

## Short Summary of Conclusions of the

### 32<sup>nd</sup> MEETING OF THE COMMITTEE ON TRADE IN WILD FAUNA AND FLORA

*Brussels, 14<sup>th</sup> December 2004*

- 1) The agenda was adopted with four additional items to be mentioned under point 12) Any Other Business.

2) **Adoption of summaries of conclusions**

The translated summaries of conclusions of the 30<sup>th</sup> meeting were adopted. The draft summary of conclusions of the 31<sup>th</sup> meeting was cleared for translation.

3) **Outstanding Action Points**

*Inform the Commission on activities on CITES implementation in candidate Member States*

Slovenia submitted information in writing about their activities undertaken in Croatia. The information was uploaded on CIRCA.

*Inform the Commission about stricter domestic measures*

The Chairman encouraged in particular the new Member States to report on this issue as some of them had such measures adopted at national level for monitoring purposes. He pointed out the legal obligation under article 176 of the EC Treaty to inform the Commission of any such measures. Hungary and Slovenia had already submitted information in writing (see CIRCA).

*Inform the Commission about marking requirements for parts and derivatives*

Hungary and Slovenia have informed the Commission about relevant marking requirements (see CIRCA).

*Inform the Commission about the use of specimen-specific certificates to Annex A when specimen passed through a chain of ownership*

The Chairman requested the representatives of Finland, Denmark and the United Kingdom to kindly provide the supplementary information presented at the 31<sup>st</sup> Committee in writing to be posted on CIRCA. **(ACTION)**

*Inform the Commission, after having received further information from the Commission and consultation with respective Enforcement Authorities, about possible exchange of information using confidential Risk Information Forms (RIFs)*

The Chairman informed the Committee that the 9<sup>th</sup> Enforcement Group held on 10 September welcomed the idea of issuing RIFs. Member States were invited to send any supplementary information on possible RIFs to the Commission services.

*Inform and update the Commission on charges for permits and certificates*

The Action Point was discussed under agenda point 12 a). The Chair encouraged the

outstanding countries, i.e. Estonia, Cyprus, Lithuania, Malta, Poland and Finland, to submit the requested information.

4) **Follow-up to the 13<sup>th</sup> meeting of the Conference of the Parties to CITES (CoP 13) held in Bangkok, Thailand, from 2 – 14 October 2005**

i) *Replacement of the annexes to Council Regulation (EC) No. 338/97*

The Committee discussed the draft document prepared by the Commission replacing the annexes to the Council Regulation N° 338/97. A Commission representative explained that the draft contained the CoP 13 changes and would bring Annex D into line with recommendations made by the Scientific Review Group up to SRG 30. Further changes recommended at SRG 31 would be incorporated at a later date. The operative legal text was still lacking pending legal advice, and would be included and circulated in all languages under the formal written procedure.

A Commission representative explained that, in reference to article 19(3) of the Council Regulation n° 338/97, changes to Annex A not decided at CoP could only be implemented through a revision of the Council Regulation which was intended for 2006.

The Member States as parties answerable to the CITES Convention expressed concerns about the 90 days deadline for implementing CoP decisions. However, the Chairman pointed out that this was unavoidable due to the Commission's internal procedures. Nevertheless, he underlined the importance of having the transitional period as short as possible and ensuring an early adoption of the regulation.

The Chairman requested the Member States (**ACTION ASAP**)

- (1) to submit typographical corrections;
- (2) to indicate common names in all languages, if they wished to see these included in their language versions; and
- (3) in the case of the new Member States, to submit the annexes to the current Council Regulation N° 338/97 in their languages in order to facilitate the Commission translation department.

b) *Revision of Commission Regulation (EC) ex-No 1808/2001*

On the basis of a document prepared by the Commission, the Committee discussed the possible amendments to be made to the Commission Regulation in follow-up to a number of resolutions agreed at CoP 13 setting out or amending provisions for the implementation of the CITES Convention. The main amendments would concern the provisions on personal and household effects, the retrospective issuance of permits (for which the United Kingdom had prepared a separate paper which would be considered by the Commission in drafting amendments to the Commission Regulation), the use of CITES certificates with ATA or TIR Carnets, the definition of pre-Convention specimens, plant specimens subject to exemptions and the definition of artificially propagated plants. There might also be a need to simplify and clarify certain other provisions.

The Chairman invited the Member States to provide written comments and/or suggestions **by 15 January 2005** on the proposed amendments to be made taking into

account the CoP 13 resolutions. Furthermore Member States could identify provisions of the Commission Regulation, which they consider would benefit from further clarification or simplification. **(ACTION)**

c) *National Legislation Project*

Following CoP 13, Ireland, Lithuania as well as Slovenia are affected by the Legislation review under the CITES Convention. The Chairman underlined the importance for EU Member States of having adequate national legislation in place. He said that the Commission would enquire with the countries in question and ask them to report back on the progress made at the 33<sup>rd</sup> Committee meeting to be held in March. The Chairman pointed out that Slovenia had already submitted the relevant information to the Commission the week before.

d) *Electronic Working Group on Compliance*

The Committee was invited to note the draft guidelines on compliance proposed by the Norwegian Chair of the Working Group held in the margins of CoP 13 incorporating the comments made by the EU legal drafting group. The Committee was furthermore asked to submit further comments to the Netherlands and the Commission **by the end of January** in order to enable the EU legal drafting group to finalise the text **(ACTION)**.

The representative of the Netherlands pointed out that the process of submitting the EU comments to the Norwegian Chair would depend on the latter's intention whether to restart discussion in the electronic working group before the 53<sup>rd</sup> Standing Committee to be held in June 2005.

e) *Economic incentives and trade policy*

The Chairman suggested that the representative of the United Kingdom would present further elements in writing to be considered at the next Committee meeting. **(ACTION)**

f) *Other matters*

The representative of Germany pointed out the importance of ensuring follow-up to the revised Resolution Conf. 12.7 on trade in caviar and the documents Com. II 19 and Rep. 14 page 3 – 4. He proposed that the Commission would write a follow-up letter to the Member States referring to Article 4(2)(c) and 4(1)(e) of Council Regulation N° 338/97 and recommending that Member States refuse “the import of caviar harvested in 2004 if it is exported after 31 March 2005”. **(ACTION)**

**5) Use of the Phytosanitary Certificate as CITES document for shipments to Switzerland**

A representative of the Commission presented the note sent to the Member States and tabled as COM 32/5 clarifying the provisions of EC legislation as regards the trade in CITES-listed plant species between the EU Member States and Switzerland as regards the implications of a recent bilateral agreement on trade in agricultural products between the EU and Switzerland.

The Chairman concluded that all CITES-listed plant species traded between the EU and Switzerland must be accompanied by a valid CITES permit or a phytosanitary certificate.

**6) Use of Article 30 of Commission Regulation (EC) No. 1808/2001  
(Registration of scientific institutions using Annex A species)**

It emerged from discussions at previous Committee meetings that Member States have different interpretations as to the use of Article 30 which allows for Member States to grant a derogation from the prohibition on commercial activities for Annex A species (set out in Article 8(1) of the Council Regulation) to certain scientific institutions. The Commission had prepared a note tabled as COM 32/6 providing some provisional guidance and clarifications on the use of this article.

The Committee agreed to have a more in-depth discussion at the next Committee meeting in order to reach more operational conclusions.

The Chairman asked the Member States to inform the Commission in **writing by the end of January** about the application of Article 30 in their country and the practical problems they encounter with the current system. **(ACTION)**

**7) Use of Article 9.1 of Council Regulation (EC) No. 338/97  
(Movement of live Annex A specimens)**

The Czech Republic requested clarification as regards the provisions on movement within the Community of live specimens set out in Article 9 of the Council Regulations. Their concerns related to the provisions that apply in cases where specimens of species that are on Appendix II of CITES and Annex A of the EC Regulation, which were imported into the Czech Republic before Accession, were moved within the Community. A representative of the Commission explained that, in line with the second part of Article 9(1), if no location was indicated in the permits/certificate delivered for the specimens in question, no special authorisation would be needed. However, proof of the legal origin of the specimens would have to be provided.

**8) Documentary evidence required by Management Authorities for permits and certificates under Council Regulation (EC) No. 338/97**

The representative of Slovakia expressed concerns about the provisions of the Regulations, which require that documentary evidence or proof of legal origin/acquisition of specimens be provided.

The Chairman underlined the complexity of this issue and proposed to defer this agenda point to the next meeting for a more in-depth discussion. In the meantime, Member States were asked to provide **by end of January** information in writing to the Commission on the documentary evidence that they usually require. **(ACTION)**

For general guidance purposes, the Commission informed the Committee that it would upload on CIRCA the new Reference Guide for comments **by the end of January**. This guide was produced by TRAFFIC under a service contract with the Commission and is intended for wider distribution by the Commission on the EUROPA website.

**9) Outcome of 9<sup>th</sup> meeting of the Enforcement Group on the Report “Expanding borders: New challenges for Wildlife Trade Controls in the European Union”**

A Commission representative reported on the outcome of the 9<sup>th</sup> meeting of the Enforcement Group on the recommendations put forward by TRAFFIC/WWF in their independent report. He furthermore informed the Committee about the Commission’s intention to launch a study

on enforcement of the EU Wildlife Trade Regulations in the EU-25 focussing in particular on the co-ordination between CITES Management authorities, customs and police services and identifying both gaps and best practice.

**10) Application of Article 4(1)(b)(ii) of Council Regulation (EC) No. 338/97 and Article 23 of Commission Regulation (EC) No. 1808/2001 (*Customs Clearance for Appendix I specimens that arrive at a Member State other than the Member State of destination.*)**

The representative of Spain requested clarification as regards the requirement set out in Article 4(1)(b)(ii) of the Council Regulation that, for the introduction into the Community of Annex A species that are on CITES Appendix I, the original of the import permit should only be delivered once the original of the export permit was presented to the Management Authority and that the original of the import permit had to be presented at the customs office at the point of introduction.

Following the discussion, the Chairman proposed that the Commission would produce a revised version of the tabled information note proposing a clear interpretation of the current rules and addressing the question whether article 23 of the Commission Regulation 1808/2001 would need to be adapted in the forthcoming amendment to the Commission Regulation. **(ACTION)**

**11) Follow-up to the 31<sup>st</sup> meeting of the Scientific Review Group (SRG)**

The Chair of the Scientific Review Group report on the outcome of the 31<sup>st</sup> meeting of the SRG.

**12) Any Other Business**

*a) Charges for CITES applications*

The Chairman underlined the importance for all Member States to be aware of the national charging policy in other Member States.

The representative of Malta informed the Committee that the existing charges in Malta were under revision and would be transmitted upon at their earliest convenience.

The representative of Slovakia specified that the submitted information would remain valid after its review as of 1<sup>st</sup> April 2005.

*b) Submission of Annual and Biennial reports*

The Chairman pointed out that all annual reports for 2003 had been received except for Cyprus & Malta which were invited to submit these reports as soon as possible.

The Committee agreed to have a more informed discussion on the future format of the biennial reports at the next Committee meeting.

*c) Progress with new import suspensions Regulation*

The Commission informed the Committee that the Suspensions Regulation would be submitted for adoption by the end of January.

d) *Meeting Schedule for 2005*

The Committee noted the meeting schedule for 2005 as proposed by the Commission.

e) *Report “Wildlife trade haven – The emergence of Peninsular Malaysia as a regional wildlife transit centre”*

The Chairman invited the Committee to note the report and proposed to the Member States to send a copy to their respective foreign affairs offices in order to make them aware of the wildlife trade problems in Malaysia.

f) *Reservations to CITES Appendix III listings to be harmonised*

The Chairman reminded the new Member States to enter specific reservations with the CITES Secretariat in order to be in line with the EU position on a few *Mustela* and *Vulpes* species. It was noted that the Czech Republic as well as Slovakia had already entered their reservations.

g) *Proposal for a Directive of the European Parliament and of the Council introducing humane trapping standards for certain animal species*

The Chairman informed the Committee that for budgetary reasons, the Commission would intend to make use of this CITES Committee in the framework of the Directive on humane trapping standards.

h) *Interpretation and implementation of the Regulation - Definition of derivatives*

The representative of the United Kingdom introduced this paper in order to make the Committee aware of this issue and invited for comments in order to refine the document to be re-tabled again at the next Committee meeting.

The Chairman suggested that this issue be discussed further bilaterally with the UK and it could be tabled at the next meeting of the SRG.

i) *Commission news:*

i) *New folder on Circa:* The Chairman informed the Committee about the Commission’s intention to create a new folder on CIRCA on “The clarification of the EU wildlife trade regulations” in order to make all correspondence between the Member States and the Commission and guidance information available to the Member States with a view to harmonise procedures in the EU. Those Member States, who would not like to have their correspondence to be put on CIRCA, should explicitly specify so in their request.

ii) *Timber implementation manual:* MS are requested to raise objections to the wider distribution of this manual (see CIRCA) **by 10 January 2005. (ACTION)**

iii) *Vacancy National Seconded Expert:* The Chairman informed the Committee about the upcoming vacancy in the Commission services which had been published by the Permanent Representations to the EU with a deadline for submission of application by 15/1.

j) *Workshop Perugia:* The representative of Italy informed the Committee about their intention to organise a workshop on enforcement of CITES-Timber trade to be held in Perugia next year.

- k) *Global Tiger Forum:* The representative of the United Kingdom reported on the outcome of the Global Tiger Forum Executive meeting and encouraged the Member States to become member to this Forum or consider joining partnerships or funding possibilities.
- l) *Orchids from Taiwan / Pythons from Malaysia:* The representative of Italy reported on the recently encountered problems with regard to a request for the import of 1200 specimens of orchids from Taiwan and 17000 skins of reticulated python from Malaysia. The Chairman reported that the Commission was currently investigating both issues and that the reply would be widely distributed for information to all Member States.