



Strengthening national legal frameworks for the effective implementation of CITES and for combating illegal wildlife trade

Gigiri, Nairobi, Kenya.

4 -5 April 2016

Report

Summary: *The workshop was attended by 31 participants from 16 Parties in Africa. The participants took active part in discussions and exchanges over the two days. They all demonstrated commitment and engagement towards improving their national legislation. Parties are invited to submit a draft legislative timetable before 30 April 2016 as the basis for further assistance.*

Participants:

1. The Parties invited were Parties requiring attention as a priority under the NLP as well as other African Parties with legislation in category 3. The following responded positively to the invitation: Algeria Angola, Burkina Faso, Central African Republic, Comoros, Cote d'Ivoire, Ghana, Guinea, Guinea Bissau, Kenya, Liberia, Mauritania, Mozambique, Niger, Somalia, and Tanzania. Djibouti also responded positively but was not able to send a representative in the end.

Workshop objectives

2. The workshop was jointly organized by UNEP (taking the lead in logistics) and CITES Secretariat (leading on content) pursuant to Decision 16.38 and UNEA Resolution 1.2.

3. The workshop contributed to CITES Strategic Goal 1 in supporting all African Parties with legislation in category 2 or 3 to make the necessary improvements to be placed in cat. 1.

4. The workshop had three specific objectives:

- a. Enhance the understanding of the basic requirements in Res. Conf. 8.4
- b. Enable a clear understanding of the next steps required in each country to achieve the goal (as set out in legislative timetables to be agreed with the Secretariat)
- c. Provide a better understanding of the links between appropriate domestic CITES legislation to prevent and combat illegal trade in wildlife.

5. Following the decision by the last standing committee to organize a legal roundtable on a possible revision of Resolution 8.4, the last session was organized as such a roundtable the possible revision of Resolution Conf. 8.4. The discussion focused in particular on "illegal possession". The session also provided an op-

portunity for the participants to discuss upcoming issues at the Conference of the Parties, including the draft CoP decisions on national legislation.

6. One session focused on the links between illegal trade in wildlife and national legislation. UNEP presented a project focused on mobilizing parliamentarians in preventing and combatting illegal trade. A representative of ICCF presented a project aimed at establishing national caucus on the environment.

7. The workshop achieved its objectives with all sixteen Parties present committing to take necessary action and make progress before the end of the year. A number – but not all – of the parties clearly dependent on technical assistance from UNEP and/or CITES. The legal Roundtable did not get much traction and there were no clear recommendations from the Parties present on 8.4 or on the draft CoP decisions.

8. The workshop also provided an opportunity for the Secretariat to consult with all Parties present on their legislative process and provide specific advice on the way forward. Participants were very actively engaged in discussions among each other. The French-speaking countries are generally behind English-speaking and benefitted from the exchange with English speaking colleagues with simultaneous interpretation provided.

9. The workshop assumed solid knowledge of the convention as the invited participants were MA or focal points and their legal adviser. There were no general presentations or explanations of the Convention and the only presentation concerned the four key requirements for implementation.

10. A good mix of plenary discussions and parallel discussions in three groups based on languages provided ample opportunity for all participants to raise issues and questions and get feedback.

11. With one exception (Guinea), all Parties seemed very engaged and committed to move forward on their legislation and make demonstrable progress within this year. It was clear from the discussions that the threat of a trade suspension is real and contributes to the eagerness to demonstrate progress before the next meeting of the SC.

12. Parties were invited to develop a legislative plan to be signed by the Management Authority and the competent Minister and agreed to by the Secretary General of the Convention. These plans are to be submitted to the Secretariat by 30 April 2016. Where needed, the Parties were invited to indicate which actions in the plan would benefit from (or depend upon) assistance from CITES and UNEP.

13. The feedback forms from participants (handed in by 28/31) indicated the following:

- The event was rated excellent/excellent or good/très bien by 19 participants and fair/satisfasant by 4.
- Quality and structure of the discussions was rated excellent or good by 24
- Logistics was rated excellent or good by 20, fair by 6 and poor by 1 participants
- All participants felt that the event had enhanced their understanding of the legal measures required to implement the convention
- All participants felt that the presentations and discussions were clear.
- All but one participant (Comoros) felt that they got useful answers to any questions.
- Many participants expressed appreciation that both a technician and a lawyer had been invited to the workshop as they are both necessary for development of draft legislation.

14. Issued raised and discussed at the workshop included:
- The legislative process (basic steps to be taken, duration, importance of lobbying parliamentarians, public participation, involvement of other institutions and agencies etc.)
 - The difference between the law and any secondary legislation – and the advantages of having CITES-specific legislation rather than sector specific
 - The regulation of exotic species, marine species and flora which is often difficult in nature conservation/hunting legislation that is used to implement CITES in many countries
 - The importance of involving fisheries management authorities in management of CITES
 - Regulation of illegal possession (Kenya, Algeria are examples)
 - The difference between seizure and confiscation
 - The types of penalties – usefulness of guidance for sentencing – appropriateness of plea bargaining in criminal cases
 - The applicability of CITES towards members of the diplomatic corps (raised by Liberia)
15. Notes on the legislative progress for each country are included in the Annex to this report.

Actions to be taken

1. Review and agree to any legislative timetables submitted by the Parties and publish these in an information document for the Standing Committee.
2. Engage in SSFA's with as many Parties as resources allow. Consult with UNEP to provide assistance as well.
3. Consider organizing a second workshop for the remaining 15-16 Parties in Africa, depending on available resources.
4. Consider inviting other Parties with legislation in cat. 2 or 3 – or at least countries requiring attention as a priority to also submit timetables to be agreed with the Secretariat and published in a document for the SC.

Possible Areas of Intervention to Support Countries Depending on Actual Needs:-

- Supporting the process of analysing and reviewing existing national legislation and institutions to identify gaps that can be filled either by new legislation or strengthening existing legislation, elaborating regulations according to the parent act;
- Supporting countries to draft national legislation by supporting the commissioning of a local consultant whose work can be reviewed and supervised by a meeting of multi-disciplinary task force of about 5 members before the draft law is presented to wider group.
- Supporting a stakeholders consultation workshop to get their input on the draft law before it is presented to the Ministry of Justice's Parliamentary draftsman and Parliament as a bill.
- When the Bill is not being considered a priority in Parliamentary Government business for some time, supporting a workshop for raising awareness of Parliamentarians can be an option, or following up with delegations in CITES, a visit to the country or in forums such as UNEA can be options to push the process forward.

Annexes:

Annex 1: Information regarding Parties present

Annex 2: Final list of participants

Annex 3: Provisional agenda

Annex 1

Information regarding Parties present (alphabetical order)

The information below is based on discussions and information submitted in feedback forms. Will be confirmed in legislative plans to be submitted by end of April.

Algeria

Present: Focal point and lawyer. Follow-up actions: Establish a working group/task force with all relevant parties to finalize the draft law. Efforts by the Government to adopt the legislation and integrate the convention into national legislation as soon as possible; most likely before the end of the year.

Angola

Present: Focal Point and lawyer. Relatively new Party. Very engaged and committed.
Follow-up actions: Will initiate legal analysis of existing legislation and subsequent development of draft law. Able and interested in drawing on the draft legislation from Mozambique which in turn builds on the model law. Expect to be ready to submit draft legislation to Parliament by October 2016.

Burkina Faso

Present: Focal point and lawyer. No draft legislation has been produced and BF generally seemed to be starting from scratch.

The follow-up actions included an internal debrief and preparations of a legal analysis as the foundation for draft legislation. Assistance critical.

Central African Republic

Present: Focal point and lawyer.

Follow-up actions: Workshop to review draft legislation

Timeline: Before the end of 2017

Assistance required.

Comoros:

Present: Focal point and lawyer.

Follow-up actions: develop solid plan for next steps which will include the preparation of a legal analysis and of draft legislation. Sub-regional and national consultations on the draft will be organized subsequently.

Timeline:

Assistance seems critical for Comoros to make progress.

Côte d'Ivoire

Present: Focal point and lawyer.

Follow-up actions: Organize meeting with all relevant parties to analyse existing legislation against the CITES requirements, identify gaps and develop the legal texts required to fill the gaps.

Interested in receiving examples of cat. 1 legislation from the region.

Ghana

Present: Focal point. Draft Bill prepared in 2014 and submitted to Parliament for adoption. The process is slow but progress is expected in 2016.

Timeline: Adoption of the law should happen before the end of the year.

No assistance requested or required at this stage.

Guinea-Bissau

Present: Focal point. Guinea-Bissau has just been subject to a recommendation to suspend trade and was very disappointed and upset as they were trying to show engagement and commitment. Severe lack of resources and need for assistance to take any action

Follow-up actions: Will initiate a legal analysis of existing texts. Develop draft legislation and consult with all relevant actors.

Timeline: Adoption of legislation before the end of the year.

Assistance required – will not be able to implement the legislative plan without assistance. No sufficiently qualified lawyers available in-country.

Guinea

Present: Focal point and engineer from environment ministry. Guinée is subject to a recommendation to suspend trade since 2013 under Article XIII of the Convention. Draft legislative texts were provided during the meeting in response to the recommendations by the Secretariat during the mission in 2011. A quick review indicates that the texts are insufficient to meet the four minimum requirements. Secretariat needs to send comments rapidly to underline the insufficiency of the law.

Follow-up actions: Discussions on the legislative plan with relevant institutions and other involved partners
Development of implementing regulations. Dissemination of law and implementing regulations.

Timeline: Expect that the law will be adopted rapidly.

Technical assistance to finalize laws and regulations seems to be needed.

Kenya

Present: Focal Point and lawyer. Kenya has adopted wildlife law and is currently preparing an amendment and working on the implementing regulations. 22 draft regulations are under discussion. At the end of the workshop, the lawyer indicated that he might change the approach from spreading the CITES relevant provisions in three different regulation to compiling them in one.

Follow-up actions: Consultations with Parliamentary committee on amendments of the wildlife law.

Timeline: initially, Kenya indicated by the end of the year; however, subsequently they indicated that it should be doable by September.

Liberia

Present: focal point and lawyer. Liberia has a draft law which was submitted in front of Parliament five years ago. The law is not sufficient in itself and implementing regulations will be required.

Follow-up actions: Review comments from the CITES Secretariat on the draft law with the aim of making non-controversial amendments to the law while it is being discussed by Parliament. Subsequently develop the implementing regulations.

Timeline: Should be ready to be placed in category 1 by mid.2017.

Assistance required to finalise draft law and to sensitize parliamentarians.

Mauritania

Present: Focal point and lawyer. Mauritania has no draft and has already requested support to prepare one.

Follow-up actions: Preparation of legal analysis and draft legislation. Consultations with relevant stakeholders

inside and outside government and with CITES. Finalization of law and submission to parliament.
Timeline: Expect to be able to submit draft law to the parliament by November 2016

Mozambique

Present: Focal point and lawyer. Mozambique has an enabling law and a draft regulation.
Follow-up actions: Finalization on regulations taking into account comments from the Secretariat
Timeline: Before CoP17
No assistance needed.

Niger

Present: Focal point and engineer. Niger has a well-developed draft.
Follow-up actions: Establish a task force. Organization of public consultations. Validating workshop. Developing implementing regulations.
Timeline: expect to be ready by March 2017
Assistance needed to organise the consultations and validation workshop

Somalia

Present: Focal point and lawyer. Somalia is still very much in a post-conflict situation. Critical problems with regard to seized wildlife as there are no facilities to take care of the wildlife and Somalia is under double trade suspension and hence cannot legally ship intercepted wildlife across the borders to neighbouring and better equipped Parties. Will work to get the trade suspension based on reporting lifted as soon as possible to solve this practical problem.
Follow-up actions: Preparation of legal analysis and draft legislation to be submitted to the Secretariat for analysis. In a second phase capacity building of enforcement units and survey of wildlife in Somalia.
Timeline: Draft law to be ready by November 2016.
Assistance required. Mr Iqbal might be useful in this regard.

Tanzania

Intend to organize an inter-ministerial consultation meeting between ministry of agriculture and forest conservation (Zanzibar) and ministry of natural resources (Tanzania) as well as workshops. Organization of local communities workshops and stakeholder meetings. The ministry of agriculture Zanzibar is expected to submit the draft law to Attorney General.

Timetable:

July 2016: Wildlife conservation act amendment adopted (mainland)
August 2016: CITES implementation regulation for Zanzibar
May 2016: CITES implementation regulation for mainland Tanzania

Annex 2: List of Participants

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