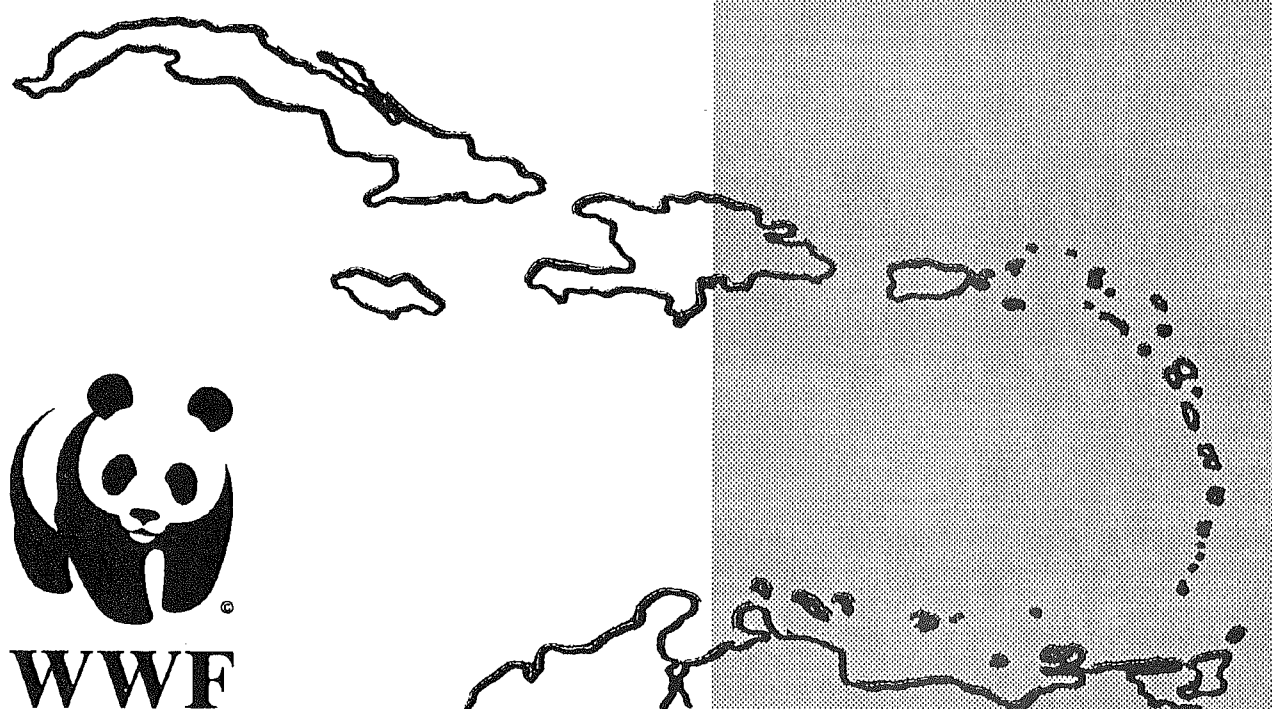


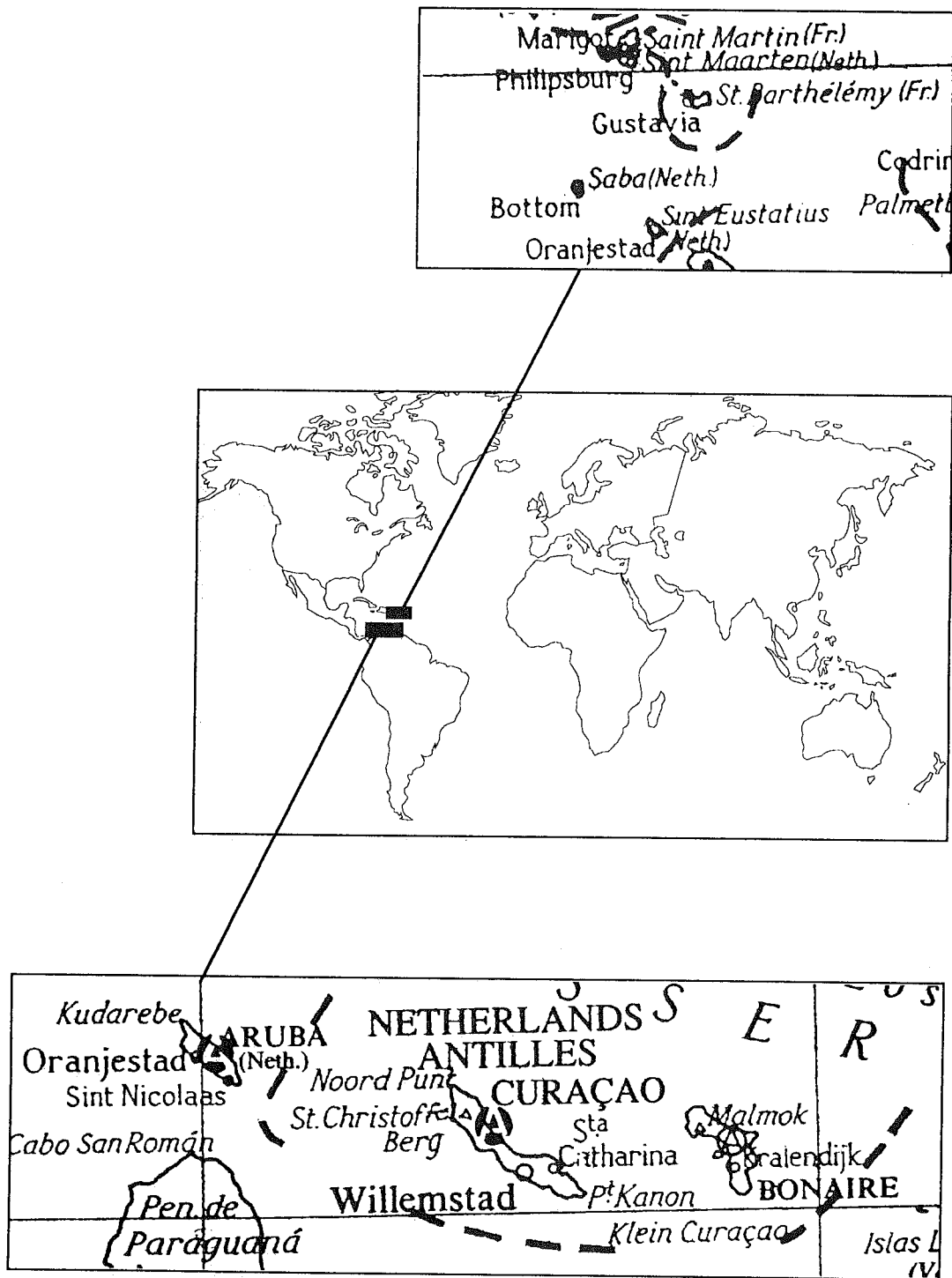
TRAFFIC EUROPE

CITES,
Aruba
and the
Netherlands
Antilles



WWF

CITES, Aruba and the Netherlands Antilles



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PREFACE

This is an updated and translated version of a report originally published in Dutch in January 1991 entitled 'CITES, Aruba en de Nederlandse Antillen'. There have been some developments since then, including the introduction of legislation aimed at regulating the trade in a number of endangered species. Aruba and the Netherlands Antilles have not yet joined CITES nor has CITES legislation been fully introduced by either one.

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SUMMARY

International trade in wildlife accounts for some 5 billion US \$ a year; one third of which is estimated to be illegal. This trade is regulated by CITES (the Convention on International Trade in Endangered Species of Wild Fauna and Flora) which came into force in 1975. The Kingdom of the Netherlands has been Party to the Convention since 18 July 1984, but only for the territory of the Netherlands.

At that time the Netherlands Antilles (which then still included Aruba) advised the Kingdom of the Netherlands to join CITES only for the territory of the Netherlands because legislation was not yet in place in the Netherlands Antilles.

In 1986 Aruba formally separated from the Netherlands Antilles and became a self-governing member of the Kingdom of the Netherlands. The Netherlands Antilles (which now comprises the islands of Curaçao, Bonaire, St. Maarten, St. Eustatius and Saba) and Aruba harmonize their legislation where appropriate; neither has yet joined CITES.

Aruba and the Netherlands Antilles play an important role in the illegal trade in wildlife. This has been the case for many years. They are used as transit ports with 'good facilities' for illegal wildlife trade, such as Free Zones and inadequate and poorly enforced legislation.

In recent years a number of illegal shipments of reptiles and reptile skins (some numbering up to tens of thousands of skins), which had been transported via Aruba and Curaçao, have been seized in South America and Europe. Organizations and individuals in the region frequently report illegal exports of parrots and other wildlife to the islands.

The fact that the islands are being intensively used by drug traffickers is noteworthy in that circumstances which make a route attractive to drug smugglers make it potentially useful for illegal wildlife trade.

Discussions on CITES were highlighted again in 1987 when an illegal transit shipment of 2000 live Spectacled Caimans (*Caiman crocodilus*), which had been shipped through the Netherlands Antilles, was seized in the Netherlands. Questions about this seizure were asked in the Dutch Parliament.

The responsible Netherlands Antilles Minister announced steps to ensure that the islands would no longer be used as a transit port for this trade. A few meetings were held, including consultations with NGOs (Non-governmental organizations), but nothing was actually done.

In early 1991, a WWF/TRAFFIC report of which this is a translated and updated version was published on CITES, Aruba, and the Netherlands Antilles. International pressure on the Kingdom of the Netherlands increased to resolve finally wildlife trade problems. South and Central American countries collectively considered diplomatic steps.

The Netherlands Minister for Netherlands Antillean and Aruban Affairs discussed the matter with the responsible ministers of the two overseas territories and the Prime Minister of the Netherlands Antilles publicly announced that the Netherlands Antilles would join CITES later that year.

In 1991 an emergency decree concerning these territories was put forward banning the import, export, and transit of species listed on Appendix I of CITES (species on this list are banned from international commercial trade). The emergency decree however failed to take steps to regulate trade in Appendix II species (trade in Appendix II species is regulated by a system of permits). The emergency decree came into force in Aruba on 7 October 1991. In the Netherlands Antilles this happened almost a year later, on 1 October 1992.

At present, discussions are taking place on the constitution of the Kingdom of the Netherlands. There are a number of options being considered, including autonomy for all islands (not just Aruba, but also the five islands of the Netherlands Antilles).

Whatever option is chosen, it seems highly unlikely that any of the islands will become independent of the Kingdom of the Netherlands. Of course the results of these talks will at some point in the future affect CITES legislation and its implementation on the islands (as well as that of all other legislation). However, this should not be used at this stage to further postpone the introduction of legislation in full and the subsequent accession to CITES.

Meanwhile illegal trade continues: in late 1992 a shipment of 85.000 caiman skins that were shipped via Aruba and Curaçao was seized in Uruguay.

If the authorities of the Netherlands Antilles and Aruba seriously want to tackle this issue, the following recommendations should be followed:

1. CITES legislation should be introduced in full without further delay,
2. Appendix I species held on the islands should be registered,
3. The Free Zones should be cleared of stored CITES-listed wildlife products (mainly caiman skins),
4. Controls should be carried out in anticipation of proper legislation and results should be reported to the CITES Secretariat,
5. The assistance offered by the Netherlands such as an exchange of enforcement officers should be put to good use,

6. The Netherlands membership to CITES should be amended to also include the overseas territories,
7. Coordination of legislation to implement CITES with other environmental legislation should be seen as a subsequent step rather than being carried out immediately.

Recommendations 2 through 5 should be carried out immediately. It is technically possible to implement recommendations 1 and 6 before the end of 1993.

INTRODUCTION

Since Aruba's formal separation from the Netherlands Antilles in 1986, the Kingdom of the Netherlands has comprised three territories: the Netherlands, the Netherlands Antilles, and Aruba. The Netherlands Antilles are an island group in the Caribbean comprising the Leeward Islands of Curaçao and Bonaire and the Windward Islands of St. Maarten, St. Eustatius, and Saba.

The three territories are autonomous. An international agreement joined by the Netherlands is therefore not automatically binding for all territories; when the Kingdom of the Netherlands becomes party to a treaty, the territories for which the treaty is legally binding are explicitly mentioned.

International trade in species of wild fauna and flora and their products is regulated by the Washington Convention, better known as CITES (Convention on International Trade in Endangered Species of Wild Fauna and Flora). At present CITES has 117 Parties. The Kingdom of the Netherlands is Party to the Convention, but only for the territory of the Netherlands. The two autonomous overseas territories - the Netherlands Antilles and Aruba - have not joined CITES.

International trade in wildlife accounts for some 10 billion Dutch guilders a year, one third of which is estimated to be illegal (Fitzgerald, 1989). The Netherlands Antilles and Aruba are being used as transit ports by illegal wildlife traders.

Chapter 1 lists existing legislation related to wildlife.

Chapter 2 discusses the illegal trade and tries to identify how and why the islands are used in illegal wildlife trade.

Chapter 3 gives an overview on recent developments with respect to introduction of CITES legislation on Aruba and the Netherlands Antilles.

In conclusion, recommendations are given on steps to be taken by Aruba and the Netherlands Antilles to ensure they will no longer be used as loopholes for wildlife illegally exported from South and Central America.

Chapter 1 CITES AND THE KINGDOM OF THE NETHERLANDS

In 1973 a treaty was drawn up in Washington to regulate international trade in endangered species. This treaty, the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) came into force 1 July 1975 after having been ratified by ten countries. All Parties to CITES are committed to implementing the provisions laid down in the Convention which is built on a system of permits and certificates. Particularly important are Appendix I, a list of endangered species in which international commercial trade is banned, and Appendix II, a list of species in which international trade is regulated.

The Parties to the Convention annually record trade data in order to gain an insight into trade levels. Based on these trade data and the information on the species' status in the wild, decisions are taken as to the level of protection needed for each species.

Obviously, the more reliable these data are the better decisions can be taken. Illegal trade impairs the value of CITES statistics, as does trade by non-parties (even if it is legal in these countries). These facts alone should be reason enough for any state seriously concerned about conservation to join CITES.

1.1 Accession of the Netherlands to CITES

Joining CITES has been a topic in the Netherlands since the 1970s. On 16 July 1977, a number of animal species listed under CITES came under the protection of the Endangered Exotic Animal Act ('Wet BUD'). This Act was not introduced in the Netherlands Antilles. The Minister Plenipotentiary to the Netherlands Antilles (which at that time still included Aruba) stated that legislation to regulate trade in endangered species was not yet in place on the islands and that it was impossible to say when it would be. The Netherlands was advised to become a contracting party to the Convention only for its own territory.

Two EC Regulations (no. 3626/82 and no. 3418/83) came into force on 1 January 1984. Their aim was to achieve uniform implementation of CITES in all EC member states even though not all EC member states were CITES Party states. To enforce the EC Regulations, the Netherlands introduced the Import and Export Decree on Endangered Exotic Animal and Plant Species. This was necessary as the already existing Endangered Exotic Animal Act (roughly) only concerned Appendix I animal species. It was not until 18 July 1984 that the Kingdom of the Netherlands actually became a party to the Convention. This applies to the Netherlands only and not to her overseas territories.

1.2 CITES-related legislation on the Netherlands Antilles and Aruba

Although Aruba formally separated from the Netherlands Antilles Federation in 1986, the two territories still try to harmonize their legislation. However, they do not always succeed in this. Some of the differences can be explained by the fact that Aruba is only one island, whereas the Netherlands Antilles consist of five islands, all to some degree autonomous.

At present, discussions are taking place on the constitutional future of the Kingdom of the Netherlands. There are a number of options being considered including autonomy for all islands (not just Aruba, but also Curaçao, Bonaire, Saba, St. Eustatius, and St. Maarten). Whatever option is chosen, it seems highly unlikely that any of the islands will become independent of the Kingdom of the Netherlands. Of course the results of these talks will at some point in the future affect CITES legislation and its implementation on the islands (as well as that of all other legislation). However, this should not be used to further postpone the introduction of legislation in full and the subsequent accession to CITES.

Overlap exists between CITES and other international conventions (such as the Bonn Convention and the SPAW-protocol of the Cartagena Convention), but these are not included in this report. It would obviously be best to coordinate the implementation of these international agreements in Aruba and the Netherlands Antilles. However developing legislation to this effect will undoubtedly slow down the introduction of CITES-legislation in full even further. It would therefore be better to do this as a next step.

Although it had been on the agenda for over a decade, no legislative framework for the implementation of CITES rules was made until the end of 1991. On 7 October 1991 Aruba introduced an emergency decree. The Netherlands Antilles introduced their own, slightly different, emergency decree a year later (on 1 October 1992). Both decrees only concern trade in Appendix I species (see 2.3 and 2.4).

Some relevant legislation does already exist;

1. Useful Animal Act (Aruba, 1990a and Netherlands Antilles, 1926) together with the Decree on the implementation of article 12 of the Ordinance of 20 July 1926. (Aruba, 1990b and Netherlands Antilles, 1931a).

The Useful Animal Act was adopted from the Netherlands and among other things prohibits the catching, killing, selling, and keeping in captivity of species included in its appendix, such as deer and a number of bird species (including the rare Yellow-shouldered Amazon (*Amazona barbadensis*)). It also prohibits the disturbing and collecting of eggs or chicks. The appendix lists species not even found on the islands. Furthermore, it has not been updated since 1973. A maximum penalty of three days' imprisonment or a hundred guilders can be imposed for any offence under the Act.

2. Quarantine Ordinance (Netherlands Antilles, 1931b) together with the Governor's Decree for the implementation of articles 7 and 15b of the Quarantine Ordinance (Aruba, 1990c and Netherlands Antilles, 1990), the Land's Ordinance on the importation of small animals 1952 (Aruba, 1988 and Netherlands Antilles, 1952), and the Governor's Decree on the importation of primates (Aruba, 1988).

Species listed on this ordinance have to be quarantined upon import. The Quarantine Ordinance also bans the introduction and transportation of animals suspected of being carriers of contagious diseases. The Governor's Decree implemented this Ordinance by banning the importation from South America of animals belonging to certain taxa between the summers of 1990 and 1991. This ban did not apply to animals from Surinam or Guyana. An exception was made for household pets with a health certificate moving with a family. The Land's Ordinance on the importation of small animals 1952 restricts the importation of a number of specified taxa to prevent the introduction of certain diseases. The Governor's Decree on the importation of primates also lays down requirements for transport.

3. Land's Ordinance banning the export of aloe plants (Netherlands Antilles, 1942).
A maximum penalty of 500 guilders is imposed on the unlicensed export of Aloe plants to regions outside the territories after which the plants will be forfeited.

4. General Ordinance import, export and transit 1908 (Netherlands Antilles, 1949), in Aruba known as the Land's Ordinance import, export, and transit.

This ordinance imposes an absolute ban on the import of psittaciformes. This ban has been lifted in the Netherlands Antilles since 22 August 1987 (Netherlands Antilles, 1987), but it still exists on Aruba. On the basis of this provision customs officials on Aruba sometimes seize parrots from petshops. The birds are often returned to the Venezuelan authorities, Venezuela being the presumed country of origin. Further sanctions are generally not forthcoming, although relatively strict penalties are possible.

5. Land's Ordinance Marine nature reserves (Netherlands Antilles, 1976).

Under this ordinance, marine areas can be designated as nature reserves for the preservation of marine fauna and the protection of the ocean floor for biogeographical reasons or for the benefit of tourism. Fishing in these nature reserves is prohibited as is collecting marine animals, plants, and corals. A maximum penalty of 5000 guilders is imposed for an offence under this ordinance.

6. Governor's Decree (Netherlands Antilles, 1960) for the implementation of articles 1 and 6 of the Export prohibition Ordinance (Netherlands Antilles, 1944).

This ordinance prohibits the export of those animal and plant species and their products which are considered to be of natural-historical importance to the Netherlands Antilles. The Ministry of Education and Culture judges, upon request, whether or not there is ground for an exemption and, if so, issues a permit. Unfortunately much of the existing legislation is out of date or sometimes even totally irrelevant. Some species are protected on the islands, but are not and never have been found there. Some of the other listed species are not threatened and should be removed from the appendices. More worrying however, is the fact that a number of endangered, indigenous species are not protected at all, for example some species of orchids and endemic bats.

Chapter 2 TRADE IN AND BY WAY OF ARUBA AND THE NETHERLANDS ANTILLES

All South and Central American countries and most islands of the Caribbean are Parties to CITES. Because they are among the last of the non-member countries in the region, Aruba and the Netherlands Antilles are frequently used as transit points in illegal wildlife trade. Wildlife from neighbouring countries is illegally exported to the islands. From there it is relatively easy to re-export CITES-listed species and their products to their final destinations in Europe and Southeast Asia. Under Aruban and Netherlands Antillean law much of this trade is legal (as this legislation is far from strict), but it seriously undermines the efforts of neighbouring countries to protect their wildlife and uphold CITES.

2.1 Seizures

All CITES Parties prepare annual trade reports, listing their imports and exports of CITES-species. Of course, non-Parties do not report to the CITES Secretariat. However, CITES-species which are traded between a Party and a non-Party end up in the CITES trade statistics, as this trade is reported by the Party. Therefore CITES trade statistics give some insight into international trade from and to Aruba and the Netherlands Antilles, but only when this concerns trade with CITES Parties.

The bulk of trade between the overseas territories and the Netherlands reported in the CITES trade statistics is legal. The statistics include the export from the Netherlands of large numbers of captive-bred parakeets. In 1988 alone, 856 parrots and parakeets were officially exported from the Netherlands to Aruba and the Netherlands Antilles. There is also a significant legal trade in live reptiles and reptile skins to and via the Netherlands Antilles. The statistics list imports of thousands of watch-straps and hundreds of handbags and pairs of shoes by the Netherlands Antilles every year.

The import statistics from the United States and the Netherlands include some illegal imports from Aruba and the Netherlands Antilles. Although numbers are low, some of the species concerned are highly endangered Appendix I species. Furthermore, the figures are likely to represent only a fraction of the actual illegal trade as most shipments probably go undetected.

In 1989, five CITES Appendix I parrots - Yellow-shouldered Amazons (*Amazona barbadensis*) - coming from the Netherlands Antilles were seized in the US. In that same year, 11 similarly designated marine turtle shells were shipped from Aruba and the Netherlands Antilles to the Netherlands and the United States and seized upon arrival.

These Amazons and turtles may have been caught in Aruba and the Netherlands Antilles, but they could also be re-exports as these species also occur elsewhere, for instance in Venezuela. Some species seized on flights coming from the islands are not found in Aruba and the Netherlands Antilles and are therefore definitely re-exports. In September 1992, for example, customs at Schiphol seized four Green-winged Macaws (*Ara chloroptera*), a species not found on the islands. The illegal trade in Yellow-shouldered Amazons is especially worrying as this parrot is one of the islands' most threatened species. It probably became extinct on Aruba in the 1960s and there is now only a total population of a few hundred specimens on Bonaire. Desenne and Strahl (1991) consider *A. barbadensis* to be the most critically threatened species of parrot within Venezuela. It is in urgent need of attention as its status is endangered, its range limited and the species is in high demand.

On 27 May 1987, a shipment from the Netherlands Antilles destined for Taiwan had a few hours' stop-over at Schiphol airport. According to the documents, the consignment consisted of a few thousand Red-eared Terrapins (*Pseudemys scripta elegans*), a non-CITES species for which no CITES documentation is necessary. Inspection of the crates however revealed 2000 live juvenile Spectacled Caimans, an Appendix II species which can only be shipped through the Netherlands with proper CITES documentation. Since no CITES documentation was available, the shipment was seized. Investigations revealed that the caimans originated from Venezuela, where the animals had been caught in the wild. On Taiwan the caimans would undoubtedly have been raised for the leather industry. This seizure became a political issue up to the level of cabinet ministers, both in the Netherlands and the Netherlands Antilles (see 3.1).

In recent years, a number of very large shipments have been seized which passed through Aruba and/or the Netherlands Antilles. According to the IUCN Crocodile Specialist Group, in the year 1990 alone Aruba exported or re-exported two to three hundred thousand skins of the Spectacled Caiman (*Caiman crocodilus*), thousands of skins of the Ocelot (*Felis pardalis*) and Margay (*Felis wiedii*), and even furs of the very rare Giant Otter (*Pteronura brasiliensis*). Except for the Spectacled Caimans, of which most subspecies are listed on Appendix II, all of these species are listed on Appendix I.

Most of these wildlife products were brought to the Free Zones of Curaçao and Aruba by relatively small boats. From there, larger ships pick up the skins without running the risk of detection, let alone seizure. The destination of most shipments are countries with a leather industry, mostly in southern Europe and Southeast Asia.

In late 1992, TRAFFIC South America, in cooperation with CITES management authorities of a number of involved countries, seized a shipment of 85,000 caiman skins. The skins originated from Colombia and were transported through Aruba where the skins had been stored in the Free Zones for some time. Aruba did (and does) not have the legislative power to seize the skins, but the authorities informed the CITES Secretariat giving the name of the ship in which the skins were re-exported as well as the departure date and the route. The skins were to be shipped to Singapore, via Curaçao and Uruguay. TRAFFIC South America and the relevant CITES management authorities managed to seize the skins on the basis of this information and the shipment never reached Singapore.

Recently, in a comparable case, 5000 caiman skins were seized in Milan, Italy. Again the shipment originated from Colombia and again it was shipped via Curaçao (Amigoe, 1993).

2.2 Other indications of illegal trade

According to TRAFFIC South America, Aruba and the Netherlands Antilles are, and have been for many years, among the major transit routes for illegally exported animals and their products from South and Central America.

This is supported by the CITES Secretariat. In 1989 and 1990, the Secretariat received official letters from Columbia, Guyana, Nicaragua, Panama, and Venezuela all expressing their concern about the role of Aruba and the Netherlands Antilles in the illegal trade of endangered animals and their products. Venezuela names the islands of Aruba, Curaçao, and Bonaire which are not far from its coast. Marine turtle meat and shells are known to be frequently ferried to Aruba and Curaçao from the Paraguana peninsula. All marine turtles are listed in Appendix I of CITES.

According to a Venezuelan official who visited the area in 1988 turtle meat was sold on the islands at prices ranging from 3-16 US\$/kg; a shell would yield \$10. The situation was found to be unaltered during a second visit to the area in November 1990.

Supporters of WWF Netherlands have also frequently drawn attention to the trade in marine turtle products, as well as that in reptile skin and ivory. Increasing public concern regarding the role of the Netherlands Antilles and Aruba in trade in threatened species is likely to have a negative impact on tourism, on which these islands rely heavily.

On 11 December 1990, Amigoe (1990a) published an article entitled (translated into English): "Venezuela major supplier. National legislation is lacking: the Antilles can do nothing to stop the illegal trade in parrots." The article quoted a customs spokesman who stated that on Curaçao alone customs authorities intercept 6 to 8 parrots twice a month amounting to approximately 170 a year. As the trade is still going on, it must presumably be profitable indicating that most

shipments enter the islands undetected. The birds intercepted therefore probably represent only a small proportion of those illegally entering Curaçao. Taking into account mortality during capture and transportation, it seems probable that well over 1000 parrots a year are caught in Venezuela for trade to and via Curaçao alone.

Desenne and Strahl (1991) indicate that parrots are smuggled to the Netherlands Antilles from several points along the Venezuelan coast.

In response to a WWF press release on the seizure of 85.000 caiman skins (see 1.1), Aruban veterinary surgeons confirmed the fact that Aruba and the Netherlands Antilles are frequently used by wildlife smugglers (Amigoe, 1993). A recent case is given where the Aruban authorities discovered a Colombian resident with nine monkeys, eight falcons and a parrot. The animals were in a terrible condition as they had been stuffed in small cardboard boxes. Lack of adequate legislation prevented effective actions being taken. The veterinarians explained that until such legislation is introduced, customs and Veterinary Inspection can do very little. In 2.2 CITES-related legislation on Aruba and the Netherlands Antilles is discussed.

However, having legislation is not the same as upholding it. The police, customs, and other authorities are responsible for the implementation of legislation already in existence, but there are simply too few people to check effectively the large number of containers in transit. Expert knowledge for species identification is not available. Furthermore, records on permits and seizures and suchlike are not kept.

2.3 Parallels with drug trafficking

Several authors have pointed out the clear parallels between drug trafficking and the trade in endangered animals and plants (e.g. CRI, 1992; Fraude en Falsificatencentrale, 1991; Le Duc, 1990; Van Kreveld, 1989). The trade routes overlap and at times the same persons are involved. The small chance of being caught, the enormous sums of money involved, and the relatively mild penalties facing perpetrators make illegal trade in endangered animals and plants a worthwhile alternative to drug trafficking.

In the autumn of 1990, a prestigious Dutch newspaper published a series of articles which made it abundantly clear that over recent years drug smuggling (especially cocaine) via the Netherlands Antilles and Aruba had soared (NRC-Handelsblad, 1990a-e). The articles describe how four patrol boats were bought to stamp out this trade, unfortunately without much success. It is reported that from the control tower of Aruba, where one of the patrol boats is based, boats can be seen waiting outside the territorial zones around Aruba for the patrol boat to depart. If the patrol boat moves

west boats waiting in the east move in and vice versa. In the two years that the patrol boat has been used not one consignment was intercepted.

Little information was found concerning the Windward islands of Saba, St. Eustatius, and St. Maarten. None of these has customs authorities and all three are tax havens. The island of St. Maarten gives particular cause for concern. It has a French and a Netherlands Antillean part and is thought to be an important transit port for drug trafficking.

Chapter 3 LEGISLATION

Some legislation concerning wildlife has already been in existence for quite some time (see 1.2), but not specifically CITES-related legislation. CITES has been discussed in Aruba and the Netherlands Antilles for nearly twenty years now, but that has not resulted in much action. Only in the most recent years some progress has been made.

3.1 Recent developments for the implementation of CITES

On 27 May 1987 at Schiphol airport a shipment was seized of some 2000 Spectacled Caimans which was on its way from Venezuela via the Netherlands Antilles and the Netherlands to Taiwan (see 2.2). The Minister of Agriculture and Fisheries of the Netherlands at that time was questioned in Parliament (Lower House, 1987). During a press conference held on 28 August 1987 by the Council of Ministers for the Netherlands Antilles, the Health Minister at that time, Mr. Rozendal, stated that the Netherlands Antilles no longer wished to be involved in transits of this kind and that he would arrange a meeting with the relevant organisations on Curaçao to discuss the trade in endangered species (Beurs- en Nieuwsberichten, 1987).

On 15 December 1987 the "Bureau Buitenlandse Betrekkingen" (International Relations Office) met with the "Centraal Bureau voor Juridische en Algemene Zaken" (Central Office for Legal and General Affairs), the "Dienst Landbouw, Veeteelt en Visserij" (Office for Agriculture, Cattle Breeding and Fisheries), Stinapa (Netherlands Antilles National Parks Foundation), and Carmabi (Caribbean Marine Biological Institute) to discuss CITES, in particular to what extent the text of the treaty could be applied to the Antilles. A second meeting was held on 9 February 1988 which focussed on questions of decentralisation as the islands were to make their own laws. At this meeting a draft bill was adopted which was to go before the Antilles' "Raad van Advies" (Advisory Council), the "Sociaal Economische Raad" (Economic Development Council), and the Council of Ministers. Another meeting was planned for 12 May 1988 to discuss the recommendations made by these bodies, but it never took place. The parties have not convened since.

International pressure increased in the late eighties and early nineties. The countries in South and Central America feeling the effects of the lack of adequate legislation in the Kingdom of the Netherlands' overseas territories, and after repeated complaints from the Venezuelan authorities, threatened to take diplomatic steps.

The Netherlands' State Secretary noted that: 'In view of the above it is desirable that, in co-operation with the Minister for Netherlands Antillean and Aruban Affairs, action should be taken in the short term to curb illegal trade via the Netherlands Antilles and Aruba and to make the

mentioned nations parties to the Convention and help them develop the proper legislation thereto.' (NMF-90-11576, 22 November 1990).

The Dutch government hastened to explain to the CITES Secretariat that the Netherlands Antilles and Aruba have an autonomous administration and legislation and that therefore the Dutch authorities should not be held responsible for these territories (NMF-90-11368, 23 October 1990). Nevertheless, on 22 November 1990, the Netherlands' State Secretary for Agriculture, Nature Management and Fisheries asked his colleague for Netherlands Antillean and Aruban Affairs to discuss the problems concerning the development of CITES legislation and its implementation with the responsible ministers of the Netherlands Antilles and Aruba (NMF-90-11576).

Despite the fact that Aruba and the Netherlands Antilles are autonomous, the Netherlands is in a better position than any other country to assist the islands with introducing legislation and joining CITES. The Netherlands should be more proactive, e.g. not just offering assistance sometime in the future, but also (among other things) suggesting practical measures, such as an exchange program for a certain number of enforcement staff.

In January 1991, WWF and TRAFFIC published a brief report in Dutch on CITES, Aruba, and the Netherlands Antilles which further increased the pressure as it was picked up by television and many newspapers (e.g. Amigoe, 1991; NRC-Handelsblad, 1991; Arnhemse Courant, 1991; Volkskrant, 1991).

That same month the Central Office for Legal and General Affairs of the Ministry of General Affairs of the Netherlands Antilles and the Legislation Department of the Ministry of Justice and Sports of Aruba joined forces in drawing up legislation to be finalised in that same year. Both territories expressed their wish to become parties to the Convention as soon as possible (Ministry of Agriculture, Nature Management and Fisheries, 1991a).

3.2 Governor's Decree prohibiting the import and export of endangered animals and plants

On 7 October 1991, Aruba introduced an emergency decree aiming to regulate trade in CITES Appendix I species. A year later, on 1 October 1992, the Netherlands Antilles introduced a slightly different emergency decree. The decrees are officially known as the Governor's Decree prohibiting the import and export of endangered animals and plants ("Landsbesluit in- en uitvoerverbod bedreigde dieren en planten").

'Export' in the Governor's Decree is defined as 'to carry or send (...) beyond the country's borders' (including re-exports).

The concept 'species' is not defined nor is it further worked out in the explanation, but the appendix specifies subspecies and populations indicating that these are understood to be included.

Article 2 prohibits the import and export of the listed animal and plant species threatened with extinction, except for specimens bred in captivity. There is also a provision to make it possible to return illegally exported species to the country of origin when their import is refused (and in the text of the Netherlands Antilles when their import is in breach of the mentioned prohibition).

In the Aruban text of the decree (article 3), the Head of the Veterinary Service (or an official representative) is responsible for the identification of animal species. The Director of Agriculture, Cattle Breeding, and Fisheries is responsible for the identification of plant species.

Although not yet laid down in the official text of the Netherlands Antilles, a Management Authority has been appointed within the Ministry of Finance. Permits are issued by this Management Authority. It is confusing for the general public that permits under the Governor's Decree from 1960 are issued by a different ministry (see: 2.2, under 6). It would be better to make one body responsible, the obvious choice being the CITES Management Authority.

The Netherlands Antillean text also has an interim provision (article 5) for transactions already paid for when the Decree comes into force to proceed. This provision has served its purpose by now and should be cancelled.

To help implement the emergency decree, the Ministry of Agriculture, Nature Management and Fisheries (1991b) asked its General Inspection Agency to be alert with regard to flights from the overseas territories.

According to an Aruban source, the effects of the emergency decree were felt from the start. 'The publication of the proposed decree caused alarm among traders. At first they tried to put the Executive Council under pressure but when their attempts failed they virtually stopped trading via Aruba'.

Even if legislation were to be present in full, problems will remain as long as there are no customs facilities on the Windward Islands and there is no expertise in the area of species identification or experience with this kind of legislation. The authorities on the Netherlands Antilles and Aruba should therefore put the assistance offered by the State Secretary for Nature Management in the Nature Policy Plan (Ministry of Agriculture, Nature Management and

Fisheries, 1990, p. 190) and in his letter of 22 November 1990 (NMF-90-11576, 22 November 1990) to good use. There is much expertise at the Ministry's Department of Nature, Forests, Landscape, and Wildlife (NBLF) and at the Environmental Section of the General Inspection Agency (AID). An exchange of one or more staff members between the customs authorities on Aruba and the Netherlands Antilles and the Dutch General Inspection Agency seems a useful idea.

Skins (including skins of Appendix I species) are still stored in the Free Zones. Skins of species found in the appendices to the abovementioned Governor's Decree can, however, no longer be exported from Aruba. But a prohibition on the possession of these skins is not in place, so they can still be traded freely within the country. Furthermore, their storage in the Free Zones is not prohibited, which makes confiscation impossible.

As long as there are no provisions regulating the domestic trade of Appendix I species, no legislation on the international trade of Appendices II (and III) species, and no extension of the rules governing the Free Zones, this undesirable situation will continue to exist.

The Emergency Decree should be replaced in the short term by legislation which fully complies with CITES. The Governor's Decree prohibiting the import and export of endangered animals and plants now only provides for the import, export, and transit of Appendix I species. The domestic trade of Appendix I species and the trade in species listed in Appendices II and III must still be provided for.

The CITES legislation is to be coupled to the implementation of the SPAW-protocol (Specially Protected Areas and Wildlife of the regional Cartagena Convention). CITES and SPAW have much in common where species protection is concerned. However, it does not seem advisable to try and include them in one law from the start as this will take too much time.

3.3 Chronology of events

The accession to CITES of Aruba and the Netherlands Antilles has been under discussion since the 1970s. Only in the early nineties was a decree to protect Appendix I species adopted. A lot still has to be done to fully enforce CITES on the islands. It is technically possible to accomplish this in 1993, including joining the Convention. Conservationists on the islands however doubt their governments will really get the process going. A chronological survey illustrates why.

1970s	The Netherlands Antilles express their interest in becoming a Party to CITES.
1975 (01-07)	CITES comes into force.
1982 (29-11)	The Netherlands Antilles announces that the Netherlands should become a Party to CITES only as far as its own territory is concerned.
1984 (18-07)	The Netherlands ratifies the Convention for its own territory only.
1986 (01-01)	Aruba formally separates from the Netherlands Antilles Federation in 1986 and becomes a self-governing member of the Kingdom of the Netherlands.
1987 (27-05)	An illegal consignment of some 2000 Spectacled Caimans is intercepted at Schiphol airport.
1987 (01-07)	Questions in the Netherlands Parliament on the intercepted caimans.
1987 (28-08)	The Health Minister of the Netherlands Antilles states that the illegal trade in wildlife must end.
1987 (15-12)	Government and NGOs meet on the Netherlands Antilles to discuss accession to CITES.
1988 (09-02)	A follow-up meeting is held on the same issue.
1988 (12-05)	The third meeting, planned for this day, is cancelled. A new date for further consultations is not set.
1989	After questions in Parliament, the Netherlands Ministry of Foreign Affairs is informed by the Minister Plenipotentiary to the Netherlands Antilles that the implementation legislation for CITES is not yet in place on the islands and that it is impossible to say when it will be.
1990 (01-02)	Aruba lets it be known that it is working on implementation legislation.
1990 (22-11)	The State Secretary for Agriculture, Nature Management and Fisheries asks the Minister for Netherlands Antillean and Aruban Affairs to discuss the problems concerning the development of CITES legislation and its implementation with the responsible ministers of the Netherlands Antilles and Aruba.
1991 (12-01)	The head of the Central Office for Legal and General Affairs in Willemstad says an effort will be made to make the Netherlands Antilles a party to CITES in the first half of 1991.

1991 (06-02)	The Aruban government says it aims to ratify the Convention on 1 January 1992.
1991 (08-05)	Ms Liberia Peters, Prime Minister of the Netherlands Antilles, says the country will seek to become a CITES party that same year (Amigoe, 1991b).
1991 (27-05)	In a letter to the CITES Secretariat, the Dutch government says that all Appendix I species will soon be officially protected by Aruba and the Netherlands Antilles, at any rate in the same year. Further legislation will be finalised by 1992 so that the islands can become a party to CITES.
1991 (03-09)	The Netherlands Antilles Central Office for Legal and General Affairs announces that it can say nothing definite on when the Netherlands Antilles will be ready to ratify the Convention.
1991 (07-10)	The Emergency Decree comes into force on Aruba.
1991 (08-11)	The Netherlands Antilles Central Office for Legal and General Affairs announces that their Emergency Decree still awaits ratification by the Prime Minister, Ms Liberia Peters, and the Governor, Mr Jaime Saleh (Amigoe, 1991c).
1992 (01-10)	The Emergency Decree comes into force on the Netherlands Antilles.
1993	Netherlands members of Parliament raised CITES during a meeting on Curaçao of the 'Parlementair Contactplan' (Parliamentarian contacts).
1993	During a meeting of the Consultative Mechanism (Kingdom of the Netherlands plus Venezuela) it is concluded that within three months the governments of Aruba and the Netherlands Antilles should put forward a plan on how to accede to CITES as soon as possible.

RECOMMENDATIONS

Aruba and the Netherlands Antilles are being used by illegal wildlife traders, mainly by illegally exporting protected wildlife (products) from neighbouring countries (all CITES Parties) to Aruba and the Netherlands Antilles and re-exporting them to their final destinations.

If the authorities of the Netherlands Antilles and Aruba are serious about wanting to tackle this issue, the following recommendations should be followed:

1. Full CITES legislation should be introduced without further delay,
2. Appendix I species held on the islands should be registered,
3. The Free Zones should be cleared of stored CITES-listed wildlife products (mainly caiman skins),
4. Controls should be carried out in anticipation of proper legislation; and the results reported to the CITES Secretariat,
5. The assistance offered by the Netherlands such as an exchange of enforcement officers should be put to good use,
6. Aruba and the Netherlands Antilles should put the necessary legislation in place, after which the Netherlands membership to CITES could be amended to also include these territories,
7. Coordination of legislation to implement CITES with other environmental legislation should be seen as a subsequent step rather than being carried out immediately.

Recommendations 2 through 5 should be carried out immediately. It is technically possible to implement recommendations 1 and 6 before the end of 1993.

SAMENVATTING

Per jaar gaat er zo'n 10 miljard gulden om in de internationale handel in wilde planten, dieren en de daarvan afgeleide produkten. Naar schatting een derde hiervan is illegaal. Deze handel wordt gereguleerd door het CITES-verdrag (Convention on International Trade in Endangered Species of Wild Fauna and Flora) dat in 1975 van kracht werd. Het Koninkrijk der Nederlanden is sinds 18 juli 1984 partij bij CITES, maar uitsluitend voor het grondgebied Nederland. De Nederlandse Antillen (waar toen Aruba nog bij hoorde) adviseerden het Koninkrijk hun grondgebied buiten het verdrag te laten, omdat de eilanden zelf nog geen wetgeving hadden om uitvoering te geven aan CITES.

In 1986 kreeg Aruba officieel de 'status aparte' binnen het Koninkrijk der Nederlanden. Aruba en de Nederlandse Antillen (bestaande uit Curaçao, Bonaire, St. Maarten, St. Eustatius en Saba) stemmen hun wetgeving zoveel mogelijk op elkaar af.

Aruba en de Nederlandse Antillen spelen al vele jaren een belangrijke rol in de illegale handel in bedreigde soorten. De eilanden worden gebruikt als doorvoerhaven, omdat ze beschikken over 'goede faciliteiten' voor illegale handel, zoals Vrije Zones en een gebrekkige en slecht functionerende wetgeving.

In de afgelopen jaren is in Zuid Amerika en Europa een aantal grote illegale zendingen met reptielehuiden (tienduizenden per zending) onderschept die waren verscheept via Curaçao en Aruba. Verder komen vanuit de regio veel berichten over illegale exporten naar de eilanden van o.a. papegaaien.

Het is geen toeval dat de eilanden ook veel gebruikt worden door drugshandelaren: beide vormen van illegale handel gedijen uitstekend onder de omstandigheden ter plaatse.

In 1987 werd in Nederland een zending van 2000 levende brilkaaimannen (*Caiman crocodilus*) in beslag genomen. De zending was vervoerd via de Nederlandse Antillen. Over deze zending werden vragen gesteld in de Tweede Kamer en hierdoor werd de discussie over aansluiting bij CITES door de Nederlandse Antillen en Aruba nieuw leven ingeblazen.

De verantwoordelijke minister van de Nederlandse Antillen kondigde daarop stappen aan om ervoor te zorgen dat de eilanden niet langer als doorvoerhaven voor illegale handel in bedreigde soorten konden dienen. Er werd een aantal vergaderingen belegd met deskundigen en er werden natuurbeschermers geconsulteerd. Vervolgens werd er niets gedaan.

Begin 1991 verscheen een rapport van het Wereld Natuur Fonds/TRAFFIC over CITES, Aruba en de Nederlandse Antillen (waarvan dit rapport een vertaalde en bijgewerkte versie is). De internationale druk op het Koninkrijk der Nederlanden om de problematiek serieus aan te pakken nam toe. Zo kondigden Latijnsamerikaanse landen aan diplomatieke stappen te overwegen.

De voor de eilanden verantwoordelijke Nederlandse minister trad in overleg met de verantwoordelijke ministers van de Nederlandse Antillen en Aruba en kort daarna kondigde de minister-presidente van de Nederlandse Antillen aan dat haar land zich nog datzelfde jaar (1991) zou aansluiten bij CITES.

Vervolgens werd hard gewerkt aan noodwetgeving om de in-, door- en uitvoer van met uitsterven bedreigde soorten (Appendix I van CITES) te kunnen verbieden. Deze noodwet (het Landsbesluit in- en uitvoerverbod bedreigde dieren en planten) schiet op een aantal belangrijke punten echter te kort. Zo biedt deze wet niet de mogelijkheid om de handel te reguleren in soorten die op Appendix II staan van CITES. Appendix II bevat veel meer soorten dan Appendix I. Het gaat om soorten die nog niet direkt met uitsterven worden bedreigd, maar dat in de toekomst mogelijk wel worden als de handel in deze soorten niet wordt gereguleerd.

De noodwet werd in Aruba op 7 oktober 1991 ingevoerd. Op de Nederlandse Antillen een jaar later, op 1 oktober 1992.

Momenteel wordt gesproken over de toekomst van het Koninkrijk der Nederlanden. Er zijn verschillende opties, waaronder autonomie voor alle eilanden. Het lijkt echter onwaarschijnlijk dat eilanden uit het Koninkrijk zullen stappen.

De resultaten van deze besprekingen zullen naar alle waarschijnlijkheid ooit van invloed zijn op de nationale CITES-wetgeving (evenals op alle andere wetgeving). Er is echter geen enkele reden om dit een obstakel te laten zijn voor een snelle en volledige invoering van volledige wetgeving en de daaropvolgende aansluiting bij CITES.

Intussen gaat de illegale handel gewoon door. Eind 1992 werd een zending van 85.000 kaaimanhuiden in Uruguay in beslag genomen; de partij was vervoerd via Aruba en Curaçao.

Als de overheden van de Nederlandse Antillen en Aruba echt de illegale handel in bedreigde soorten willen aanpakken dienen de volgende aanbevelingen te worden opgevolgd:

1. Zo snel mogelijke invoering van volledige CITES-wetgeving.
2. Registratie van alle op de eilanden aanwezige Appendix I dieren en planten.
3. Ontruiming van de Vrije Zones van produkten van bedreigde soorten.
4. Reeds voorafgaand aan het in werking treden van volledige wetgeving controles houden en de resultaten hiervan aan het CITES-secretariaat presenteren.

5. Aanvaarding van de door Nederland aangeboden assistentie, zoals uitwisseling van controleurs.
6. Uitbreiding van het lidmaatschap van het Koninkrijk der Nederlanden tot alle gebiedsdelen, dus inclusief Aruba en de Nederlandse Antillen.
7. Integratie van CITES-wetgeving met andere natuurbeschermingswetgeving pas invoeren nadat volledige CITES-wetgeving in werking is getreden, om verdere vertragingen te voorkomen.

Aanbevelingen 2 tot en met 5 kunnen onmiddellijk worden opgevolgd. Het is technisch mogelijk om ook aanbevelingen 1 en 6 nog voor het eind van 1993 uit te voeren.

RESUMEN

El comercio internacional de especies de fauna y flora silvestres, así como de sus productos está reglamentado por CITES (siglas en inglés de la Convención sobre el Comercio Internacional de Especies Amenazadas de Fauna y Flora Silvestres). El Reino de los Países Bajos es Parte en la Convención, pero solamente el territorio holandés. Los otros dos territorios (autónomos) del Reino de los Países Bajos, las Antillas Holandesas y Aruba, no son Partes (aún) en CITES.

El comercio internacional de vida silvestre asciende a unos 10 mil millones de florines holandeses por año, de los cuales se estima que un tercio es de origen ilegal. Las Antillas Holandesas y Aruba, al no ser Partes en CITES, con una legislación insuficiente y controles pobres, incluso de otras leyes existentes, están siendo utilizadas como puertos de tránsito por los traficantes de vida silvestre.

La CITES entró en vigor en 1975, tras haber sido ratificada por diez países. Siete años más tarde, en 1982, las Antillas Holandesas (que en esa época incluían también a Aruba) solicitaron que solamente el territorio del Reino de los Países Bajos se adhiriera a CITES, debido a que en las Antillas aún no se disponía de la legislación adecuada. El 18 de julio de 1984 los Países Bajos se adhirieron a la Convención. En 1986, Aruba se separó formalmente de las Antillas Holandesas y se transformó en territorio autónomo del Reino de los Países Bajos. Las Antillas Holandesas y Aruba decidieron armonizar sus legislaciones cuando fuera apropiado.

Aruba y las Antillas Holandesas han jugado y juegan un papel importante en el comercio ilegal de vida silvestre, y esto desde hace muchos años, principalmente al ser utilizadas como puertos de tránsito con "buenas facilidades" para el comercio ilegal de vida silvestre, tales como los puertos francos y la inadecuada y pobre aplicación efectiva de la poca legislación existente.

En años recientes, tanto en Sudamérica como en los Países Bajos se han confiscado numerosos envíos ilegales de reptiles y pieles de reptiles (decenas de miles de pieles) provenientes de Aruba y Curaçao. Además, organizaciones y personas en la región registran frecuentemente exportaciones ilegales de loros y otros productos de vida silvestre hacia esas islas.

Es también interesante destacar el hecho de que las islas están siendo fuertemente utilizadas por los traficantes de droga. Esa circunstancia hace que esa ruta atractiva para los traficantes de droga lo sea también para el comercio ilegal de vida silvestre.

Las discusiones sobre CITES en las Antillas Holandesas y Aruba tienen una larga y turbulenta historia. Esas discusiones se renovaron una vez más en 1987 cuando un tránsito ilegal de un envío de 2.000 especímenes vivos de *Caiman crocodilus*, salió de las Antillas y fue confiscado en los Países Bajos. Esta confiscación llevó a que el tema fuera discutido en el Parlamento holandés.

El ministro responsable de Antillas Holandesas anunció algunas medidas para asegurar que las islas no sean utilizadas en el futuro como puertos de tránsito para este tipo de comercio. Se realizaron algunas consultas con organizaciones no gubernamentales, pero nada ha cambiado.

A comienzos de 1991 el WWF/TRAFFIC publicó un informe sobre CITES en las Antillas Holandesas y Aruba (el presente es una versión traducida y actualizada de ese informe). La presión internacional sobre los Países Bajos para terminar con este problema ha aumentado. Los países de América Central y del Sur han considerado colectivamente tomar medidas diplomáticas. El ministro holandés que se ocupa de los asuntos relacionados con las Antillas Holandesas y Aruba discutió el tema con los ministros responsables de los dos territorios de ultramar, y el Primer Ministro de las Antillas Holandesas anunció públicamente que las Antillas Holandesas se adherirían a CITES a fines de ese año.

En 1991 se elaboró un decreto de emergencia prohibiendo la exportación y tránsito de las especies incluidas en el Apéndice I de CITES (el comercio internacional de las especies incluidas en esta lista está prohibido). Desafortunadamente, las especies incluidas en el Apéndice II no están comprendidas en ese Decreto (el comercio de las especies incluidas en el Apéndice II está reglamentado a través de un sistema de permisos). El decreto de emergencia entró en vigor en Aruba el 7 de octubre de 1991.

En cambio, en las Antillas Holandesas no entró en vigor hasta el 1 de octubre de 1992.

Actualmente se están llevando a cabo discusiones en el Reino de los Países Bajos al más alto nivel. Hay varias opciones, incluyendo la autonomía para todas las islas (no solamente para Aruba, sino también para las cinco islas que conforman las Antillas Holandesas: Curaçao, Bonaire, Saba, Saint Eustatius y Saint Maarten). Cualquiera que sea la opción que se elija, parece improbable que esas islas adquieran su independencia del Reino de los Países Bajos. Los resultados de esas discusiones podrían afectar, en el futuro, la legislación CITES y su aplicación en las islas (así como a toda otra legislación), pero esto no debe ser usado como argumento para posponer la elaboración de una legislación apropiada ni la subsecuente adhesión a CITES.

Si las autoridades de las Antillas Neerlandesas y de Aruba son serias en lo que concierne a su deseo de resolver el problema, se deberían adoptar las siguientes recomendaciones:

1. Elaborar una legislación CITES apropiada dentro del más breve plazo;
2. Inventariar los especímenes de las especies incluidas en el Apéndice I que se encuentran en las islas;
3. Fiscalizar los puertos francos;
4. Llevar a cabo controles mientras se elabora la legislación apropiada e informar de esos resultados a la Secretaría CITES;
5. Utilizar en forma eficaz la asistencia ofrecida por los Países Bajos;
6. La forma de participación de Holanda en CITES debe cambiar para incluir en ella a Aruba y las Antillas Holandesas;
7. Desarrollar cuanto antes la legislación para la puesta en práctica de CITES, cuya coordinación con otra legislación ambiental debe ser consecuentemente un paso posterior, y no utilizar esa coordinación como excusa para su no elaboración inmediata.

Las recomendaciones 2 a 5 deberían ser llevadas a cabo en forma inmediata.

Técnicamente es posible poner en vigor las recomendaciones 1 y 6 dentro de un lapso de unos pocos meses, y ciertamente antes de fines de 1993.

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