing coordinated support to the national wildlife law enforcement agencies and to the subregional and regional networks that, on a daily basis, act in defence of natural resources;

RECOGNIZING that the ICCWC *Wildlife and forest crime analytic toolkit* can assist Parties in conducting a comprehensive analysis of possible means and measures to protect and monitor wildlife and forest products, and in identifying technical assistance needs;

RECOGNIZING that the *ICCWC Indicator framework for wildlife and forest crime* provides an important framework of indicators that cover the major components of a law enforcement response to wildlife and forest crime, for national level use by Parties to measure and monitor the effectiveness of their own law enforcement responses to these crimes;

ATTENTIVE to the fact that the reservations made by importing countries allow loopholes through which specimens illegally acquired in the countries of origin can find legal markets without any control whatsoever;

OBSERVING that some importing countries that maintain reservations refuse to take into consideration the recommendations of the Conference of the Parties in Resolution Conf. 4.25 (Rev. CoP14), adopted at its fourth meeting (Gaborone, 1983) and amended at its 14th meeting (The Hague, 2007), weakening in that way the conservation policies of producing countries that wish to protect their wildlife resources;

RECOGNIZING that illegal trafficking in wild fauna and flora continues to be a major concern;

RECOGNIZING the rapid growth in e-commerce of specimens of CITES-listed species;

NOTING the conclusions and recommendations of the meeting on e-commerce of specimens of CITES-listed species in Vancouver (Canada) in February 2009;

CONSIDERING that the countries that import ~~these~~ illegally obtained ~~resources~~ specimens are directly responsible for encouraging illegal trade worldwide, and in this way the natural heritage of producing countries is damaged;

CONSIDERING that it is essential for the success of the Convention that all Parties implement and comply effectively with all the ~~regulations established by~~ requirements of the Convention;

CONVINCED that enforcement of the Convention must be a constant concern of the Parties at the highest level if they are to succeed in fulfilling the objectives of the Convention;

CONVINCED of the need to strengthen enforcement of the Convention to address serious problems caused by the ~~illegal~~ trafficking of wild fauna and flora, and that the available resources for enforcement are ~~negligible when compared to~~ overwhelmed by the profits gained from such trafficking;

~~RECALLING that Article VIII, paragraph 1, of the Convention provides that the Parties shall take~~

~~appropriate measures to enforce the provisions of the Convention and to prohibit trade in specimens in violation thereof, and that those shall include measures to provide for the confiscation or return to the States of export of specimens illegally traded;~~

~~RECOGNIZING that the Preamble of the Convention states that international cooperation is essential for the protection of certain species of wild fauna and flora against over-exploitation through international trade;~~

~~AFFIRMING the obligation of Parties to collaborate closely in the application of the Convention, through expeditious exchange of information on cases and situations related to wildlife trade suspected to be fraudulent, so as to enable other Parties concerned to apply legal sanctions;~~

WELCOMING the adoption of Resolution 2011/36 on *Crime prevention and criminal justice responses against illicit trafficking in endangered species of wild fauna and flora* by the United Nations Economic and Social Council in 2011, in which it expresses concern about the involvement of organized criminal groups in the trafficking of endangered species, recognizes the efforts made at the international level and the work of ICCWC, urges the Member States of the United Nations to strengthen international, regional and bilateral cooperation, and invites the member States of the United Nations to consider making trafficking in endangered species a serious crime;

WELCOMING the outcome document, *The Future We Want*, of the United Nations Conference on Sustainable Development (Rio de Janeiro, June 2012), in which it recognizes in paragraph 203 the important role of CITES, the economic, social and environmental impacts of illicit trafficking in wildlife and the need for firm, and strengthened action to be taken on both the supply and demand sides; and emphasizes the importance of effective international cooperation among relevant multilateral environmental agreements and international organizations;

WELCOMING the declaration entitled *Integrate to Grow, Innovate to Prosper* that the leaders of the Asia-Pacific Economic Cooperation (APEC) adopted in 2012 and where they "recognize that natural resources and the ecosystems upon which they depend are important foundations for sustainable economic growth"; "commit to strengthen [their] efforts to combat illegal trade in wildlife, timber, and associated products, to implement measures to ensure sustainable marine and forest ecosystems management, and to facilitate sustainable, open, and fair trade of non-timber forest products"; and commit to "take meaningful steps to promote sustainable management and conservation of wildlife populations while addressing both the illegal supply and demand for endangered and protected wildlife, through capacity building, cooperation, increased enforcement, and other mechanisms";

WELCOMING the Resolution on *Tackling illicit trafficking in wildlife* adopted by the United Nations General Assembly in July 2015, which reflects the heightened level of political concern over the devastating impacts of poaching and illegal trade in wildlife, and which, among others, calls for firm and strengthened national measures, and an enhanced regional and global response, including by strengthening legislation, providing for illegal trafficking in wildlife offences to be treated as predicate offences and taking steps to prohibit, prevent and counter corruption;

WELCOMING the Sustainable Development Goals adopted by the United Nations Sustainable Development Summit in September 2015, which call for the protection of wild fauna and flora as well as the ecosystems that they depend on, and specifically address tackling illegal trafficking in wildlife through specific Targets under Goal 15;

RECOGNIZING the contribution to enhancing enforcement of CITES made by the Lusaka Agreement on Cooperative Enforcement Operations Directed at Illegal Trade in Wild Fauna and Flora;

RECOGNIZING that the use of dogs in combination with other tools will increase the chance of detections and seizures; that detector dogs can detect items that cannot be detected by other tools; and that a dog-handler team is highly effective in searching people and cargo or luggage in a short time;

AWARE of the need for improved cooperation and coordination among CITES authorities and wildlife- law enforcement agencies at the national, regional and international levels;

CONSIDERING that Article XIII does not specify a time-limit for a Party to respond to a request for information from the Secretariat, and that such a deadline is necessary in order that the absence of response not be interpreted as a refusal to respond;

~~CONSIDERING that the use of certain terms to designate the parts and derivatives of wildlife may give rise to certain offences;~~

RECOGNIZING the important role the Secretariat can play in the enforcement process, and the means provided by Article XIII of the Convention;

CONSCIOUS of the Secretariat's role in promoting enforcement of the Convention, as provided in Article XIII, and of the measures that the Secretariat has taken with the International Criminal Police Organization (ICPO-INTERPOL) and the World Customs Organization to facilitate the exchange of information between enforcement bodies and for training purposes;

AGREEING on the need for additional measures to reduce further the illegal trade in species covered by the Convention;

ACKNOWLEDGING that, owing to such high levels of trade in wildlife, it is incumbent upon consumer nations together with producer countries to ensure that trade is legal and sustainable and that enforcement measures adopted and implemented by Parties support conservation in producer countries; and

RECOGNIZING that illegal trade in specimens of species included in the Appendices of the Convention can cause serious damage to wildlife resources, reduce the effectiveness of wildlife management programmes, undermine and threaten legal and sustainable trade particularly in the developing economies of many producing countries;

## THE CONFERENCE OF THE PARTIES TO THE CONVENTION

### ***Regarding compliance, control and cooperation***

#### **Obligations of importing countries: verifying the validity of CITES documents**

1. REMINDS all Parties of their obligation to verify the validity of CITES documents accompanying shipments of CITES-listed specimens, including at a minimum:
  - a) ensuring that all of the information listed in Annex 1, *Information that should be included in CITES permits and certificates*, to Resolution Conf. 12.3 (Rev. CoP17) is included on the document;
  - b) ensuring that they do not accept under any circumstances or pretext, export or re-export documents issued by any authority, irrespective of its hierarchical level, other than the Management Authority officially designated as competent by the exporting or re-exporting Party and duly notified to the Secretariat;
  - c) exercising due diligence when presented with a CITES permit or certificate, even if they believe it to have been issued by a competent authority, when they have a reason to believe that the specimens of CITES-listed species may not have been traded in accordance with the provisions of the Convention;

#### **Exercising due diligence**

2. RECOMMENDS that:
  - a) if the Management Authority of the State of import or re-export has reason to believe that specimens of CITES species are traded in contravention of the laws of any country involved in the transaction, or has reason to believe that the specimen accompanied by a CITES document may not have been traded in accordance with the provisions of the Convention (e.g., when they have reason to believe that the specimen may not have been legally acquired, that the required non-detriment finding may not have been made, or that any other CITES-required



finding may not have been made), it should:

- i) immediately consult with the Management Authority in the country whose laws were thought to have been violated and, to the extent possible, provide that Management Authority with copies of all documentation relating to the transaction;
  - ii) where there is uncertainty with regard to the legal acquisition, the required non-detriment finding, or other required CITES finding, request the basis for the relevant determination;
  - iii) if after consulting with the Management Authority of the relevant State, the Management Authority of the State of import or re-export has not received satisfying information including regarding the basis for the determination that the specimen was legally acquired, or the required non-detriment finding or other required CITES finding has not been made, it should not authorize the import or re-export of the specimen concerned and should not issue an import permit or a re-export certificate;
  - iv) if there is no satisfactory response, call upon the assistance of the Secretariat, in the context of its responsibilities in Article XIII of the Convention and Resolution Conf. 14.3; and
  - v) where possible, make use of the provisions of Article XIV, paragraph 1. a), of the Convention to take stricter measures with regard to that transaction; and
- b) to ensure effective cooperation between CITES Authorities of different Parties, Management Authorities should be responsive to inquiries and cooperate with the Management Authorities of other CITES Parties on matters relating to the validity of CITES documents;

4.3. URGES all Parties to strengthen, as soon as possible, the controls on trade in wildlife in the territories under their jurisdiction, and in particular controls on shipments from ~~producing~~ source countries, including neighbouring countries, and to ~~strictly verify the validity of documents originating from such countries with the respective Management Authorities; and~~

~~importing Parties in particular not accept under any circumstances or pretext, export or re-export documents issued by any authority, irrespective of its hierarchical level, other than the Management Authority officially designated as competent by the exporting or re-exporting Party and duly notified to the Secretariat;~~

- e) ~~if an importing country has reason to believe that specimens of an Appendix-II or -III species are traded in contravention of the laws of any country involved in the transaction, it:~~
  - i) ~~immediately inform the country whose laws were thought to have been violated and, to the extent possible, provide that country with copies of all documentation relating to the transaction; and~~
  - ii) ~~where possible, apply stricter domestic measures to that transaction as provided for in Article XIV of the Convention; and~~

#### ***Regarding trade in Appendix-II or -III species***

3.4. RECOMMENDS that, if any Party deems that an Appendix-II or -III has reason to believe that an Appendix-I or -II species is being traded by another Party in a manner detrimental to the survival of that species, it:

- a) consult directly with the appropriate Management Authority;
- b) in the case of an Appendix-II species if there is no satisfactory response, call upon the assistance of the Secretariat, in the context of its responsibilities in Article XIII of the Convention and Resolution Conf. 14.3 ~~on CITES compliance procedures;~~ and

- c) make use of the provisions of Article XIV, paragraph 1. a), of the Convention to take stricter measures as they see fit;

#### **Regarding application of Article XIII**

##### **4.5. RECOMMENDS** that:

- a) when, in application of Article XIII of the Convention and Resolution Conf. 14.3 ~~on CITES compliance procedures~~, the Secretariat requests information on a potential compliance matter, Parties reply within one month or, if this is impossible, ~~acknowledge within the month and indicate a date, even an approximate one, provide within the month an approximate date~~ by which they consider it will be possible to provide the information requested;
- b) when, within six months, the information requested has not been provided, Parties provide the Secretariat with justification of the reasons for which they have not been able to respond;
- c) if major compliance matters concerning particular Parties are brought to the attention of the Secretariat, the Secretariat, in consultation with the Chair of the Standing Committee and as expeditiously as possible, work with the Parties concerned to try to solve the matter and offer advice or technical assistance as required;
- d) if it does not appear a solution can be readily achieved, the Secretariat bring the matter to the attention of the Standing Committee, which may pursue the matter in direct contact with the Party concerned with a view to helping to find a solution; and
- e) the Secretariat keep the Parties informed as fully as possible, through Notifications to the Parties, of such compliance matters and of actions taken to solve them, and include such matters in its reports for meetings of the Standing Committee and the Conference of the Parties;

##### ~~2. RECOMMENDS~~ that:

###### ~~a) all Parties:~~

- ~~i) recognize the seriousness of illegal trade in wild fauna and flora and identify it as a matter of high priority for their national law enforcement agencies;~~
- ~~ii) if appropriate, consider formulating national and regional action plans, incorporating timetables, targets and provisions for funding, designed to enhance enforcement of CITES, achieve compliance with its provisions, and support wildlife law enforcement agencies;~~
- ~~iii) provide officials who have wildlife law enforcement responsibilities with equivalent training, status and authority to those of their counterparts in Customs and the police;~~
- ~~iv) ensure strict compliance and control in respect of all mechanisms and provisions of the Convention relating to the regulation of trade in animal and plant species listed in Appendix II, and of all provisions ensuring protection against illegal traffic for the species included in the Appendices;~~
- ~~v) in case of violation of the above mentioned provisions, immediately take appropriate measures pursuant to Article VIII, paragraph 1, of the Convention in order to penalize such violation and to take appropriate remedial action; and~~
- ~~vi) inform each other of all circumstances and facts likely to be relevant to illegal traffic and also of control measures, with the aim of eradicating such traffic;~~

###### ~~b) Parties should advocate sanctions for infringements that are appropriate to their~~

nature and gravity;

- ~~e) Parties that are not yet signatories to, or have not yet ratified, the UN Convention against Transnational Organized Crime and the UN Convention against Corruption consider doing so;~~
- ~~d) importing Parties in particular not accept under any circumstances or pretext, export or re-export documents issued by any authority, irrespective of its hierarchical level, other than the Management Authority officially designated as competent by the exporting or re-exporting Party and duly notified to the Secretariat;~~
- ~~e) if an importing country has reason to believe that specimens of an Appendix II or -III species are traded in contravention of the laws of any country involved in the transaction, it:
  - ~~i) immediately inform the country whose laws were thought to have been violated and, to the extent possible, provide that country with copies of all documentation relating to the transaction; and~~
  - ~~ii) where possible, apply stricter domestic measures to that transaction as provided for in Article XIV of the Convention; and~~~~
- ~~f) Parties remind their diplomatic missions, their delegates on mission in foreign countries and  
their troops serving under the flag of the United Nations that they are not exempted from the  
provisions of the Convention;~~

#### ***Regarding trade in Appendix II or -III species***

- ~~3. RECOMMENDS that, if any Party deems that an Appendix II or -III species is being traded by another Party in a manner detrimental to the survival of that species, it:~~
- ~~a. consult directly with the appropriate Management Authority;~~
  - ~~b. in the case of an Appendix II species, if there is no satisfactory response, call upon the assistance of the Secretariat, in the context of its responsibilities in Article XIII of the Convention and Resolution Conf. 14.3 on *CITES compliance procedures*; and~~
  - ~~c. make use of the provisions of Article XIV, paragraph 1. a), of the Convention to take stricter measures as they see fit;~~

#### ***Regarding application of Article XIII***

- ~~4. RECOMMENDS that:~~
- ~~a. when, in application of Article XIII of the Convention and Resolution Conf. 14.3 on *CITES compliance procedures*, the Secretariat requests information on a potential compliance matter, Parties reply within one month or, if this is impossible, acknowledge within the month and indicate a date, even an approximate one, by which they consider it will be possible to provide the information requested;~~
  - ~~b. when, within six months, the information requested has not been provided, Parties provide the Secretariat with justification of the reasons for which they have not been able to respond;~~
  - ~~c. if major compliance matters concerning particular Parties are brought to the attention of the Secretariat, the Secretariat, in consultation with the Chair of the Standing Committee and as expeditiously as possible, work with the Parties concerned to try to solve the matter and offer advice or technical assistance as required;~~
  - ~~d. if it does not appear a solution can be readily achieved, the Secretariat bring the matter~~

~~to the attention of the Standing Committee, which may pursue the matter in direct contact with the Party concerned with a view to helping to find a solution; and~~

- ~~e. the Secretariat keep the Parties informed as fully as possible, through Notifications to the Parties, of such compliance matters and of actions taken to solve them, and include such matters in its reports for meetings of the Standing Committee and the Conference of the Parties;~~

### **Regarding enforcement activities of the Secretariat**

~~5.6.~~ URGES the Parties, intergovernmental and non-governmental organizations to provide additional financial support for the enforcement of the Convention, by providing funds for the enforcement assistance work of the Secretariat;

~~6.7.~~ DIRECTS the Secretariat to utilize such funds towards the following priorities:

- a) the appointment of additional officers to the Secretariat to work on enforcement-related matters;
- b) assistance in the development and implementation of regional and subregional law-enforcement agreements; and
- c) training and technical assistance to the Parties;

~~7.8.~~ URGES the Parties to offer secondment of enforcement officers to assist the Secretariat in addressing law-enforcement issues; and

~~8.9.~~ DIRECTS the Secretariat to:

- a) pursue closer international liaison between the Convention's institutions, regional and subregional wildlife enforcement networks and national enforcement agencies, and to work in close cooperation with ICPO-INTERPOL, the United Nations Office on Drugs and Crime, the World Bank and the World Customs Organization as ICCWC partner organizations;
- b) submit a report on activities that have been conducted under the auspices of ICCWC at each Standing Committee meeting and each regular meeting of the Conference of the Parties and consult with the Standing Committee on the development of the ICCWC Programme of Work to ensure CITES Parties' needs are adequately addressed; and
- c) maintain the dedicated portal on ICCWC, in the official languages of the Convention, on the CITES website to enable Parties to identify the opportunities and support available through ICCWC;

### **Regarding communication of information and coordination**

~~9.10.~~ RECOMMENDS that:

- a) Management Authorities coordinate with governmental agencies responsible for enforcement of CITES, including Customs and the police, and, where appropriate, sectoral non-governmental organizations, by arranging training activities and joint meetings, and facilitating the exchange of information;
- b) Parties establish inter-agency committees at the national level, bringing together Management Authorities and governmental agencies responsible for the enforcement of CITES, including Customs and the police;
- c) Parties, as a matter of urgency, inform the Secretariat of contact details of their relevant national law-enforcement agencies responsible for investigating illegal trafficking in wild fauna and flora;

- d) Parties, when informed by the Secretariat of the fraudulent use of documents issued by them, carry out an inquiry to identify the instigators of the crime, calling on ICPO-INTERPOL where necessary;
- e) when presented with a false document, Parties do everything in their power to determine where the specimens are and where the false document originated and inform the Secretariat and other Parties involved where appropriate;
- f) Parties work together within their regions to develop appropriate mechanisms for cooperation and coordination between wildlife-law enforcement agencies at the regional level;
- g) Parties strengthen cooperation relating to enforcement measures implemented across range, transit and destination States to address illegal wildlife trade;
- h) the Secretariat, in consultation with the Standing Committee, establish *ad hoc* CITES enforcement task forces as needed focusing initially on species included in Appendix I;
- i) Parties that have not already done so consider nominating officials from relevant national enforcement and prosecuting agencies to participate in the ICPO-INTERPOL Wildlife Crime Working Group;
- j) Parties with existing detector-dog programmes share knowledge and experience with those Parties that may be interested in developing and implementing such programmes;
- k) Parties provide to the Secretariat, as appropriate, and in a manner that would not jeopardize any ongoing investigations or expose covert investigative techniques, detailed information regarding significant cases of illegal trade;
- l) Parties report on illegal wildlife trade under the reporting requirements agreed;
- m) Parties inform the Secretariat, when possible, about convicted illegal traders and persistent offenders;
- n) Parties put in place, or further enhance, national measures and communication channels to ensure that the required level of real-time support can be provided to park rangers, and other wildlife and enforcement personnel who are confronted by heavily armed groups and exposed to serious risk of attack; and
- o) Parties raise awareness amongst military personnel, to sensitize them to the negative consequences of poaching and consumption of illegal wildlife products; and

~~10.11.~~ DIRECTS the Secretariat to communicate quickly to the Parties information received in accordance with subparagraphs 9 k) and m) above;

***Regarding e-commerce of specimens of CITES-listed species***

~~44.12.~~ RECOMMENDS that Parties:

- a) evaluate or develop their domestic measures to ensure that they are sufficient to address the challenges of controlling legal wildlife trade, investigating illegal wildlife trade and punishing the perpetrators, giving high priority to the offer for sale of specimens of species listed in Appendix I;
- b) establish, at the national level, a unit dedicated to investigating wildlife crime linked to the Internet or incorporate wildlife trade issues into existing units that investigate or monitor computer or cyber-crime; and

- c) establish at the national level a mechanism to coordinate the monitoring of Internet-related wildlife trade and to provide for the timely sharing between designated contact points in CITES Management and Enforcement Authorities of information that results from these activities; and

42-13. RECOMMENDS further that Parties and ICPO-INTERPOL:

- a) submit information to the Secretariat on methodologies used by other agencies that may assist in the evaluation of mechanisms to regulate legal commerce of CITES-listed species via the Internet;
- b) ensure that sufficient resources are directed to the investigation and targeting of illegal Internet-related trade in specimens of CITES-listed species;
- c) use the data acquired during monitoring activities to establish strategies regarding enforcement, capacity building and public awareness; and
- d) consider ways in which funding may be provided for the establishment of a full-time position, dedicated to e-commerce aspects of wildlife crime, within the General Secretariat of ICPO- INTERPOL. The responsibilities of such a position should include ensuring that all information or intelligence regarding e-commerce is consistently collected and disseminated to the relevant Enforcement Authorities designated by Parties;

**Regarding compliance, and control mechanisms and cooperation**

14. RECOMMENDS that:

- a) all Parties:
  - i) recognize the seriousness of illegal trade in wild fauna and flora and identify it as a matter of high priority for their national law enforcement agencies;
  - ii) if appropriate, consider formulating national and regional action plans, incorporating timetables, targets and provisions for funding, designed to enhance enforcement of CITES, achieve compliance with its provisions, and support wildlife-law enforcement agencies;
  - iii) provide officials who have wildlife-law enforcement responsibilities with training, status and authority equivalent to those of their counterparts in Customs and the police;
  - iv) ensure strict compliance and control with respect to all mechanisms and provisions of the Convention relating to the regulation of trade in animal and plant species listed in Appendix II, and of all provisions ensuring protection against illegal traffic for the species included in the Appendices;
  - v) in case of violation of the above-mentioned provisions, immediately take appropriate measures pursuant to Article VIII, paragraph 1, of the Convention in order to penalize such violation and to take appropriate remedial action; and
  - vi) inform each other of all circumstances and facts likely to be relevant to illegal traffic and also of control measures, with the aim of eradicating such traffic;
- b) Parties should advocate sanctions for infringements that are appropriate to their nature and gravity;
- c) Parties that are not yet signatories to, or have not yet ratified, the UN Convention against Transnational Organized Crime and the UN Convention against Corruption consider doing so;

- d) f) Parties remind their diplomatic missions, their delegates on mission in foreign countries and their troops serving under the flag of the United Nations that they are not exempted from the provisions of the Convention:

**Regarding additional actions to promote enforcement**

~~13-15.~~ RECOMMENDS further that the Parties:

- a) take the necessary measures to develop a comprehensive strategy for border controls, audits and investigations, by:
- i. taking into account the different procedures for Customs clearance of goods and Customs procedures such as transit, temporary admission, warehouse storage, etc.;
  - ii. ensuring that officers in charge of control are aware of and trained in CITES matters regarding, for example, CITES requirements, identification of specimens and the handling of live animals;
  - iii. implementing document control in order to ensure the authenticity and validity of CITES permits and certificates, especially, if necessary, by requesting the Secretariat to confirm their validity;
  - iv. conducting physical examinations of goods, based on a policy of risk assessment and targeting;
  - v. using wildlife detector dogs and scanning equipment as appropriate, in support of the detection of illegal wildlife shipments;
  - vi. increasing the quality of controls at the time of export and re-export; and
  - vii. providing the necessary resources in order to achieve these objectives;
- b) encourage national agencies responsible for wildlife law enforcement to establish informer networks, or expand existing networks, to combat organized wildlife crime, in accordance with relevant legislation regulating such matters, including putting in place or maintaining strict procedures for managing covert human intelligence sources;
- c) affected by significant poaching of CITES specimens, or that have made a large-scale seizure of such specimens, reach out to the Secretariat to request the deployment of a Wildlife Incident Support Team (WIST), should expert support be needed in the immediate aftermath of such an incident;
- d) promote and increase the use of wildlife forensic technology and specialized investigation techniques, such as controlled deliveries, in the investigation of wildlife crime offences;
- e) review and amend national legislation, as necessary and appropriate, so that offences connected to the illegal wildlife trade are treated as predicate offences, as defined in the United Nations Convention against Transnational Organized Crime, for the purposes of domestic money-laundering offences, and are actionable under domestic proceeds of crime legislation;
- f) implement national legislation to combat money laundering and facilitate asset forfeiture to ensure that criminals do not benefit from the proceeds of their crimes, stressing that effective prosecutions against money laundering linked to wildlife trafficking benefit from bringing together wildlife trade and money laundering expertise, including from financial intelligence units, as appropriate;
- g) make illicit trafficking in protected species of wild fauna and flora involving organized criminal groups a serious crime, in accordance with their national legislation and Article 2 (b) of the United Nations Convention against Transnational Organized

Crime;

- h) prosecute those involved in wildlife crime, in particular those identified as members of organized crime groups, under a combination of relevant legislation which carry appropriate penalties that will act as effective deterrents, whenever possible;
- i) make use of the different tools available through ICCWC, in particular the *ICCWC Wildlife and Forest Crime Analytic Toolkit* and the *ICCWC Indicator Framework for Wildlife and Forest Crime*, in order to strengthen enforcement-related aspects of the implementation of the Convention;
- j) whenever appropriate and possible, liaise closely with CITES Management Authorities and law enforcement agencies in consumer, source and transit countries to help investigate, detect, deter and prevent illicit trade in wildlife through the exchange of intelligence, technical advice and support;
- k) promote incentives to secure the support and cooperation of local and rural communities in managing wildlife resources and thereby combating illegal trade;
- l) where appropriate, evaluate and utilize for enforcement purposes, information from non-governmental sources while maintaining standards of confidentiality;
- m) consider the formation, at national level, of specialized wildlife-law enforcement units or teams;
- n) use the CITES Virtual College, which provides access to courses and training materials to build enforcement capacity;
- o) explore innovative means of increasing and improving national enforcement capacity;
- p) as appropriate, initiate intelligence-driven operations, and participate in the operations initiated at international level by organizations such as INTERPOL and the World Customs Organization, to mobilize resources and initiate targeted activities to combat wildlife crime; and
- q) carry out focused national and regional capacity-building activities with particular focus on fostering inter-agency cooperation and improving knowledge of legislation; species identification; risk analysis and investigation of criminal actions;

~~44-16.~~ DIRECTS the Secretariat to, subject to available resources:

- a. analyse, in collaboration with ICCWC partners, the annual reports on illegal wildlife trade;
- b. share with Parties information relating to the analysis to support further enforcement activities; and
- c. submit a report at each meeting of the Standing Committee and the Conference of Parties based on the analysis and other relevant information available through ICCWC partners;

~~45-17.~~ URGES the Parties and the donor community to provide financial support to ICCWC, to ensure that the Consortium can achieve its goals of bringing coordinated support to national wildlife law enforcement agencies and to subregional and regional networks, and of delivering capacity-building activities;

~~46-18.~~ URGES the Parties, intergovernmental and non-governmental organizations to provide, as a matter of urgency, funds and expertise to enable enforcement-related training or the provision of training materials, focusing, preferably on a regional or subregional basis, on developing countries and countries with economies in transition and range States affected by illegal wildlife trade, and provide funds to ensure that wildlife-law enforcement personnel in such countries are adequately trained and equipped;



~~17-19.~~ ENCOURAGES Parties to give priority to the enforcement of CITES and prosecution of violations of the Convention;

~~18-20.~~ ENCOURAGES States to offer rewards for information on illegal hunting and trafficking of specimens of Appendix-I species leading to the arrest and conviction of the offenders;

~~19-21.~~ URGES ICPO-INTERPOL to support the attendance of a representative from its Wildlife Crime Working Group at meetings of the Conference of the Parties to CITES;

~~20-22.~~ INSTRUCTS the Secretariat to:

a) cooperate with ICCWC partner organizations, regional and subregional wildlife enforcement networks, and competent national authorities to:

- i. prepare and distribute appropriate training material; and
- ii. facilitate the exchange of technical information between the authorities in charge of border controls; and

b) submit a report on enforcement matters at each Standing Committee meeting and each regular meeting of the Conference of the Parties; and

~~24-23.~~ REPEALS the Resolutions or parts thereof listed hereunder:

a) Resolution Conf. 2.6 (Rev.) (San José, 1979, as amended at Fort Lauderdale, 1994) – *Trade in Appendix-II and -III species* – paragraph b) and paragraph under 'REQUESTS';

b) Resolution Conf. 3.9 (Rev.) (New Delhi, 1981, as amended at Fort Lauderdale, 1994) – *International compliance control*;

c) Resolution Conf. 6.3 (Ottawa, 1987) – *The Implementation of CITES*;

d) Resolution Conf. 6.4 (Rev.) (Ottawa, 1987, as amended at Fort Lauderdale, 1994) – *Controls on illegal trade*;

e) Resolution Conf. 7.5 (Lausanne, 1989) – *Enforcement*; and

f) Resolution Conf. 9.8 (Rev.) (Fort Lauderdale, 1994, as amended at Harare, 1997) – *Enforcement*.

NO CHANGES PROPOSED TO THE ANNEXES TO THE RESOLUTION

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

According to 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 decided 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 authors of this document propose the following tentative budget and source of funding.

The authors do not believe that the proposed amendments to Resolution Conf. 11.3 (Rev. CoP17) proposed in this document will have any additional budgetary or workload implications for the Secretariat.