

## **COMPLIANCE AND ENFORCEMENT INDICATORS IN CITES**

**YEATER, MARCEIL**

Chief, Legislation and Compliance Unit, CITES Secretariat

### **1 INTRODUCTION**

The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) is an international agreement between States. Its aim is to ensure that international trade in listed species of wild animals and plants does not threaten their survival.

CITES has been in operation for 29 years and is now used by 164 Parties to regulate and monitor international trade in wild resources.

The Convention's longstanding emphasis on and measures to ensure compliance and enforcement have evolved over a number of years and continue to evolve. They have proven to be effective in improving compliance with and enforcement of the Convention and have probably contributed to the absence of disputes between and among CITES Parties.

The objectives of CITES compliance and enforcement measures are to: aid conservation, regulate legal trade, detect and deter illegal trade and gather revenue. The ultimate goal is to improve the implementation, and thereby the effectiveness, of the Convention – and the national wildlife management policies and programs that underlie it.

### **2 CURRENT COMPLIANCE AND ENFORCEMENT INDICATORS**

CITES compliance and enforcement 'indicators' are focused on five key programmes: the National Legislation Project; permit confirmation; annual and biennial reports; the review of significant trade; and reports on enforcement matters. A programme to ensure the timely and full payment of CITES contributions also plays an important role. These programmes have their basis in the text of the Convention, interpretive Resolutions and Decisions by the Conference of the Parties, decisions of the permanent committees and historical practice.

Additional compliance/enforcement measures emphasized under the Convention include: the setting of export quotas; record keeping, monitoring, inspection and controls (traders, breeders, nurseries); internal trade control; intelligence and targeting; investigations; legal actions; specialized units, personnel and funds; assessment and verification missions (by the Secretariat and designated government officials or expert consultants); implementation of agreed compliance plans; meeting of deadlines under the Convention; positive responses to offers of assistance; communication, meetings and training; integration of CITES in standard curricula for Customs, police, etc.; participation in cooperative mechanisms (e.g. the Interpol working group on wildlife crime); economic and social incentives; and strategic use of the media.

To strengthen the Secretariat's capacity to address compliance and enforcement issues within the Convention and provide relevant advice or assistance, a Legislation and Compliance Unit was created in 2000. It comprises a Chief, Senior Enforcement Officer, Legal and Trade Policy Officer and Unit Secretary. Such a unit is unique among multilateral environmental agreements.

### **2 RECOMMENDATIONS TO SUSPEND TRADE**

As CITES uses trade measures for its implementation, one recommendation for improving the effectiveness of the Convention is a temporary suspension of trade. In practical terms, this provides a period of time during which the relevant Party can move from non-compliance to compliance by *inter alia* enacting adequate legislation, combating and reducing illegal trade or responding to specific recommendations of the Standing Committee concerning the implementation of Article IV of the Convention in the context of the Review of Significant Trade. Having identified a problem of serious non-compliance, it would be inappropriate for Parties not to respond. Recommendations for a suspension of trade may

be regarded as a precautionary measure to prevent a continuing violation of the Convention that is detrimental to the survival of one or more CITES-listed species.

Recommendations to suspend trade are ordinarily used as a last resort and CITES puts significant emphasis on inducing Parties into compliance through consultations and advice or assistance. Furthermore, such measures generally are used in cases involving significant levels of trade and where no domestic measures exist to enforce the Convention. Finally, CITES trade measures are withdrawn immediately upon a Party's return to compliance.

### **3 ON-GOING PROGRAMMES TO IMPROVE COMPLIANCE/ENFORCEMENT INDICATORS**

Revised draft guidelines for compliance with the Convention will be discussed at the 50th meeting of the Standing Committee (Geneva, March 2004). Parties with inadequate legislation to implement the Convention have been required by the Standing Committee and the Conference of the Parties to submit a CITES Legislation Plan outlining the steps and timeframe for enacting adequate legislation. A working group established under the Standing Committee has reviewed the reporting requirements under the Convention with a view to identifying and analyzing the causes of non-compliance with those requirements and proposing ways to turn reporting requirements into useful management tools for Parties. A meeting of enforcement experts was convened in February 2004 to identify measures to improve the flow of enforcement-related data to and from relevant international, regional and national law enforcement organizations, CITES Management Authorities and the CITES Secretariat. The meeting also identified measures to assist the coordination of investigations regarding violations of the Convention and to help maintain appropriate levels of confidentiality regarding law enforcement information. Work has begun on the development of a CITES reference kit for the judiciary which includes abstracts of relevant court cases. A technical workshop on wildlife trade policies and economic incentives applicable to the management of and trade in CITES-listed species was organized in Geneva during 1-3 December 2003.

### **4 HOW INDICATORS ARE USED IN DECISION-MAKING**

As mentioned above, CITES compliance and enforcement indicators are used by the Animals Committee, Plants Committee, Standing Committee and Conference of the Parties to take decisions on appropriate measures for ensuring that the Convention is effectively implemented.

### **5 STAKEHOLDERS**

CITES compliance and enforcement measures can involve, among others: Management Authorities; Scientific Authorities; Customs; police; wildlife law enforcement officers; the judiciary; traders; non-governmental organizations and the public.

### **6 CHALLENGES**

Overall, illegal trade in wildlife resources has the potential for high profits while carrying with it a low risk of detection and low level of punishment. Effective deterrence therefore requires increases in the risk of detection and level of punishment.

Expertise, equipment and facilities (e.g. for the identification, storage and care of specimens) must be further identified or developed to support compliance and enforcement efforts.

More emphasis needs to be placed on intelligence and targeted compliance/enforcement efforts so as to deal with the large and growing volumes of air traffic, sea traffic, express carriers and mail which make it impossible to monitor every trans-boundary movement.

Additional attention should be paid to the use of awareness-raising, education and social and economic incentives to complement traditional command and control approaches to compliance and enforcement. Such measures can help to prevent non-compliance in the

first instance, to facilitate compliance and to restore compliance as soon as possible. If well-designed, they can also reduce the administrative burden and costs arising from a purely regulatory approach.

The involvement of organized crime poses a special set of problems for compliance and enforcement officials as it involves the use of sophisticated and determined techniques. These require a sophisticated and determined response that is often is not present and needs to be developed.

Compliance and enforcement efforts frequently stop with seizure. Countries are being urged to consider seizure as only the beginning of a more serious process which should include a thorough investigation and appropriate administrative or judicial proceedings as well as subsequent reporting and incorporation into intelligence for and targeting of other potential violations.

## **7 CONCLUSION**

CITES has extensive experience in developing and using compliance and enforcement measures that work. Nevertheless, it remains interested in identifying innovative and effective practices which might have useful implications for further improving application of the Convention and related national legislation.