

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



Fifty-eighth meeting of the Standing Committee
Geneva (Switzerland), 6-10 July 2009

Interpretation and implementation of the Convention

Compliance and enforcement

E-COMMERCE OF SPECIMENS OF CITES-LISTED SPECIES

1. This document has been prepared by the Secretariat.
2. From 24 to 26 February 2009, a workshop was convened in Vancouver, Canada, to examine issues related to e-commerce in specimens of CITES-listed species. This was in compliance with Decision 14.35, paragraph c), adopted at the 14th meeting of the Conference of the Parties (The Hague, 2007). The report of the workshop, together with recommendations adopted by the participants, is contained in the Annex to this document.
3. In compliance with Decision 14.35, paragraph d), the Secretariat published the workshop report with Notification to the Parties No. 2009/010, of 20 March 2009, seeking additional comments. At the time of writing (late April 2009) no comments had been received.

Observations by the Secretariat

4. During the workshop, the Secretariat noted that little hard evidence or few data emerged to indicate the scale of illicit trade that may be being facilitated via the Internet. There does, however, seem little doubt that large numbers of specimens of CITES-listed species are advertised for sale. The Secretariat also noted little support among participants for a general ban on advertising specimens of Appendix-I species, although they had heard of one major site, the owners of which have prohibited any advertising of ivory.
5. Neither of the working groups suggested the drafting of a resolution or decision in relation to this subject, for consideration at the 15th meeting of the Conference of the Parties. Consequently, it is now for the Standing Committee to determine how this subject should be moved forward.

Workshop report

E-COMMERCE OF CITES-LISTED SPECIES

Background

1. At its 14th meeting (The Hague, 2007), the Conference of the Parties adopted Decision 14.35 directed to the Secretariat as follows:

The Secretariat shall:

- a) *request, through a Notification issued after the 14th meeting of the Conference of the Parties, information from Management Authorities regarding:*
 - i) *the scale and nature of wildlife trade arranged via the Internet that apparently involves their country;*
 - ii) *perceived problems relating to such trade, including illicit trade;*
 - iii) *the effectiveness of any measures that Parties have taken to address the trade in wildlife via the Internet, including the use of codes of conduct; and*
 - iv) *any changes in trade routes and methods of shipment that have been observed as a result of increased use of the Internet to promote trade in wildlife;*
- b) *using the services of a suitably-qualified consultant, review the information submitted by Parties and prepare a background document for consideration at a workshop;*
- c) *seek external funding to convene a workshop on wildlife trade via the Internet, to which the following should be invited to participate: CITES Management Authority and enforcement officials from Parties with emerging or existing wildlife trade arranged via the Internet; experts on Internet trade; owners of relevant websites and Internet service providers; ICPO-Interpol and the World Customs Organization; and representatives of other intergovernmental and non-governmental organizations;*
- d) *publish the outcomes of the workshop, including any recommendations, on the CITES website, seeking additional comments; and*
- e) *report on this matter at the 58th meeting of the Standing Committee.*

Implementation of the Decision

2. The Secretariat issued Notification to the Parties No. 2007/026, of 21 August 2007, seeking the required information from Parties.
3. At the 57th meeting of the Standing Committee (Geneva, July 2008), the Secretariat advised that the submissions from Parties were not of a sufficient quantity or detail to warrant the employment of a consultant, as envisaged in Decision 14.35, paragraph b). The Standing Committee agreed that the Secretariat should undertake an analysis of the submissions and prepare the background document for a workshop. The Secretariat subsequently produced such a document, which was published at the following URL: <http://www.cites.org/common/docs/misc/E-Internet%20trade.pdf>
4. The Government of Canada offered to host the workshop called for in Decision 14.35, paragraph c). In conjunction with the host country, the Secretariat attempted to ensure that the range of participants envisaged therein were invited. The Secretariat also tried to achieve participation from each CITES region, whilst giving priority to those Parties that had responded to Notification to the

Parties No. 2007/026. The Governments of France and the United Kingdom of Great Britain and Northern Ireland and the European Community provided funding to assist in the convening of the workshop and to support the attendance of participants from developing countries. Unfortunately, three delegates from developing countries, for which the Secretariat was able to make travel arrangements, were unable to obtain visas in sufficient time.

Conduct of the workshop

5. The workshop was convened in Vancouver, Canada, from 24 to 26 February 2009. The following Parties and organizations participated: Argentina, Canada, China, the Czech Republic, France, Germany, Ghana, Kenya, Madagascar, the Netherlands, Poland, Singapore, Switzerland, the United Kingdom, the United States of America, the European Community, ICPO-Interpol, the World Customs Organization, eBay, CEEweb for Biodiversity - The Polish Society for Nature Conservation "Salamandra", IFAW, IWMC-World Conservation Trust, Species Survival Network and TRAFFIC. The workshop was chaired by Canada and facilitated by the CITES Secretariat.
6. Presentations relating to e-commerce were provided by Canada, China, Germany, Poland, the United States, the CITES Secretariat, ICPO-Interpol, eBay, IFAW and TRAFFIC.
7. Participants then divided into two working groups. One examined the problems or issues associated with monitoring and regulating legal trade in wildlife facilitated via the Internet or associated with e-commerce. The other examined the problems or issues associated with combating illegal trade in wildlife facilitated via the Internet or associated with e-commerce. Working groups met together in plenary sessions to discuss their findings and to consider ways in which the problems and issues identified might be addressed.
8. Both working groups identified two specific matters that were seen as being of considerable interest or concern but where opinions were very divided. The first related to the concept of a ban of advertisements of specimens of Appendix-I species on Internet sites that are commonly referred to as 'auction sites'. The working groups, and the workshop in plenary session, noted that some service providers, particularly eBay, have banned advertisements of ivory specimens. However, neither the working groups, nor the participants in plenary session, could reach a consensus on the appropriateness of bans and no recommendation was adopted by the workshop in relation to this subject.
9. The second matter related to what is often referred to as 'the burden of proof'. In many judicial systems, the responsibility for proving that a specimen is of an unlawful origin rests with the State or its prosecution authorities. However, some delegates were of the opinion that persons advertising specimens for sale, particularly of Appendix-I species, should be obliged to demonstrate that they were of legal origin. However, neither the working groups, nor the participants in plenary session, could reach a consensus on this issue and no recommendation was adopted by the workshop in relation to this subject.
10. In the final plenary session, the participants adopted the recommendations in the attached Annex. The text in square brackets indicates where consensus could not be reached among the participants.

ANNEX

CITES E-COMMERCE WORKSHOP

Working Group A focused on legal trade conducted over the World Wide Web and on issues related to the regulation of such trade.

Working Group A recommended the following:

1. Parties should cooperate as necessary to achieve these tasks:
 - a) Evaluate or develop CITES-implementing legislation and regulations to ensure that they are sufficient to address the challenges of controlling wildlife trade via e-commerce, giving particular attention to:

[the online facilitation of (e.g. Internet services or market places) and participation in the illegal trade in wildlife (e.g. selling and purchasing) is a prosecutable crime];

[sellers should provide information regarding the protected status of the species and the legal requirements of the trade specimens as well as the origin (legal status and documentation if required) for the specimens]; and

[ensuring that law enforcement agencies have lawful access, without unnecessarily strict conditions, to basic identification information in the possession of Internet Service Providers and Internet Registration Authorities and without law enforcement's interest being disclosed to the entity to whom the information pertains. Examples of this basic identification information include names, addresses (physical, e-mail, IP), and website hosts. Such legislation and regulations reduce the anonymity that is afforded to criminals by the Internet and they enable law enforcement agencies to establish jurisdiction and initiate investigations.]
 - b) Submit information to the CITES Secretariat for posting on the CITES website on best practices and on websites adhering to codes of conduct as recommended by Parties;
 - c) Publish results of scientific research on correlations between use of the Internet and the rate of wildlife crime;
 - d) Assess the extent and trends of commerce of CITES-listed species via the Internet. These assessments are to be submitted to the Secretariat for analysis; and
 - e) Submit information on methodologies used by other agencies to evaluate mechanisms to regulate legal commerce of CITES-listed species via the Internet;
2. A toolkit for use by Parties and the general CITES community to assist with the regulation of legal trade of CITES-listed species via the Internet. The toolkit should contain information on:
 - a) Electronic permitting systems, including formats, protocols and standards recommended by the Working Group on Electronic Permits; and
 - b) Codes of conduct for trade platforms, including specifically Web-based auction sites, that include minimum standards, for example:
 - A mechanism where users can communicate with CITES Management Authorities on issues related to electronic commerce of CITES-listed species;
 - A checklist for sellers and buyers and other Internet users to ascertain compliance with CITES obligations;

- Public awareness resources to assist Parties with national campaigns and to inform both the public and the private sectors on issues related to electronic commerce of CITES-listed species;
- User-friendly and more readable CITES-related information, regulations and obligations related to the sale of CITES-listed species; and
- Development of capacity-building programmes to enhance national capacity to regulate legal Internet trade of CITES-listed species.

3. The establishment of a Working Group under the Standing Committee to:

- a) further develop the toolkit;
- b) receive feedback from Parties regarding the effectiveness of the implementation of toolkit recommendations, and;
- c) assess that information and report at the 61st meeting of the Standing Committee.

Working Group B, having considered the problems of issues associated with combating illegal Internet-related wildlife trade, made the following recommendations.

1. Parties, the Secretariat and Interpol should consider:

- a) Ensuring that sufficient resources are directed to the investigation and targeting of illegal Internet-related trade in specimens of CITES-listed species;
- b) Establishing, at the national level, a unit dedicated to investigating wildlife crime linked to the Internet or incorporating wildlife trade issues into existing computer or cyber-crime investigation or monitoring units. Such a dedicated unit should have equipment suited to this task, such as secure computers, and be staffed by individuals who have been trained in the relevant specialized techniques that are necessary for such work. In establishing such units, Parties should draw upon the experience of agencies and countries where units already exist and should collaborate in the provision of specialized training. Once established, such units should collaborate in the exchange of operational information and intelligence at national, regional and international levels;
- c) Establishing a mechanism to coordinate, at the national level, the monitoring of Internet-related wildlife trade and to provide for the timely sharing between designated contact points in CITES Management and Enforcement Authorities of information that results from these activities;
- d) Using the data acquired during monitoring activities to determine strategies regarding enforcement, capacity building and public awareness; and
- e) Ways in which funding may be provided for the establishment of a full-time position, dedicated to e-commerce aspects of wildlife crime, within the General Secretariat of Interpol. The responsibilities of this post would include ensuring that all information or intelligence regarding e-commerce is consistently collected and disseminated to the relevant Enforcement Authorities, designated by Parties.

2. The Secretariat should prepare and publish guidelines with minimum standards for the consistent monitoring and subsequent data compilation of Internet-related wildlife trade to enable national, regional and international overviews to be achieved.

3. Interpol should consider establishing a secure interactive website or electronic forum containing information and intelligence regarding Internet-related wildlife crime. The website or forum should be capable of being updated in a 'real-time' manner by authorized contributors.