

Summary of Conclusions

56th MEETING OF THE COMMITTEE ON TRADE IN WILD FAUNA AND FLORA

Brussels, 10 October 2011

1. Adoption of the agenda

The agenda was adopted.

2. Update on on-going activities

- **New Suspension Regulation:** the latest Suspension Regulation (EU) 828/2011 was published on 18 August 2011. The Commission would undertake a new revision shortly.
- Member States which have not done so yet were urged to submit their outstanding **annual** and **biennial** reports as soon as possible to the Commission.
- The **new contract** with UNEP-WCMC is now in place along the same terms as the previous one. The Chair invited Member States to continue the good cooperation with UNEP-WCMC.
- Job vacancy for "scientific advisor" in the CITES team of the European Commission: The chair mentioned that a vacancy notice for this post was currently processed and that it would be circulated to Perm Reps shortly. He invited Member States to look into the possibility to identify in their national administration a candidate for this position.

2.1 Rules of Procedure (COM 56/2/1)

The entry into force of the Lisbon Treaty established new procedures which apply instead of the old "comitology" procedures.

In this context, it has become necessary for Committees to adopt new Rules of Procedures. The Commission has circulated the new Standard Rules of Procedure and will submit a proposal for the next Committee meeting.

The Committee noted the information.

3. Summary of conclusions of the 55th Committee meeting (SoC COM 55)

The document was tabled for information purposes.

4. Outstanding Actions Points (COM 56 OAP)

The document was noted. The Chair invited Member States to submit any relevant information if and when available. The representative from Germany notified that the regulation on charges has been amended. The Chair also asked Member States to reflect on an update of this list and come up with suggestions.

5. Short report by the Commission on the outcome of the 57th Scientific Review Group meeting (07/10/11)

The Chair of the SRG informed the Committee about the main results of SRG 57:

- Positive opinions were established for *Pandinus imperator* (scorpions) from Togo; *Acinonyx jubatus* (cheetah) from Namibia; *Hoodia* spp. from South Africa as well as for *Duncanopsammia axifuga* and *Moseleya latistellata* (corals) from Australia. The SRG also formed a positive opinion for *Bulnesia sarmientoi* (timber) from Paraguay; however the question how to deal with essential oils derived from this species was referred to the Committee.
- Negative opinions were formed for *Pristis microdon* (sawfish) from Australia; *Cercopithecus dryas* (monkey) from Democratic Republic of the Congo and *Eryx tataricus* (sand boa) from Uzbekistan.
- The SRG discussed the outcomes of the Animals Committee and the European Regional Meeting on Plants.

6. Process for inclusion of *Lamna nasus* in CITES Appendix III (COM 56/6)

The Chair informed the Committee that a Council Decision was required in order to include *Lamna nasus* in CITES Appendix III. The Commission had launched the necessary steps for this procedure, so that the CITES Secretariat could hopefully be notified by the end of the year.

This Council Decision is linked to the revision process of the Annexes to Council Regulation (EC) 338/97. Member States were formally consulted on the new version of the Annexes and gave a positive opinion on the draft measure. It was then transmitted to the European Parliament for scrutiny which will expire end of November; after that, the Commission expects to formally adopt the draft measure by the end of the year. Comments on the language versions had been well received by the Commission and will be incorporated shortly. The revised language versions will then be made available on Circa.

7. *Anguilla anguilla* – implementation of the listing

7.1 Future trade regime (COM 56/7/1)

At its last meeting, the SRG assessed the situation for export of European eels. It was agreed that it was not possible to perform a "non-detriment finding" for the export of European eels, i.e. that it was not possible for the SRG to consider that the capture or collection of European eel specimens in the wild or their export will not have a harmful effect on the conservation status of the species or on the extent of the territory occupied by the relevant population of the species. The SRG would reassess the situation by the end of 2012.

The Commission would communicate the SRG decision to the CITES Secretariat. One Member State deplored that the SRG once again had not accepted to review the measures taken in the framework of the Eel Management Plans. It opposed the statement by the SRG that EMPs did not include objectives for the reduction of catches and highlighted that, in its case, measures taken at the National level have

led to a decrease of 50% for both catches of glass eels and number of fishermen in comparison to 2006. It further cautioned that the continuation of the moratorium would result in the collapse of the management measures in place and would ultimately be inefficient with regards to the conservation of the species.

The representative from DG MARE informed the Committee about the next steps to be undertaken in the framework of the Eel Regulation (EC) 1100/2007. Member States have to report to the Commission on the implementation of this Regulation by mid-2012. A global progress report would then be presented by the Commission to Council and Parliament by the end of 2013; possible amendments would be proposed then. The Commission had prepared a template for Member States' reporting to ensure a maximum submission of data.

7.2 Eel analysis (TRAFFIC) (COM 56/7/2)

The representative from the Commission introduced the TRAFFIC report which examined the implementation of the eel listing in the EU on one side and which provided an overview of the impact of this listing outside the EU on the other. He invited Member States to scrutinise the data in the report, especially on their reported export and import, and to submit their comments and observations on this report by the end of October. After that date, the Commission would consider further the option of publishing this report.

The Chair emphasised the necessity to reflect on the general EU approach with regard to the listing in the medium term. The question at stake was to address the discrepancy between the trade ban and the continued fishing within the EU, to explain the interplay between the different instruments used within the EU to the outside world. The credibility of the EU would be seriously challenged by third countries (at CoP 16) if no satisfactory answers could be found on these issues, in particular as the measures undertaken so far did not seem to have any substantial impact on the recovery of eels. The Chair confirmed that there was no easy way out to this challenge in terms of EU policy coherence. The Chair undertook to explore within the Commission ways and means to bring experts from the different policy sectors together in a joint meeting.

7.3 Legality of eels

The Committee discussed the issue how to ensure traceability of eels and whether it would be possible to establish some kind of clearing house mechanism across Member States.

The representative from the Commission (DG MARE) referred to two pieces of legislation¹ that could be helpful in this context. Since the provisions on traceability according to Art. 58 of Regulation (EC) No 1224/2009 do not apply to freshwater species it could be considered to revise it in order to make provisions applicable to the European Eel.

¹

- Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy,
- Commission Implementing Regulation (EU) No 404/2011 of 8 April 2011 laying down detailed rules for the implementation of Council Regulation (EC) No 1224/2009 establishing a Community control system for ensuring compliance with the rules of the Common Fisheries Policy

The interest of establishing a cartography of eel fattening facilities across the EU was also discussed. The Commission considered that DG SANCO might help in this regard and undertook to approach them.

The Chair concluded that the Working Group on illegal trade in eels should take up work, notably on the issues above. This matter would also be discussed at the next Enforcement Group meeting. In addition, any useful documentation would be posted on Circa.

8. Implementing Regulation

8.1 Amending Regulation (COM 56/8/1)

a) Comments BG (COM 56/8/1/1)

b) Comments DE (COM 56/8/1/2)

The Chair briefly reflected on the various steps that had been undertaken in the process of reviewing the Implementing Regulation (EC) 865/2006. At COM 54, the Commission presented a consolidated version of the Implementing Regulation (IR) containing the changes to be made.

Further to that meeting and comments by MS, the changes are now presented in the form of an Amending Regulation. The Chair drew Member States' attention to the fact that, due to the entry into force of the Lisbon Treaty, it became necessary to split the IR into two proposals, notably one draft measure containing substantial changes (= delegated acts, for CITES still to be adopted under the RPS procedure), and one draft measure amending the forms (= implementing act, to be adopted under the examination procedure).

The Chair stressed the need to enter into the decision-making phase. He therefore proposed a last discussion in principle and conceptual terms at this meeting and invited Member States to submit a final set of comments to the Commission by **14 October 2011**. After this date, the Commission would finalise the document and launch the necessary procedure for adoption.

8.2 Guidelines (COM 56/8/2)

The Chair pointed out that priority had been given to the legislative proposal. He also emphasised that the guidance should help Management Authorities to uniformly apply the provisions of the EU Wildlife Trade Regulations.

As far as the procedure for the adoption of guidelines was concerned, the Committee agreed on the following way forward: the documents presented at this meeting would be subject to further discussions amongst interested Member States and would be submitted again to the Committee when ready for endorsement. Any other guidance documents still in preparation should be submitted to a future Committee when a first draft was ready for a general round of discussions and a second time for endorsement. Where necessary, the SRG should be consulted.

9. Rhino horns: Re-export and EU internal trade (COM 56/9, COM 56/9/2)

In February 2011, the Commission had elaborated guidelines regarding re-export and EU internal trade of rhino horns. As doubts about the interpretation of these guidelines in particular concerning the EU internal trade seemed to persist, and given the dramatic increase in trade of rhino horns, the Commission tabled the document again in order to clarify any outstanding questions. It was emphasised within the Committee that the guidelines should be used by all Member States when receiving applications for re-export or internal trade.

Given that new information has been made available since the drafting of the guidelines (notably on the prohibition enacted under the Chinese legislation to trade rhino horns to China and the apparent fraudulent use of internal trade certificates), the Commission will update the guidelines. A revised document would either be circulated by e-mail or be tabled at the next COM meeting.

The Chair also invited Member States to inform the Commission in writing about the implementation in their domestic legislation of Article 8(3) of Council Regulation 338/97, i.e. what degree of discretion do they have to refuse the issuing of certificates when one of the conditions in subparagraphs (a) to (h) is met, by **14 October 2011**.

As a delegation from China will participate at the next Enforcement Group meeting, the issue would be raised there as well.

10. Vienna symposium follow up – Discussion paper (COM 56/10)

The Committee appreciated the work done at the Vienna symposium and had an initial discussion on the options identified in the paper submitted to this meeting of the Committee. The outcome of the meeting was considered as a very useful contribution to a policy discussion the results of which would help to ensure a consistent approach across biodiversity MEAs and to identify areas for improvement in the implementation and enforcement of CITES. The Chair invited Member States to ensure that colleagues dealing with other MEAs were aware of these discussions and to reflect further how these discussions could contribute to the work of those MEAs. The Committee agreed to set up a working group that would consider a follow-up to the different options identified in the document submitted. Austria agreed to facilitate work in the group and invited colleagues to identify themselves to him to engage in the concrete follow-up work.

11. Interpretation of rhino annotation for Namibia (COM 55/12)

The question put to the Committee was how to treat hunting trophies of rhino coming from Namibia. Those hunting trophies originate from rhinos originally imported from South Africa (*Ceratotherium simum simum* which are listed in Appendix II of CITES under certain conditions, i.e. hunting trophies). Rhinos bred and born in Namibia are listed in Appendix I of CITES.

The Committee discussed the various options (consider all Namibian animals as Appendix I, consider re-exports as Appendix II depending on the origin if traceable, changes to the annotation). The Chair concluded that the Commission would propose a way forward and circulate it to Member States.

12. International meetings

12.1 Follow up Standing Committee 61 (COM 56/12/1)

At the last meeting of the Standing Committee, the EU proposals were all agreed. Furthermore, several processes were set up to which the EU should contribute by providing input, either by participating in the respective working groups or by submitting a coordinated EU reply to several notifications issued by the CITES Secretariat.

The following deadlines for the transmission to the Commission of input by Member States were agreed:

- 25 October 2011 for input to Notification 2011/037 on the implementation relating to captive-bred and ranched specimens
- 18 November 2011 for input to Notification 2011/041 on the draft memorandum of cooperation with FAO

Other requests for input (e-commerce, rhino) would be issued shortly.

The representative from the Commission also reported on the issue of "Introduction from the Sea" and future cooperation with ICCAT. Regarding the voting procedure, future discussions should be prepared ahead of the next Standing Committee via outreach.

12.2 Timeline for CoP 16 preparations (COM 56/12/2)

The Chair informed the Committee that certain issues (including CITES matters) would be handled by Denmark in the second half of 2012. He invited Member States to indicate any even preliminary ideas for proposals to be tabled at CoP 16 as early as possible to allow for substantial discussion but at the latest in June 2012.

In principle, the timeline for CoP 16 preparations was agreed.

13. Stricter measures (UK study) (COM 54/16)

The representative from the UK presented the possible options outlined in the document.

The Committee considered the study as very interesting. However, before the Committee took any concrete actions in this context, the Chair invited Member States to submit comments on the document in writing by end of October 2011. Once this feedback was received, the Committee could reflect further on a way forward.

14. Analysis 2009 Annual Reports (WCMC) (COM 56/14)

The representative from the Commission invited Member States to submit any comments in writing by the end of October 2011.

15. Crocodile skin tags (COM 56/15)

Australia would appreciate an EU reaction to their proposal to no longer indicate the year of production/harvest on Australian crocodile skin tags as outlined in the document.

The Committee linked this problem with the EU initiative on captive-breeding and ranching. These annual production figures would help to improve controls.

The Chair suggested that the reply to Australia should stress that the EU did not have a problem with Australia as such, but in the wider context of enforcement issues surrounding captive-breeding and ranching operations, the EU would find it important that the year of production continued to feature on the tags also in future. The Committee agreed to this line.

16. Trade in *Dalbergia nigra* (Brazilian Rosewood) (DE) (COM 56/16)

The representative from Germany explained the problem that had been identified, i.e. when searching the internet it appeared that there was a large volume of products made of *Dalbergia nigra* offered for sale in the EU, but there were no corresponding trade records about importations of the species into the EU. This was discovered on the occasion of recent importations of guitars into the Netherlands where neither import permits nor EC certificates for commercial use were applied for or issued.

The Chair invited Member States to indicate whether they had encountered similar cases. Once there was a clearer picture of the situation, the Commission could explore with TRAFFIC whether they could prepare a report on this issue. This point would also be raised at the next Enforcement Group meeting and could possibly be tabled again at a future Committee meeting.

17. Trade in *Crocodylus niloticus* from Madagascar (DE) (COM 56/17)

The representative from Germany referred to Notification 2010/015 and informed the Committee that recently cases have been observed whereby Madagascar was importing *Crocodylus niloticus* originating from other African countries and then re-exporting them. In his view, the trade prohibition by the Standing Committee covers re-export as well as direct export.

The Chair concluded that the Commission and Germany will contact the CITES Secretariat on this matter. Once that reply had been received, the Commission might come back with a proposal on this in writing.

18. Any other business

18.1 *Bulnesia sarmientoi*

The Chair of the SRG informed the Committee that this species was listed because of trade in timber but also in essential oils. The annotation attached to this species refers to timber and ‘extracts’, but it was questionable whether ‘essential oils’ (derived through distillation) were covered by the term ‘extract’ and therefore protected by CITES. The annotation could be clarified by the range

states responsible for the listing. However, in the meantime different interpretations may lead to problems which are to be solved.

This issue had also been discussed at the last Plants Committee. The concrete question to be discussed by the Committee was how to treat a commodity that had been exported from the Range State with a proper export permit, but re-exported by a third country without a corresponding documentation as that third country did not recognise 'essential oils' as part of the listing. He stressed the need for a common interpretation and application across the EU.

The Chair invited Member States to reply to the Commission on the following questions:

- How are Member States dealing with the importation of essential oils from *Bulnesia sarmientoi*?
- How should the EU react to the fact that the country in question (any CITES Party involved in trade with EU Member States either as range state of re-exporting country) interprets the listing as to include or not to include essential oils?

After that, the Commission would submit a proposal to the Committee.

ATTENDANCE LIST
of the
56th MANGEMENT COMMITTEE MEETING ON CITES

Brussels, 10 October 2011

MEMBER STATE	ORGANISATION	PARTICIPANTS
BELGIUM	Federal Public Service Health, Food Chain en Environment	2
BULGARIA	Ministry of Environment and Water	1
CZECH REPUBLIC	Ministry of the Environment	1
CYPRUS	Ministry of Agriculture, Natural Resources and Environment	0
DENMARK	Ministry of Environment	1
ESTONIA	Ministry of Environment	1
GERMANY	Bundesagentur für Naturschutz	2
	Federal Ministry for the Environment	2
GREECE	Ministry of Environment	2
IRELAND	Department of Arts, Heritage and the Gaeltacht	0
SPAIN	Ministerio de Industria, Turismo y Comercio	2
FRANCE	Ministère de l'écologie et du développement durable	2
ITALY	Ministero dell'Ambiente e della Tutela del Territorio e del Mare	1
	Corpo Forestale	1
LATVIA	Nature Conservation Agency	1
LITHUANIA	Ministry of Environment	1
LUXEMBOURG	Ministry for sustainable Development and Infrastructures - Environment department	2
HUNGARY	Ministry for Rural Development	1

MALTA	Environment and Planning Authority	1
NETHERLANDS	Ministry of Agriculture, Nature & Food Quality	2
AUSTRIA	Ministry of Agriculture and Forestry, Environment and Water Management	1
POLAND	Ministry of Environment	2
PORTUGAL	Instituto da Conservação da Natureza	0
ROMANIA	Ministry of Environment and Forestry	0
SLOVENIA	Ministry of Environment	1
SLOVAKIA	Ministry of Environment	1
FINLAND	Finnish Environment Institute	1
SWEDEN	Swedish Board of Agriculture	1
UNITED KINGDOM	DEFRA	1
CANDIDATE COUNTRY		
CROATIA	Ministry of Culture	1