



NOTIFICATION TO THE PARTIES

No. 2004/078

Geneva, 9 December 2004

CONCERNING:

Submission of enforcement-related information by the public
and non-governmental organizations to the CITES Secretariat

1. At its meeting in Shepherdstown, United States of America, from 2 to 5 February 2004, the CITES Enforcement Expert Group discussed the subject of the submission to the CITES Secretariat of information relating to enforcement of the Convention and illicit trade by the public and non-governmental organizations. It also prepared guidance on this matter.
2. At its 13th meeting (Bangkok, 2004), the Conference of the Parties endorsed the guidance, which is attached to this Notification.

Annex

Submission of enforcement-related information by the public and non-governmental organizations to the CITES SecretariatIntroduction

This document is intended to help guide members of the public and non-governmental organizations who may wish to submit information regarding illegal trade in specimens of CITES-listed species.

Suppliers of information are, first of all, encouraged to contact the relevant law enforcement agencies in the country (or countries), where the trade is taking place. However, in cases where the Secretariat is thought to be the most suitable recipient, the following guidance should ensure meaningful communications.

Background

Articles XII and XIII of the Convention, together with Resolution Conf. 11.3 (Compliance and enforcement), state clearly that the Secretariat has both general and specific responsibilities with regard to bringing to the attention of Parties, the Standing Committee and the Conference of the Parties, information that indicates that any species included in Appendix I or II is being adversely affected by trade in specimens of that species.

The Secretariat has no specific investigative or enforcement authority as part of its mandate and has no powers to conduct investigations at national level. However, an expectancy has arisen, on the part of both Parties and non-governmental organizations, that the Secretariat will play a significant role in supporting work to combat illegal trade. The preamble to Resolution Conf. 11.3 repeatedly refers to such activities. Indeed, the Secretariat's work in this area has uncovered, or helped bring to light, many significant incidents of illegal trade. The Parties have also, repeatedly, called upon the Secretariat to develop its links with ICPO-Interpol and the World Customs Organization.

The effective combating of illegal trade in fauna and flora depends upon the efforts and dedication of CITES Management Authorities and national and international law enforcement agencies to conduct in-the-field investigations to assess the veracity of allegations and pursue information regarding illicit trade or wildlife crime. The Secretariat's primary role is, to an appropriate level, to facilitate such investigations, provide advice and assistance, and determine how widely information should be disseminated.

However, in cases where allegations of corrupt practices involving officials are received by the Secretariat, its policy is to pass these to ICPO-Interpol, since it believes that organization to be better equipped to initiate investigation of such matters.

The collection of information

Whilst the public may come across information regarding illegal trade in wildlife or may see instances of such trade, many non-governmental organizations actively seek out such information. In doing so, such organizations should ensure that the methods they use are legal

and ethical. Failing to do so may compromise investigations by law enforcement agencies, may render information obtained inadmissible in court or may inadvertently motivate illegal trade.

The supply of information

It is widely recognized in the law enforcement community that many sources of useful and important information wish to remain anonymous and that confidentiality of information must be maintained. Anonymity and confidentiality are also enshrined in the criminal laws and judicial systems of many countries. Resolution Conf. 11.3 recognizes their importance and encourages Parties to evaluate and utilize such sources for enforcement purposes. It is only sensible that the Secretariat also adopts such an approach in its work.

However, the Secretariat will respond appropriately where allegations are found to be malicious, frivolous or spurious.

The Secretariat believes that the following guidance may be of assistance to persons and organizations that may wish to pass information regarding illegal trade.

Guidance

1. Information can be passed to the Secretariat by letter, fax, email, telephone or in person. It is preferable that information be submitted in writing. The ECOMESSAGE format (copy attached), which is used by Management Authorities and law enforcement agencies, indicates the type of information that can facilitate investigations.
2. It should be clearly indicated, when information is submitted to the Secretariat, whether the source is to remain anonymous or confidential and to what degree. For example, whether the identity of the source can be disclosed to official law enforcement agencies, Management Authorities or the public, or restricted solely to the Secretariat. Suppliers should be aware that requests for sources to remain anonymous or confidential must be made when the information is first submitted, as it may be too late to respond to such requests made subsequently.
3. Suppliers of information should make clear whether it has already been, or will be, communicated to other persons and organizations.
4. It should also be clearly indicated whether the information itself may be communicated by the Secretariat to other organizations or why its dissemination should be restricted. Suppliers should be aware that restricting the Secretariat's ability to share information might also restrict its ability to use it effectively. The Secretariat, however, reserves the right to make the final judgement on how best to use the information, whilst at the same time maintaining confidentiality. In doing so, it may edit the information in a manner that will preserve the anonymity of the source.
5. If the person or organization supplying information subsequently chooses to alter its wishes regarding the level of confidentiality or restriction of information, it should communicate that fact as soon as possible to the Secretariat and before it passes the information to other persons or organizations. To do otherwise may prejudice any investigation and could violate national *sub judice* rules.

6. Where the person or organization supplying the information is not the actual source, the source should be identified if possible or an explanation given why that cannot be done.
7. It will be of considerable assistance if the supplier can indicate the reliability of the information or source and provide as much detail as possible regarding the matter or allegation.
8. Persons and organizations supplying information are expected to cooperate with the Secretariat as it seeks to establish the veracity of the information, unless there is good reason why this is not possible. Failure to do so may result in the Secretariat taking no further action.
9. Wherever practical, the Secretariat will, unless requested not to do so, advise persons and organizations supplying information how it has made use of the information and the results of any investigations conducted. The detail relating to the results of investigations may, of course, have to be restricted owing to it being subject to court proceedings or confidential for other reasons, and these will be explained by the Secretariat.
10. Acceptance by the Secretariat should not be construed as indicating validation of the information or its source.

<p>6. Companies involved</p> <p>a) Type</p> <p>b) Name</p> <p>c) Activities</p> <p>d) Address and phone/fax of headquarters</p> <p>e) Registration number</p> <p>f) Business address and phone/fax</p>	<p>All items must be filled in for each company involved in the infraction</p> <p>Indicate the legal type of company</p> <p>Specify the official name and the usual trade name</p>
<p>7. Means of transportation and route</p>	<p>Provide the maximum amount of details on the means of transportation used and route used</p>
<p>8. a) Country and town of origin</p> <p>b) Country of provenance</p> <p>c) Country(ies) of transit</p> <p>d) Country and town of destination</p>	<p>For CITES specimen, indicate the country of origin according to CITES definition (country where the animal or the plant has been taken in the wild, bred in captivity or artificially propagated) and the country of origin according to customs definition (country where the last substantial transformation occurred). In case of specimens originating from the sea, indicate "sea"</p> <p>Country of last re-export</p> <p>Specify the destination declared on the transport documents and the real destination</p>
<p>9. Identification of documents used</p>	<p>Specify the type of documents, including authorizations, transport documents, permit and certificates, invoices, reports of analyses. Specify if documents are false, falsified or invalid</p>
<p>10. Law enforcement agency</p>	<p>Specify the exact location of the agency</p>
<p>11. Modus operandi</p>	<p>Describe precisely the modus operandi, including: Techniques of smuggling, type of packaging used, techniques of falsification of documents, financial statements of the involved companies, amount of illicit transaction, possible relationship with other cases.</p> <p>Attach photocopies of the documents (e.g. false documents) or photos (e.g. container) illustrating the modus operandi</p>
<p>12. Additional information</p>	<p>Other details deemed relevant</p>
<p>13. Information requested</p>	<p>Do investigators need information obtained by foreign countries?</p>