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

Forty-first meeting of the Standing Committee
Geneva (Switzerland), 8-12 February 1999

Implementation of the Convention in individual countries

IMPLEMENTATION OF DECISIONS 10.18 AND 10.64 (POSSIBLE TRADE MEASURES)

This document has been prepared by the CITES Secretariat.

1. Decision 10.64 directed the Standing Committee to "*decide whether Decision 10.18, paragraph a), shall apply or not to the Parties in question*". This paragraph states "*all Parties should, from 9 June 1998, refuse any import from, and export and re-export to, these countries of CITES specimens, if so advised by the Standing Committee*".

2. The Chairman of the Standing Committee discussed this matter in his letter to members dated 19th June 1998. That document contained a report from the Secretariat on the countries under consideration and the members were asked to carry out their obligations under Decision 10.64 through a postal voting procedure. The members were asked to vote on whether or not to recommend to Parties that they suspend trade in specimens of CITES species with the five countries remaining in Category 3. Since the postal vote did not receive the quorum of responses required for a decision to be made, under Rule 29 of the Rules of Procedure, the matter was deferred to the 41st meeting of the Standing Committee for resolution.

3. The Standing Committee was advised, through the Secretariat's report, that only two of the seven Parties (namely: Malaysia-Sabah and Nicaragua) had demonstrated, since COP10, that they had adopted new legislation that generally met the requirements for the implementation of CITES. The five remaining Parties (namely: the Democratic Republic of Congo, Egypt, Guyana, Indonesia and Senegal) had failed to demonstrate, in the period since COP10, that they had complied with the requirements of Decision 10.18, paragraph b).

4. The Secretariat has attached its previous report (Annex 1) and for each country, has added a section 'Progress since June 1998', reporting on actions taken by each country since its report to the Standing Committee in June 1998.

5. The Secretariat has sent several letters of reminder to the five Parties, pointing out the need to adopt legislation meeting the criteria specified in Resolution Conf. 8.4 and advising each that their case would be considered again at the 41st meeting of the Standing Committee.

6. To date, none of the five countries referred to in Annex 1 has provided the Secretariat with the documentation required under Decision 10.18, paragraph b). Specifically, none of these countries has reported that they have enacted legislation meeting the criteria specified in Resolution Conf. 8.4 nor have they provided in writing "*the text that has been enacted and has taken effect*" and "*translated into one of the three working languages of the Convention*".

7. The Standing Committee is required to decide, under Decision 10.64, whether to advise Parties to "*refuse any import [of CITES specimens] from, and export and re-export to*" any or all of the following five countries: the Democratic Republic of Congo, Egypt, Guyana, Indonesia and Senegal.

Implementation of Decision 10.18

Resolution Conf. 8.4 (National Laws for Implementation of the Convention) directed the Secretariat to identify those Parties whose domestic measures do not provide them with the authority to:

- designate Management and Scientific Authorities;
- prohibit trade in specimens in violation of the Convention;
- penalize trade in violation of the Convention; or
- confiscate specimens illegally traded or possessed.

The national legislation of 81 Parties and territories were collected and analyzed during the first phase of the project (1992-94), and the legislation of an additional 44 Parties was analyzed during the second phase (1994-97).

At the ninth meeting of the Conference of the Parties, the Secretariat reported the results of Phase I. This report placed the legislation of each Party analyzed during Phase I into three categories, based on the apparent effectiveness of each Party's legislation in implementing the Convention. These are:

Category 1: legislation that is believed generally to meet the requirements for implementation of CITES;

Category 2: legislation which is believed generally not to meet all requirements for the implementation of CITES; and

Category 3: legislation that is believed generally not to meet the requirements for the implementation of CITES.

For Parties whose legislation was considered incomplete (Categories 2 and 3) the Conference of the Parties recommended that they take steps towards improving their legislation prior to the 10th meeting. The progress made by some Parties, requiring the re-classification of their legislation, is recorded in Annex 1 of document Doc. 10.31 (Rev.).

However, paragraph 10 of Annex 1 lists seven Parties that as of 1 May 1997 were identified as having Category 3 legislation and which, contrary to Decision 6a), adopted at the ninth meeting of the Conference of the Parties, had not developed national legislation for implementation of CITES by the tenth meeting of the Conference of the Parties, and, in addition, substantial levels of trade were believed to occur in these seven countries. These Parties are the Democratic Republic of Congo, Egypt, Guyana, Indonesia, Malaysia-Sabah, Nicaragua and Senegal.

1. DEMOCRATIC REPUBLIC OF CONGO

Progress since 1994

On 16 November 1993, the draft analysis of the national legislation of Zaire (now the Democratic Republic of Congo), prepared by the ELC, was sent to the Management Authority. On 1 February 1994, a reminder was sent to the Management Authority of Zaire, followed by another reminder on 25 March 1994. The Secretariat received no response and on 27 June 1994 sent the final version of the analysis to the Management Authority. The Secretariat sent a reminder concerning the obligations of Decision 6(a) of the ninth meeting of the Conference of the Parties to Zaire on 29 August 1996, followed by an additional reminder on 28 January 1997. No response has been received.

On 28 January 1998 the Management Authority of the Democratic Republic of the Congo informed the Secretariat that the country did not yet possess CITES legislation but that a draft text had been prepared but never adopted. Due to political changes in the country, the Management Authority requested a one-year grace period for responding to Decision 10.18 and asked the Secretariat for technical assistance.

The Secretariat responded on 14 April 1998 that the deadline was set by the Conference of the Parties and, therefore, could not be changed but that it would inform the Standing Committee of the request.

Progress since June 1998

On 4 August 1998 the Management Authority of the Democratic Republic of Congo provided the Secretariat with a copy of Decree No. 30 on the regulation of international trade in endangered wild fauna and flora, dated 30 July 1998. This decree attempts to incorporate the provisions of CITES into national law. While the decree states that the Convention is administered by a Management Authority and Scientific Authority, it does not specify who these authorities are, or specify their roles. As with other national legislation, provisions on export and import of specimens only apply to annexes 1 and 2 of the decree, which list a small number of native species, some of which are listed in the appendices. According to the decree, CITES permits may only be issued for species listed in its annexes. For these reasons, the decree can not be considered applicable to all CITES-listed species. While the decree states it is the responsibility of the Management Authority to implement the Convention and Resolutions of the Conference of the Parties, there is no requirement in the decree that international trade must be in accordance with CITES. The decree also includes a provision that is in conflict with the Convention, namely the renewal of export permits beyond the six-month period of validity. While any violation of the decree may result in the confiscation of specimens, only the use of false documents is subject to additional penalties.

The decree needs to be amended to specify that all international trade in listed species must conform to the provisions of the Convention. Under the decree, the Minister of Environment, Conservation and Nature has the authority to amend the annexes of the decree. As a matter of urgency, the annexes should be amended to include Appendices I, II and III of the Convention in their entirety.

2. EGYPT

Progress since 1994

A draft of the original analysis was sent to the Management Authority of Egypt on 16 November 1993. No comments were received by the deadline (1 February 1994), despite a reminder sent by the Secretariat just before that date. A final notice was sent on 23 March 1994 and, on 5 April 1994, comments on the analysis were received at the Secretariat. These comments were passed to the IUCN Environmental Law Centre (ELC), and a revised analysis was sent to Egypt on 24 June 1994.

A reminder concerning the obligations of Decision 6(a) of the ninth meeting of the Conference of the Parties was sent to the Management Authority of Egypt on 29 August 1996, but no response was received in time for the 10th meeting of the Conference of the Parties. At that meeting, Egypt was identified in paragraph 10 of Annex 1 of document Doc. 10.31 (Rev.).

On 26 January 1998, the Secretariat received the document National Report to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) by the Arab Republic of Egypt, prepared by the Egyptian Environmental Affairs Agency (EEAA). In this report it is stated that Law No. 4 for the Environment was passed in 1994 designating the EEAA as the government agency responsible for follow-up on the implementation of international and regional conventions for the environment. The Nature Conservation Section was made the focal point for CITES and other international agreements. The report also states that the EEAA has been trying to improve compliance with the convention as specified under this new law.

The Secretariat has not yet received a copy of this law, despite the fact that the law was apparently passed in 1994. A request for a copy of this law was sent on 2 April 1998 but nothing has been received to date.

Although there is a description of specific articles of Law No. 4 of 1994 in the report, there is no clear indication that the provisions of CITES relating to import, export, re-export and issuance of permits are addressed in the legislation. The portions of the law that are described appear to refer primarily to hunting, capture, and domestic trade in specific species which may or may not include all CITES-listed species. These questions may be clarified once a translation of the law is received and examined.

Confusingly, the report includes the following paragraph:

> *"While an Egyptian government body has been designated by law to be responsible for overseeing CITES, a legal framework has yet to be established in Egypt for formal implementation of the convention. Not all species protected under the CITES convention are listed as protected species under Egyptian law. There is no protection for flora and wildlife species which are not native to Egypt, but listed under CITES appendixes. The existing species protection legislation is weak; the penalties are not sufficient to act as deterrents. Furthermore, the species protection laws are little known and seldom enforced."*

It is not clear to what extent these matters are addressed, if at all, in Law No. 4 of 1994.

Designation of Management and Scientific Authorities

The report states that the Egyptian Environmental Affairs Agency (EEAA) is the overall body responsible for the application of CITES in Egypt, as established by Law No. 4 of 1994. The Veterinary Organization of the Ministry of Agriculture is designated as the co-Management Authority for CITES. However, the report then states *"While the role of the Veterinary Organisation in implementing the convention is not fully known, it is assumed that Giza Zoological Garden is the body or the organisation responsible for overseeing CITES management and issuing CITES permits."* The Egyptian Wildlife Service (EWS) is the Scientific Authority for animals, while the Horticultural Research Center is the Scientific Authority for flora.

The report states:

> *"The roles and responsibilities of the various organisations involved in enforcing the CITES convention has yet to be clearly defined. Many organisations are involved in CITES management with some organisations having overlapping responsibilities and others not fully aware of their precise roles. One of the main factors hampering convention compliance is the lack of adequate communication and cooperation between the EEAA and the Giza Zoo. To date, no formal agreement has been reached between the two bodies concerning arrangements for CITES implementation."*
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> *"...no comprehensive CITES management system has been established to date. In addition to confusion and a lack of consensus concerning the precise roles of the organisations involved in CITES management, there is a lack of guidelines and procedures to insure adequate convention compliance. The Giza Zoo has tended to resist attempts by the EEAA to set up a framework and guidelines to improve CITES management in Egypt."*

While it appears that the appropriate authorities have been established, there may be little co-operation among the different agencies, and this may severely limit the application of the Convention in Egypt.

It appears that Egypt did establish Management and Scientific Authorities in its national legislation. However, the Secretariat believes the relationship between the authorities, and their individual roles and responsibilities in implementing CITES must be precisely defined urgently.

Prohibition of trade in violation of the Convention

At the time the analysis was prepared by the ELC, it was believed that Egyptian legislation did not cover imports and exports, but only possession and domestic trade. Also, legislation applied only to certain native species. From the report prepared by the EEAA, it does not appear that Law No. 4 of 1994 has corrected these serious weaknesses. Without a copy of the law, the Secretariat can not verify these matters.

The EEAA report states that *"...most management efforts to date have focused on controlling exports, while little has been done to regulate the import of CITES listed species."*Examples are given concerning illegal trade in *Testudo kleinmanni* and *T. graeca* from Libya and the re-export of CITES-listed specimens illegally imported into Egypt. The report identifies a key factor contributing to illegal CITES trade as being the insufficient monitoring of wildlife imports and exports at airports, ports and border crossings and insufficient monitoring of domestic trade.

The Secretariat believes the Government does not have the legal tools necessary to prohibit trade in violation of the Convention. However, without examining a copy of Law No. 4 of 1994, this can not be verified.

Penalties for trade in violation of the Convention / Confiscation of specimens illegally traded or possessed

In the analysis completed by the ELC, information on penalties provided for by existing legislation was not available. The report prepared by the EEAA states that penalties for contravention of the Articles of Law No 53 of 1966 that deal with protected species are less than USD 3 (maximum) and the confiscation of materials used in the offence.

The report states that penalties under Law No. 4 of 1994 for offences relating to illegal hunting, shooting or catching of protected wildlife are a fine not less than approximately USD 60 and not more than USD 1500, in addition to the confiscation of specimens and equipment used in the offence. The Secretariat is unable to verify these figures.

It appears that Egypt can apply certain penalties provided for by law. However, it may be that these penalties apply only to certain types of infractions involving native species of fauna alone and until this is made clear the Secretariat believes that penalties for trade in violation of the Convention are generally inadequate.

Conclusions

From what has been learned from the EEAA report about Law No. 4 of 1994, there does not appear to be any significant change with regard to the implementation of the provisions of the Convention in Egypt. It remains unclear whether all CITES-listed species fall under this legislation and its decrees and whether the provisions concerning the import, export and re-export of CITES-listed specimens are adequately covered. Without a copy of the law, these matters can not be verified.

Progress since June 1998

On 14 July 1998 the Secretariat received a copy of Law No. 4 of 1994 (Law for the Environment) from the Egyptian Environmental Affairs Agency. Law No. 4 of 1994 designates the Egyptian Environmental Affairs Agency as the competent national authority responsible for international conventions relating to the environment, although the Secretariat has not been officially informed of this designation. However, Law No. 4 is a general environmental law focussing mainly on forms of pollution, and "the Convention" referred to in the Law is the International Convention for the Prevention of Marine Pollution from Ships, together with international conventions concerning the protection of the marine environment from pollution and compensation for pollution accidents. There is no mention of CITES in the Law, and the provisions of CITES relating to import, export, re-export and issuance of permits are not addressed in the legislation. The Law refers to hunting, capture, and domestic trade in wild birds and other fauna specified in the Regulations of the Law, which may be interpreted to include all CITES-listed fauna, but plants are excluded.

As the Egyptian Environmental Affairs Agency stated in their January 1998 report to the Secretariat, a legal framework has yet to be established in Egypt for the implementation of CITES, and there is no protection for CITES-listed flora and fauna species that are not native to Egypt and listed as protected species under Egyptian law. Egyptian legislation does not cover imports and exports/re-exports, but only possession and domestic trade, applicable only to certain native species. It appears that Egypt does not have the legal tools necessary to prohibit trade in violation of the Convention.

The Secretariat recommends that Egypt adopt legislation that is applicable to all CITES-listed flora and fauna, and that can prohibit trade in specimens in violation of the Convention. Under Article 5 of Law No. 4 of 1994 the Egyptian Environmental Affairs Agency is specifically responsible for the preparation of draft legislation and decrees required for the implementation of environmental conventions ratified by Egypt.

3. GUYANA

Progress since 1994

The original analysis, prepared by TRAFFIC USA, was sent to the Management Authority of Guyana on 13 December 1993. No comments were received in time for the 15 February 1994 deadline, and the Secretariat sent a reminder on 17 February 1994. Comments were received from the Management Authority on 24 February 1994 and these were incorporated into a revised analysis that was sent to the Management Authority on 4 July 1994. No response on this revised analysis has been received.

Guyana has been the subject of a CITES project (A-097) that began in late 1992, aimed at providing assistance to the government for the formulation of legislation on trade in wildlife. This was to be a pilot project, serving as an example and laying the groundwork for future assistance to Parties on legislative matters. In 1993, the government of Guyana selected a consultant to assist with this task. However, this consultant did not provide the type of advice that was required, and a second consultant was selected in 1994. This consultant provided several drafts of recommendations over the period 1994-96 but these proved to be inadequate in the Secretariat's opinion. In July 1996, the contract with the consultant was cancelled. In view of these difficulties, the Secretariat established an internal informal working group and developed a draft Species Protection Act for CITES that would allow for the full implementation of CITES and its provisions in Guyana. The Secretariat submitted this draft to the Government of Guyana on 11 September 1996. No written response to this draft legislation has been received.

Telephone conversations with staff of the Management Authority have identified the current political crisis within Guyana as the reason why no action appears to have been taken on the adoption of legislation for the implementation CITES. The administration in Guyana appears to be at a standstill, due to disputes over a presidential election.

Designation of Management and Scientific Authorities

The current Management Authority operates under the administrative authority of the Ministry of Agriculture. A separate Scientific Authority operates within the Ministry of Agriculture.

Prohibition of trade in violation of the Convention

At present, only trade in wild birds is regulated by legislation, which covers only certain native species, some of which are listed in CITES appendices. Fisheries regulations restrict the capture of certain indigenous aquatic species.

Penalties for trade in violation of the Convention / Confiscation of specimens illegally traded or possessed.

Current fines may apply only with respect to the Wild Birds Protection Act (1919) and the Fisheries Regulations (1967). The fines are very small and probably do not deter illegal trade. There are no provisions for confiscation.

Conclusions

The Secretariat believes that until adequate legislation is adopted, such as the one proposed by the Secretariat, the Convention cannot be implemented in Guyana. Considering the current domestic crisis, the Secretariat believes that no progress will be achieved before political stability is re-established in Guyana.

Progress since June 1998

On 30 July 1998 the Management Authority of Guyana informed the Secretariat that since March 1998 the responsibility for the management of wildlife in Guyana has been vested in the Wildlife Division, Office of the President, and co-ordinated with the Environmental Protection Agency, the National Biodiversity Advisory Committee and the natural resources sector. The Wildlife Division has been designated as the CITES Management Authority for Guyana. The Management Authority informed the Secretariat that wildlife trade regulations incorporating earlier comments from the Secretariat have been developed, and that the Draft Species Protection Act prepared by the Secretariat (CITES Project A-097) has extensively guided the development of a Draft Wildlife Act for Guyana. The Management Authority informed the Secretariat that the Government would approve and adopt the Draft Wildlife Act by October 1998. Unfortunately, the Secretariat has not received a copy of the Regulations or the Draft Wildlife Act, and therefore can not comment on whether or to what degree this legislation meets the criteria of Resolution Conf. 8.4.

4. INDONESIA

Progress since 1994

TRAFFIC USA prepared an analysis of legislation, and this was sent to the Management Authority of Indonesia on 13 September 1993. No comments were received before the deadline of 15 February 1994. The Secretariat sent a reminder to the Management Authority on 17 February 1994. Comments from the Management Authority were received on 21 February 1994. A revised analysis was sent to the Management Authority on 4 July 1994. The Secretariat sent a reminder concerning the obligations of Decision 6(a) of the ninth meeting of the Conference of the Parties on 29 August 1996. In November 1996, the Secretariat received from the Management Authority untranslated copies of a Government Regulation and a Decree of the Director General for Forest Protection and Nature Conservation concerning trade in fauna and flora.

(Note: The legislation used to implement CITES in Indonesia (Act. No. 5 of 1990) provides only a general framework and requires the promulgation of Government regulations to implement CITES-related provisions. When Indonesia was presented to the Standing Committee as a specific enforcement problem case in 1993-94, the lack of Government regulations was identified as one of the problems needing immediate attention.)

This Decree states that permits are required for export of both CITES and non-CITES species and that penalties for infractions are either a three-month suspension or complete suspension of the permission to export specimens. The Decree also regulates imports and, if specimens are imported by a business not registered with the Management Authority, sanctions include

prohibition to trade wildlife domestically and the confiscation of the specimens concerned. Under the Decree, traders must report their imports and provide copies of CITES permits from the countries of origin. Penalties against this part of the Decree include the revocation of permissions.

In January 1997, the Secretariat sent a second reminder to the Management Authority of Indonesia concerning the obligations of Decision 6(a) of the ninth meeting of the Conference of the Parties.

In a letter dated 28 January 1997, but only received at the Secretariat on 8 July 1997, the Management Authority of Indonesia provided an English translation of the Regulation and Decree.

In January 1998, the Management Authority of Indonesia informed the Secretariat by electronic mail that, in compliance with Decision 10.18, the Management Authority was submitting two Decrees of the Minister of Forestry that were issued in January 1996 and January 1998, together with an English translation. These documents were received on 13 February 1998. One of the Decrees was a reinforcement of the earlier Decree of the Director General for Forest Protection and Nature Conservation, which requires the registration of traders with the Management Authority and establishes that permits are required for the export for commercial purposes of non-protected species and captive-bred specimens of protected species. The decree also covers non-commercial use of Appendix I-listed species. Penalties for offences against the regulation include confiscation of the specimens concerned and the penalties listed in Act No. 5 of 1990 and the Customs and Duties Act No. 10 of 1990. The other Decree establishes the Director General for Forest Protection and Nature Conservation as the CITES Management Authority for Indonesia.

Designation of Management and Scientific Authorities

The Decree of the Ministry of Forestry No. 36/Kpts-II/1996 designates the Director General for Forest Protection and Nature Conservation as the CITES Management Authority for Indonesia. In a letter to the Secretary General of CITES received on 13 February 1998, the Management Authority of Indonesia explained that the formal designation of the Scientific Authority is still in process and that the Minister of Forestry had written to the Secretary of State to speed up the process.

The Secretariat notes that the Directorate General for Forest Protection and Nature Conservation (PHPA) and the Indonesian Institute of Science (LIPI) have been the de facto Management and Scientific Authorities respectively since 1978.

Prohibition of trade in violation of the Convention

The Secretariat is satisfied that the new regulations and decrees allow Act No. 5 of 1990 to be used to implement the basic provisions of CITES and to apply penalties in at least certain cases. The wording of the regulations and decrees is ambiguous on two matters, namely whether penalties for illegal trade in non-protected species can actually be based on Act No. 5 of 1990, since in that Act the only penalties relate to illegal trade in protected Indonesian species, and whether penalties for illegal trade can be applied to those not holding a permit to trade in wildlife.

These matters have been taken up with the Management Authority and the Secretariat is awaiting a response.

Penalties for trade in violation of the Convention / Confiscation of specimens illegally traded or possessed.

Act No. 5 of 1990 does prescribe relatively strong fines and jail sentences for violations involving Indonesian protected species. Undoubtedly, these fines and sentences, if used, could provide a strong deterrent to wildlife violations. The Act's penalties may not, however, apply to violations of administrative provisions of the trade of unprotected species. The Secretariat is seeking clarification from the Management Authority of Indonesia on this matter (see above). Penalties involving unprotected species are limited to actions of possible confiscation of specimens and temporary suspension of the violator's export license.

Conclusions

The Secretariat awaits further information from the Management Authority. Until that is received, it is unable to alter the category in which Indonesia's legislation is placed.

Progress since June 1998

The PHPA has informed the Secretariat, in a letter dated 14 July 1998, that Act No. 5 of 1990 is to be amended to include penalties for the illegal utilisation of non-protected species, and that Government Regulations will be drafted that will include penalties for illegal trade in non-protected CITES-listed species. Until the Act is amended, illegal trade in non-protected species, which includes all non-native CITES species and many native CITES-listed species, can not be penalised under Act No. 5 of 1990.

In a letter to the Secretariat dated 20 July 1998, the Management Authority of Indonesia (PHPA) explained that the Decree is sufficient to allow confiscation of specimens of non-protected species and suspension of the violator's licence and, furthermore, the Decree provides the legal basis for penalising the smuggling of CITES-listed species on the basis of Act No. 10 of 1995 Concerning Customs and Duties. Regrettably, this latter legislation was not provided to the Secretariat for review. The Secretariat can not, therefore, comment on the applicability of the Act with regard to violations of the Convention.

On 25 November 1998, PHPA informed the Secretariat by fax that: "*The Ministry of Forestry is in the process of finalising two separate regulations that are being promulgated under the Act No. 5 of 1990. One draft regulation seeks to extend adequate legal protection to all native plants and animals that are included in the appendices to CITES. The other draft regulation will establish the necessary regulatory controls on harvesting and export of CITES-listed species. These draft regulations are presently being finalised in collaboration with the Cabinet Secretariat before being submitted to President Habibie for ratification.*" The Director of PHPA states that he is hopeful that significant progress will have been made by the time the Standing Committee meets in February 1999.

5. MALAYSIA-SABAH

Progress since 1994

On 16 November 1993, the Secretariat sent to the Management Authority of Malaysia-Sabah a draft analysis of national legislation prepared by TRAFFIC USA. No response was received, and the Secretariat sent reminders on 1 February 1994 and 23 March 1994. No comment was received, and a final version of the analysis was sent to the Management Authority of Malaysia-Sabah on 22 July 1994. The Secretariat sent a reminder concerning the obligations of Decision 6(a) of the ninth meeting of the Conference of the Parties to the Management Authority on 29 August 1996, followed by an additional reminder sent on 28 January 1997.

In March 1997, a copy of a draft law for Malaysia-Sabah was received at the Secretariat. On 2 April 1998, the Secretariat asked to be informed on progress regarding that draft law. On 9 April 1998, the Management Authority of Malaysia-Sabah informed the Secretariat it was sending a copy of the version approved by the State Legislative Assembly in December 1997. On 3 June 1998 the Secretariat received a copy of the Sabah Wildlife Conservation Bill 1997. It provides for the establishment of Management and Scientific Authorities, prohibits trade in specimens of appendices I and II of the Convention, provides penalties, and allows for confiscation of specimens illegally traded or possessed. The Bill does not provide for the application of Appendix III in Sabah.

Conclusions

The enacted law fulfils the basic requirements of Resolution Conf. 8.4. The Secretariat considers that Malaysia-Sabah can be removed from Category 3.

6. NICARAGUA

Progress since 1994

On 4 January 1994, the Secretariat provided the Management Authority of Nicaragua with the analysis of its national legislation, prepared by TRAFFIC USA, asking for comments. On 28 March 1994, the Secretariat sent a reminder to the Management Authority of Nicaragua. Comments were received, and a revised draft was sent to the Management Authority on 22 July 1994. The Secretariat sent a reminder concerning the obligations of Decision 6(a) of the ninth meeting of the Conference of the Parties to Nicaragua on 29 August 1996 and then an additional reminder on 28 January 1997.

The Secretariat was not entirely satisfied with the analysis prepared by TRAFFIC USA for certain Latin American countries and hired a consultant to review the analyses for several countries, including Nicaragua. On 28 November 1996, the Secretariat sent a questionnaire to the Management Authority of Nicaragua to obtain information required to update the analysis. On 9 May 1997, the Secretariat received the completed questionnaire and on 28 May 1997 copies of relevant legislation. The analysis prepared by the consultant was completed on 31 May 1997, and the analysis together with a draft example CITES law for Latin American countries sent to Nicaragua.

On 5 February 1998, the Management Authority of Nicaragua informed the Secretariat that Nicaragua had completed a review and update of its legislation relating to CITES and that the Secretariat would shortly be informed of the progress achieved. On 16 February 1998, the Secretariat received a report from the Management Authority on the progress it had made in

CITES legislation. A new law on natural resources and the environment, Ley No. 217- Ley General del Medio Ambiente y los Recursos Naturales, was adopted in June 1996 and a Presidential Decree, Decreto No. 8.98, was adopted in February 1998. Both of these concern the implementation of CITES. The law incorporates CITES and other international treaties into national law, and the Presidential Decree defines management and scientific authorities, outlines procedures and incorporates the definitions, interpretations and concepts of the Resolutions of the Conference of the Parties into national law.

Conclusions

The Secretariat considers that Nicaragua can now be removed from Category 3.

7. SENEGAL

Progress since 1994

On 16 November 1993, the Secretariat sent to the Management Authority of Senegal the draft analysis of legislation prepared by the Environmental Law Centre. On 1 February 1994, a reminder was sent, as no comments had been received. On 9 February 1994, comments were received from the Management Authority, and on 27 June 1994, a revised analysis was sent to Senegal. The Secretariat sent a reminder concerning the obligations of Decision 6(a) of the ninth meeting of the Conference of the Parties to Senegal on 29 August 1996 and an additional reminder on 28 January 1997.

On 2 and 24 March 1998, the Management Authority of Senegal informed the Secretariat that since the 10th meeting of the Conference of the Parties it had started a process to revise national legislation and that revisions to the Forestry Code had already been completed. Revisions to the Hunting and Wildlife Protection Code and Fisheries Code were underway. Senegal requested technical assistance from the Secretariat.

In a letter dated 14 April 1998, the Secretariat asked for copies of these revisions. On 18 May the Secretariat received a copy of the revised Forestry Code (Law No. 98-03 of 8 January 1998 and Decree No. 98-164 of 20 February 1998). This legislation is primarily concerned with the use and protection of forest resources. It lists a small number of protected tree species, none of which are CITES-listed. The export and import of these, and other forest resources, are not covered by the law. Therefore, this legislation makes no change to Senegal's ability to implement the Convention.

Designation of Management and Scientific Authorities

Senegal has named a Management Authority and a Scientific Authority.

Prohibition of trade in violation of the Convention

The most recent analysis prepared by the ELC points out that the existing legislation covers only import, export, transport and possession of certain indigenous protected species. There are no laws applicable to CITES-listed flora.

Penalties for trade in violation of the Convention / Confiscation of specimens illegally traded or possessed.

Penalties for infractions against existing legislation are relatively heavy, but confiscation of specimens is possible only for offences involving certain native protected species. For non-protected species, penalties are light, and confiscation is impossible.

Conclusions

The Secretariat remains unable to assess fully Senegal's ability to implement the Convention until additional information is submitted by the Management Authority relating to revisions to the Hunting and Wildlife Protection Code and the Fisheries Code. Nonetheless, it appears that many shortcomings need to be remedied.

Progress since June 1998

The most recent analysis of the national legislation of Senegal was prepared by the IUCN Environmental Law Centre. This analysis points out that the existing legislation covers only import, export, transport and possession of certain indigenous protected species. There are no laws applicable to CITES-listed flora. In a telefax dated 2 March 1998, the Management Authority of Senegal informed the Secretariat that it had begun a process to revise its laws. The Management Authority explained that the Forestry Code had been revised, and that it was in the progress of revising the Hunting and Wildlife Protection Code and the Fisheries Code. These revisions are very important, as the Hunting and Wildlife Protection Code has been the law used to date to apply the Convention.

On 18 March 1998 the Management Authority asked the Secretariat to provide an expert to assist in developing CITES legislation, and attached to their letter a brief funding request to cover costs of a 3-day workshop to assist with revising the Hunting Code. No other details were provided. The Secretariat requested additional information on goals and objectives of this workshop in a telefax dated 14 April 1998 but received no response. On 5 August 1998 the Secretariat received a telefaxed letter from the Management Authority, reminding the Secretariat of its request for an expert and explaining that Senegal had no capacity in this matter. The Management Authority explained that their lack of legislation was not due to a lack of will on their part, but with support from the Secretariat they would be able to revise their legislation. Clearly the Government of Senegal is responsible for meeting its obligations under the Convention (it acceded to the Convention in 1977), and must ensure that it provides the resources to meet its obligations. For its part, the Secretariat can provide assistance in the form of general advice (for example by providing the Cyrille de Klemm book of guidelines, already done, and the legislation Checklist) and specific comments on draft legislation before it is submitted. The Secretariat may also be able to help with funding for workshops etc. in the context of capacity building for the Convention. The Secretariat has advised Senegal that a substantial proposal giving clear aims, objectives and methods, would have to be submitted before it can take action.

The Secretariat remains unable to assess fully Senegal's ability to implement the Convention until, at the very least, the additional information requested by the Secretariat is submitted by the Management Authority relating to revisions to the Hunting and Wildlife Protection Code and the Fisheries Code. Many shortcomings in the legislation need to be remedied before it can meet the requirements for implementing the Convention.