

**Draft Summary of Conclusions of the  
21<sup>st</sup> MEETING OF THE COMMITTEE ON TRADE IN WILD  
FAUNA AND FLORA**

**Brussels, 28 September 2001**

**1. Adoption of the agenda**

The agenda was adopted with three additional items for discussion under AOB.

**2. Adoption of the summary of conclusions of Committee 20. SocCOM20 and the translated version of SocCOM19.**

The summary of conclusions of the 19<sup>th</sup> meeting was adopted.

The representative of the UK suggested a new wording for Section 3 on training activities in SocCom20. The text will be amended and the translation will be submitted to the Committee for adoption at the next meeting.

**3. Outstanding Action Points**

- The Commission explained the direct link between the action on the implementation of Art. 9.4 and the tender regarding the publicity initiative for EU wildlife trade regulations.

**4. Vote on Suspensions Regulation 191/2001.**

The Commission said that in all language versions, except the English one, *Strix woodfordii*, Source: W, Country of origin: Guinea, had to be added on page 11. *Geochelone pardalis* and *Mantella aurantitaca* had been deleted from the Suspension Regulation because the CITES Standing Committee was of the opinion that trade in these species should be allowed. However, the SRG negative opinion remained.

The representative of the UK pointed out that the negative opinion on *Balearica regulorum* from Tanzania had been changed into a positive opinion. The Commission promised to check and to correct the mistake.

The Suspensions Regulation 191/2001 was approved by unanimity. All Member States except Portugal were present at the meeting.

**5. Preparation for CITES CoP12 (Santiago de Chile, November 2002).**

- Legal Service interpretation of possibilities for Member States to make proposals; continuation of discussion held at the 20<sup>th</sup> Committee meeting.

The representative of the Commission pointed out a mistake in document COM 20/9/1(Revised): It should read “at least **190** days before the CoP” instead of 150 days.

The representative of Germany expressed support for the proposed procedure and asked if the proposals, which should be discussed in the Committee, would be translated by the Commission. He also stressed that discussions should be held as early as possible.

The Chairman replied that the procedure was supposed to be informal and that translations were therefore not needed.

The representative of Spain expressed agreement with the proposed Modus operandi but mentioned that the ruling by the Court of Justice with regard to the legal basis for Community action in environmental activities with trade-related aspects had to be awaited.

The representative of the UK said that they were broadly supportive to the proposal but wanted to know if the EC had sole competence in this area and whether or not the decisions were binding for all Parties.

The Chairman explained that the decisions were binding because of the EC Treaty itself. The representative of the Legal Service added that there was no doubt about the EC’s exclusive competence, but only about the legal basis for Community competence for certain conventions regulating trade such as the Biosafety Protocol or CITES. This was the only question awaiting the ruling of the Court of Justice. In any case, the competence of the Community should be deemed exclusive, either because it is based on Article 133 of the Treaty or because, in this particular field, the Community institutions have already adopted common rules on the basis of Article 175, namely Regulation 338/97 (the so-called AETR doctrine). She also underlined that the proposed Modus operandi was a ‘light’ procedure, which did not require the implication of the Council and could therefore operate within the CITES Management Committee.

The Chairman concluded that the Committee agreed to the Modus operandi.

- Issues which the EU could raise for discussion at CoP12.

*Notification to the Parties N° 2001/37 (Revision of the listing criteria)*

Several Member States expressed their concern about the fact that the initial spirit of the Resolution had changed and that fundamental principles, such as the precautionary principle, were being changed. It was agreed that Member States should send their comments on technical questions to the Secretariat and that Belgium as the EU-Presidency would send a general note stating the concern before the deadline of 15 October. A draft of this note would be circulated to Member States for comments.

The representative of the Commission reported about a meeting of the FAO in Namibia on 22 October, where the listing criteria would also be discussed. A representative of DG FISH said that there would be a discussion at the External Fisheries Group meeting on 5 October and that the Commission would take note of Member States' attitudes. A common position would be taken before the Namibia meeting.

The representative of the Commission emphasized the need for co-ordination with the Fisheries Ministries in Member States and for taking a pro-active approach at the next CoP.

#### Labelling of caviar re-exports

The Commission asked whether Member States wanted to wait for a suggestion by Russia and Iran or whether they would prefer to draft something themselves.

The representative of Germany pleaded for a careful approach and said that nothing should be done with regard to labelling re-exports before the question of labelling in the countries of origin was not solved.

The representative of France agreed with Germany and added that the Working Group on caviar would discuss the draft amendment on labelling at their next meeting in Geneva.

#### Tissue samples

The representative of the UK reported that the US were apparently willing to discuss a bilateral agreement which would also include Switzerland. He said that one possibility of solving the problem would be to introduce some kind of labelling scheme and offered to circulate a paper to the Committee which was currently being prepared.

The representative of Germany noted that the areas which are not relevant for species protection should be identified. Two possible solutions to the problem were exempting tissue samples from provisions by introducing footnotes or an easier procedure for obtaining permits. He expressed his willingness to continue participating in a working group dealing with the subject.

The Commission concluded that the paper to be prepared by the UK with Germany's input could be discussed at the next meeting.

#### Retrospective issue of permits

The representative of the UK said that he would collaborate with other Member States in preparing a paper on the basis of an amended text of Res. Conf. 10.2 Rev., permitting retrospective issuance of permits in wider circumstances. To be discussed at the next meeting.

### Use of purpose codes

Referring to recent discussions whether or not purpose codes on import and export permits should be the same, the representative of the Commission offered to write to the Secretariat to ask for their position.

An internal problem was the use of the source code 'D'. The Commission said that they would look into this.

### Revision of Res. Conf. 8.2

The representative of the Commission pointed out that this Resolution was no longer appropriate given that Ireland was in the process of ratifying the Convention and that the Regulations adopted in 1997 had successfully addressed the problematic issues.

The representative of Germany expressed support for the repeal and suggested that TRAFFIC Europe could work on a new document.

### Application of the guidelines for "appropriate and acceptable" destinations in °604 into °606

The representative of Germany said that this was not a problem for the CoP. He suggested to contact the CITES Secretariat regarding a possible change of the footnote in the Resolution, which in turn would make a change in the EC Regulation possible.

The Commission made the general point that enforcement authorities should be involved in preparing proposals for the next CoP at an early stage.

## **6. Progress on biennial Report 1999/2000 and Annual Report 2000**

The biennial reports from six countries were still outstanding. Submission is expected at the following dates:

Belgium:	end of October
Denmark:	no precise date given, as soon as possible
Finland:	first week of October
Greece:	end of October
Italy:	no precise date given, very soon
Luxembourg:	end of October
Portugal:	not present

The Commission congratulated Member States on the best performance ever in meeting deadlines for reports and urged the above countries to submit the report by the end of October.

## **7. Evaluation of Wildlife Trade in Pre-Accession Countries (presentation by TRAFFIC Europe)**

A representative of TRAFFIC Europe presented a project carried out for the European Commission on the evaluation of wildlife trade in the candidate countries. In the framework of this project, TRAFFIC had examined aspects such as legislation, enforcement, legal and illegal trade in the relevant countries. A complete report and a single fact sheet for each country are in preparation.

The representative of the Commission added that the results of the study should be helpful in assessing both training needs and enforcement risks in candidate countries.

#### **8. Stricter controls on certain sensitive species**

Referring to the paper prepared by the UK, the representative of Germany questioned the interpretation of Article 20.1 of Regulation 1808/2001 (point 5 of document COM). He agreed in principle but said that in Germany it would not be possible to refuse the issue of permits on the basis of this Article.

The representative of the Netherlands said that they followed more or less the same approach than the UK.

The representative of the Commission suggested to submit the question of stricter measures to the SRG in the first place, to consult the Legal Service if necessary and to look at the interplay between Articles 4, 5 and 8 of Regulation 939/97.

#### **9. Regulation of the trade in ecological threat species**

The discussion paper prepared by the UK gave rise to a number of comments by Member States, which highlighted the importance and urgency of the problem.

The representative of Germany said that the matter should be taken up by the SRG and opposed the inclusion of further ecological threat species in the annexes. In his opinion, the problem can be better solved by national law.

The representative of the Commission underlined the need for a holistic approach, including the questions of import, holding and movement and eradication. He recalled the guiding principles by the CBD as a model for action and pleaded for a careful approach, which should take into account the results of a study to be placed by the Commission very soon.

#### **10. Any other business**

##### ***Forensic genetics project***

The representative of Italy reminded the Committee of the Workshop on forensic genetics which was initially scheduled for October this year and which was now probably going to take place in spring 2002. The project will

be presented at the next Enforcement Working Group meeting on 19 December.

Update on charges for permits and certificates under Reg. 338/97

The Commission reported that at the last meeting of the European Regional Plants meeting in Turkey, some non-EU countries had requested information on prices for permits and certificates in the EU. Therefore, Member States were asked to update the table which had been circulated to them.

MS to inform COM about any events regarding wildlife trade organised at national level

The representative of the Commission asked Member States for information about any events regarding wildlife trade, such as seminar and conferences, which were organised in their countries and which were likely to be of interest to others. This information could then be circulated.

The representative of Germany informed the Committee about an "International Expert Workshop on the Enforcement of Wildlife Trade Controls in the EU", which will take place on 5-6 November 2001 in Frankfurt/Main, Germany.

Report on the outcome of the meetings of the Standing Committee, Animals and Plants Committee

The representative of the Commission reported on the CITES Animals Committee and the meeting of the Standing Committee. The latter had mainly dealt with significant trade and caviar.

The representative of France reported on the results of the Plants Committee.

The representative of Belgium reported that his government had approved a financial contribution to the MIKE programme.

Article 10 certificates where specimens have not been marked in accordance with the Regulations

The representative of the UK outlined the common practice in all Member States to issue a specimen-specific certificate only when it is possible to identify the specimen. He added that a certificate should not be issued if the specimen was not marked, even if the marking was not required by the Regulation.

The representative of the Commission asked Member States to send a copy if a certificate that requires marking does not meet the requirements of the Regulations. Regarding the second remark by the UK representative, the representative of the Commission said that they would look into the legitimacy of the matter.

### Lack of Appendix III reservations by Portugal and Austria

The representative of Austria confirmed that the reservations had been made in the meantime. Portugal had informed the Commission in writing that they had taken the necessary steps.

### Implementation of Res. Conf. 10.20

The Commission reported that the Secretariat had been informed of the impossibility to implement the Resolution at Community level due to the definition of “personal effects”. The Commission had tried to solve the problem with a bilateral agreement but this had also proved to be extremely complicated. The Legal Service confirmed that a better solution would be to change the text of Regulation 338/97.

### Use of subspecies names on permits and certificates

The representative of the UK raised the issue of recording subspecies even if they were not in the Standard Nomenclature.

The representative of the Commission commented that CITES was concerned with species and that the names of subspecies did not alter the species concerned.

### Marking requirements for containers containing caviar (Art. 34(2) g) and h) Regulation (EC) N° 1808/2001

The majority of Member States had a problem with implementing Article 34(2) g) and h) from the time of entry into force of the new Regulation. It was agreed that the Commission would write to the Russian Federation and Iran drawing attention to the provisions of Regulation 1808/2001.

The matter will be discussed again at the next Committee meeting.

### Article 10 certificates issued before EC Regulation N° 1808/2001 has come into force

The representative of Germany wanted to know if Article 10 certificates which were issued before the entry into force of the new Regulation would remain valid. The following discussion revealed differing views on the subject; therefore, the Commission promised to reflect on the issue and come back to the Committee in writing.

### Exchange of scientific material within the Community

The representative of Germany raised the issue of exchange of scientific material between non-registered scientific institutions. Whereas registered institutions could use labels, there were no provisions for non-registered

institutions and the question was whether in this case the “exchange” would not have to be regarded as “sale” according to the definition in Regulation 338/97.

The Commission asked the other Member States to comment on this problem in writing. Following receipt of these comments, the Commission would make a recommendation.

*Bilateral agreement with Switzerland*

The opinion of the Legal Service will be communicated to the Committee members in due course.

*European Directive on the acceptance of electronic signatures*

The representative of the Commission undertook to examine whether or not there were exceptions regarding the implementation of this Directive.

*Responsible authority in Taiwan*

The Danish delegation asked if Taiwanese ‘CITES’ documentation could be accepted. The Commission agreed to write to Denmark when advice from the External Relations Directorate General was to hand.

*Reference Guide on EU wildlife trade regulations*

Following a question by Belgium, the Commission explained that TRAFFIC had updated the English version of the Reference Guide and that only minor amendments were needed. The version would be put on the Europa website in due course. Regarding the other language versions, more time was needed given that they had to be sent to the Translation service first.

The representative of Germany suggested that a Working Group, operating in the framework of the Enforcement Group, which could discuss an easier-to-understand version of the Reference Guide.