



Important Trade Decisions

The eleventh Conference of the Parties (COP-11) to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), met from 10-20 April 2000, at UNEP Headquarters in Nairobi and brought together approximately 2100 participants, representing governments, intergovernmental and non-governmental organisations.

There were 61 agenda items and delegates considered 62 proposals to amend Appendices I and II as well as over 40 resolutions on a wide range of topics, including the evolution of the Convention; financial matters; conservation of and trade in tigers, elephants, rhinoceros and Tibetan antelopes; and trade in bears, freshwater turtles and tortoises, seahorses and traditional medicines using animal body parts.

The compromise reached on African elephants was seen as the real success of COP-11, and most delegates were satisfied with the outcome of the Meeting, although the rejection of proposals to downlist populations of Grey and Minke whale and the Hawksbill turtle were not unanimously welcomed, demonstrating once again the trade versus conservation debate within the Convention.

CITES Secretary-General Willem Wijnstekers opened the Conference and noted the need for applied synergy with other multilateral environmental agreements (MEAs), particularly biodiversity-related MEAs, in order to strengthen the Convention's capacity and success.

Robert Hepworth (UK), Chair of the CITES Standing Committee, attributed the Convention's success to its practical concept of regulating or prohibiting trade, its ability to evolve, and the hard work of governments in implementing the Agreement.

Klaus Töpfer, United Nations Environment Programme (UNEP) Executive Director, stressed that CITES has evolved into the most significant wildlife conservation tool world-wide.

Chair of COP-11, Bagher Asadi, introduced the list of observers of 56 international and 129 national organisations.

Organisation of Work

Committee I, chaired by Margarita Clemente, met in 14 sessions and addressed, *inter alia*: the procedure for the review of criteria for the amendment of Appendices I and II; quotas for species in Appendix I; conservation of and trade in rhinoceroses and elephants; trade in freshwater turtles, seahorses, Bigleaf mahogany and hard coral; transport of live animals; and proposals to amend Appendices I and II, including whales, elephants, sharks and turtles.

Committee II, chaired by Veit Koester, met in 12 sessions to address, *inter alia*: permanent committees' Terms of Reference (TORs); the relationship between CITES and

the UN Food and Agriculture Organisation (FAO) and the International Whaling Commission (IWC); introduction from the sea; national reports; enforcement; national laws; trade in bear specimens; bushmeat; diagnostic samples; a universal labelling system for the identification of sturgeon specimens; and the information management strategy.

Several working groups were convened during the course of COP-11 on tigers, freshwater turtles, hard coral, Bigleaf mahogany, seahorses, rhinoceros, bears, trade in elephant specimens, introduction from the sea, diagnostic samples and export permits for cosmetics containing caviar.

Matters related to the Standing Committee

Standing Committee Chair Hepworth presented the Chair's Report. This identified challenges, including the following: reform of the Secretariat; implementation of the 1997 "Harare Compromise" on the ivory trade; addressing escalating tiger poaching and smuggling; developing the Strategic Plan; and addressing the non-compliance of seven Parties.

Evolution of the Convention

The Secretariat introduced, and delegates adopted, the action plan to improve the effectiveness of the Convention – a "Strategic Plan for the Convention through 2005." The Chair of the Standing Committee highlighted a number of priority implementation goals and objectives. The Strategic Plan was adopted.

CITES Secretary-General Wijnstekers introduced the Standing Committee-endorsed report on co-operation with other biodiversity-related agreements and drew attention to policy areas including, among other things, training, capacity building and compliance control.

Hamdallah Zedan, Executive Secretary of the Convention on Biological Diversity (CBD), highlighted two important areas for potential co-operation between CITES and the CBD to be considered at the CBD COP-5, to be held from 15-27 May in Nairobi. He said that new national reporting guidelines and the Strategic Plan, which includes consideration of joint programming, would be important areas of co-operation between the CBD and CITES.

Arnulf Müller-Helmbrecht, Secretary-General of the Convention on Migratory Species (CMS), noted that the CMS provides the legal and programmatic basis to conserve migratory species. He suggested that joint programming should be explored and implemented for species listed by both CITES and CMS, and announced that the two Conventions will enter into consultation to establish a Memorandum of Understanding (MOU).

The United States cautioned that any process for co-

operation with other conventions should not erode trade rules established by CITES. The document was adopted.

Financing CITES implementation

France introduced a proposal for improving the effectiveness of financing CITES implementation. The delegate suggested creating a Standing Committee working group on a funding mechanism for specific fauna and flora conservation and added that the Secretariat should co-operate with the Global Environmental Facility (GEF) when considering requests for financing. Some countries supported this proposal. Japan noted that this new financial mechanism should be voluntary.

Chair Asadi established an informal working group to further discuss the issue. Later, France introduced a revised resolution on improving CITES' effectiveness and noted the Standing Committee will form a working group to draw up, among other things, an inventory of existing funding mechanisms for flora and fauna conservation. The resolution was adopted.

Financing and budgeting

The Plenary adopted the Budget Committee's draft resolution on Secretariat financing and budgeting. The resolution noted that the 2001-2002 biennium budget represents a 26.53 per cent increase from the previous triennium. Adjusting Party contributions by 6.1 per cent shall cover the increase and the remaining deficit is drawn from the Trust Fund balance.

Interpretation and implementation of the Convention

Forty agenda items were considered under this topic. Committee I primarily dealt with items related to specific species, while Committee II considered implementation of items and resolutions to amend Decisions.

Species introduced from the sea

Australia introduced its resolution which aimed to interpret and implement aspects of CITES Articles III, IV and XIV; reach agreement on the meaning of "introduction from the sea" and "not under the jurisdiction of any State;" achieve synergy with other intergovernmental bodies regulating marine stocks; and facilitate commerce of marine species under threat from unregulated and illegal fishing.

A working group produced draft resolutions, which were supported by several States. However, the proposals were later rejected by a secret ballot vote.

Consolidation of valid resolutions

The Plenary adopted a resolution, responding to Decision 10.60, calling for the Secretariat to continue consolidating existing COP resolutions and Decisions when appropriate.

National reports required under Article VIII, par. 7 (A) of the Convention

The Secretariat presented its recommendation to suspend trade in specimens of CITES-listed species for Parties failing to submit reports in three consecutive years.

Delegates urged the Secretariat to assist member countries to develop national legislation and prepare their reports. Belgium, supported by the non-governmental organisation TRAFFIC, stated the need to distinguish between countries not submitting reports in the last three years and late submissions. The proposal was adopted.

Enforcement

The Secretariat presented the Review of Alleged Infractions covering, among other things, the incidences, enforcement action and analysis of illicit trade, the Global Enforcement Recording System and permit confirmation.

The Secretariat elaborated on the work on guidelines for permits and certificates and collaboration with Interpol and the World Customs Organisation (WCO) on a new computerised data system to curb infraction trends.

Implementation of Resolutions

The Secretariat introduced, and delegates adopted, a draft decision postponing to the next Standing Committee meeting a discussion of problems Parties have faced implementing existing resolutions.

National Laws for implementation of the Convention

The Secretariat presented its overview on measures taken to implement Decisions 10.19, 10.21 and 10.23 and the proposed legal capacity-building strategy.

Delegates from several countries highlighted their needs. The Worldwide Fund for Nature (WWF) called for funding for regional workshops. With these amendments, the strategy was adopted.

National Laws for implementation of CITES

The Secretariat presented a report on measures taken with regard to Parties without adequate legislation. Delegates noted the effectiveness of limited trade sanctions in stimulating national legislation development. An informal group (comprising Australia, Germany, the David Shepherd Conservation Foundation and the Secretariat) was requested to revise a draft decision to ensure its consistency with Decisions 10.19 to 10.23 to address concerns raised by Australia regarding fairness of the draft decision. Delegates adopted the draft decision.

Persistent offenders

Israel introduced a draft resolution on persistent CITES offenders that recommended the Secretariat circulate a list of such offenders, and that Management Authorities reject CITES permits to persistent offenders.

Several delegations opposed the resolution, noting it would infringe on sovereignty and individual rights. Israel withdrew the proposal, but invited interested Parties to co-operate on a revised draft for future consideration.

Annotations in the Appendices

Switzerland outlined its draft resolution that resulted from Decision 10.70, requesting clarification of legal implementation issues related to Appendix annotations. ➤

Cameroon and Pakistan expressed concern over a recommendation Parties avoid making annotations including wild animals and trophies, which could negatively impact their sporting or local community interests.

The draft resolution was adopted. It directs the Secretariat to inform the Standing Committee, subsequent to adopting a downlisting proposal subject to an annotation, of increases in illegal trade or poaching and for the Standing Committee to investigate.

Procedure for the review of criteria for amendment of Appendices I and II¹

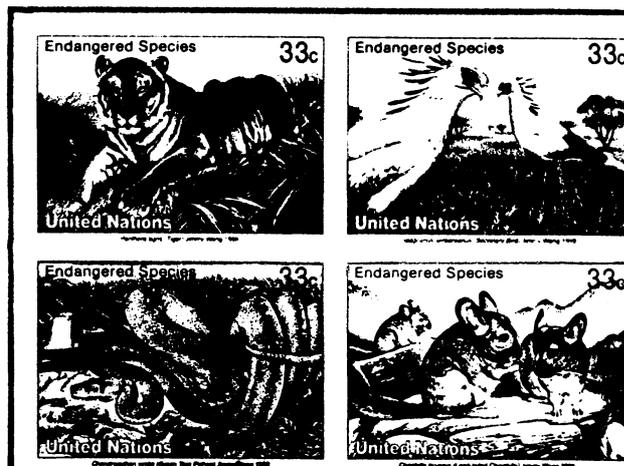
Delegates adopted the Terms of Reference for the review of the criteria for such amendments. The TORs include data selection and the establishment of a criteria-working group of 12 experts. FAO noted its Fisheries Department is currently reviewing CITES criteria for aquatic populations, especially marine populations undergoing commercial exploitation.

Definition of the term "Appropriate and Acceptable Destinations"

Kenya introduced a proposal to define the term to the body responsible in order to eliminate ambiguities that give rise to mistreatment and inappropriate habitats for exported animals.

Some delegates preferred regulation through a binding amendment of relevant annotations in the Appendices. The Born Free Foundation, the International Wildlife Coalition and the Animal Welfare Institute supported the resolution.

Following extensive informal consultations, delegates adopted the revised definition of an "appropriate and acceptable destination" as being where a State's Scientific Authority is satisfied that a species' recipient is suitably equipped to house and care for it.



Stamps from the United Nations series on Endangered Species

Quotas for species in Appendix I

The Secretariat introduced, and delegates took note of, the recommendations for quotas of the Appendix I-listed Leopard and Parties were invited to forward recommendations on the current reporting system, as the reports submitted do not adequately reflect the level of quota management in some exporting countries.

Delegates adopted recommendations relating to export quotas granted to Pakistan for the Appendix I-listed Markhor. This suggests, *inter alia*, that Pakistan provide information on a sustainable monitoring programme to cover all the important Markhor sub-populations.

Conservation of and trade in various species

Conservation of and trade in elephants²

The Secretariat reported on the results of Decision 10.1 on experimental trade in raw ivory. On the basis of eight national reports on illegal killings, the Secretariat had concluded that illegal poaching had not increased in the three range States allowed to trade. In cases where it had, the relationship with authorised trade had not been established. India noted that national figures indicating increased elephant poaching since 1997 were not reported to the Secretariat. Kenya said the Secretariat had defied the Precautionary Principle in interpreting figures and based its conclusions on erroneous information. The David Shepherd Conservation Foundation said the experimental trade was invalid because, among other things, Decision 10.1 was not discussed before the COP-10 vote and the three trading range States had participated in the Standing Committee's evaluation, resulting in a conflict of interest. The International Wildlife Coalition questioned the scientific validity of the Secretariat's conclusions. TRAFFIC contested NGO figures on poaching, suggesting double counting.

Kenya introduced a resolution to revise resolution 10.10 on trade in elephant specimens.

A technical working group, chaired by Cameroon, was established to further address the issue. Switzerland introduced the group's revision of resolution 10.10, noting that

the role of range States and capacity building were strengthened.

Delegates adopted the revisions that, *inter alia*, request MIKE³ and the Elephant Trade Information System (ETIS) to build capacity in range States, and provide for COP considerations of information on illegal elephant killing from credible law enforcement and professional resource management sources.

Kenya introduced a resolution to modify the terms of non-commercial disposal of ivory stockpiles, established by Decision 10.2. The

delegate suggested the obligation to establish a trust fund discouraged donors from participating in such disposal and proposed that funds go directly into capacity building instead.

Some delegations, including Sudan and India, supported the resolution, but others, including the UK and the EU, opposed it and Kenya withdrew the proposal.

During the debate to consider proposals to amend Appendices I and II, Cameroon, speaking for a Friends of the Chair group, announced a compromise whereby ivory trade will be prohibited until COP-12 and the African

elephant populations for Botswana, Namibia, Zimbabwe and South Africa remain listed on Appendix II.

The US noted an emerging consensus among range States on elephant security and stated that ivory trade would be perilous without an efficient monitoring system. Many delegations, including the EU, Swaziland, Tanzania and Sierra Leone, welcomed the consensus to withdraw the proposals.

Conservation of and trade in tigers

Delegates reviewed the report of the CITES Tiger Mission Technical Team and Political Mission to India, Japan and China.

India called for a working group to re-examine recommendations of trade sanctions issued against India. In the working group chaired by the United States, some delegates agreed that although sanctions might be inappropriate, some form of pressure should be exercised to compel India to improve its tiger conservation. Most delegates agreed to reinstate financial incentives, but agreed that spending should be monitored.

Delegates adopted a compromise redraft proposal. This urges all Parties and non-Parties, especially tiger range and consumer States, to adopt comprehensive legislation and enforcement controls, with the aim of eliminating trade in tiger parts, and asks India to establish a specialised unit to combat wildlife crime. The proposal requires the Standing Committee to review, via a targeted programme, the progress of tiger range and consumer States, particularly those reviewed under the Technical and Political Missions. It further replaces the CITES Enforcement Task Force with a Tiger Enforcement Task Force, whose tasks largely remain the same and, in addition, has a provision for a 90-day withdrawal notice for Parties.

Bear specimens

The Secretariat introduced recommendations on bears, requesting Parties, among other things, to report on action taken to implement Resolution 10.8 and to confirm, adopt or improve national legislation to reduce illegal trade in bear parts and derivatives. A working group was established and drafted a resolution, which was adopted.

The resolution directs Parties, *inter alia*, to report on national legislation to control trade in bear parts; share forensic technology; and evaluate the CITES Tiger Missions for applicability to bears. The Standing Committee is directed to consider illegal trade in bear parts at its 45th and 46th meetings and to report to COP-12 on implementation of Resolution 10.8.

Rhinoceroses

The Secretariat introduced a recommendation repealing a rhinoceros resolution adopted at COP-9. The EU and US supported amending the resolution and suggested setting up a working group.

Following discussion, delegates adopted an amended resolution for the conservation of and trade in rhinoceroses, which urges Parties, among other things, to identify, mark and register rhinoceros stocks; implement comprehensive legislation and enforcement controls; increase co-

operation among States to curtail illegal trade; and develop strategies for reducing the use and consumption of rhinoceros parts. It further requests Parties to submit a report to the Secretariat six months prior to each COP, detailing, among other things, the status of captive and wild rhinoceros populations, incidents of illegal hunting and illegal trade.

Turtles and tortoises

Germany introduced a discussion paper addressing conservation impacts of the increasing turtle trade. A working group met to finalise a draft resolution. The Plenary adopted a resolution on the conservation of and trade in freshwater turtles and tortoises in Asia and other regions, urging Parties to increase, *inter alia*, enforcement efforts with regard to existing legislation; assess current efforts to manage native freshwater populations by establishing quotas; implement research programmes to monitor the impact of trade; and increase public awareness of threats to the species.

Timber Species

Delegates considered Secretariat recommendations on whether to repeal or maintain 14 COP-10 decisions on timber species. The decisions state that, among other things, Parties should determine whether national standards organisations have already developed vernacular nomenclatures for timber species, and the potential for silvicultural techniques will be investigated to determine whether they provide bases for trade regimes.

Delegates accepted all proposals except submission of species' names to importers and CITES' enforcement agencies.

Bigleaf mahogany

Brazil introduced a proposal on this species and Nicaragua suggested creating a working group associated with the Plants Committee, for which the United States offered funding.

The US introduced TORs for a mahogany working group, providing for, among other things, reviewing of Appendix III species-studying measures to widen the scope of Appendix III listings. Colombia and Ecuador called for Research and Development on forest resources. The Netherlands suggested the working group consider Appendix II. The United States then introduced revised Terms of Reference, providing additionally for an analysis of legal and illegal trade issues. The working group will report its finding at COP-12.

The resolution was adopted.

Assistance to Scientific Authorities

A document on assistance to Scientific Authorities for making non-detriment findings was introduced, encouraging the Secretariat and Parties to develop and support workshops designed to improve CITES implementation by Scientific Authorities and to develop a manual for making non-detriment findings.

Delegates supported the initiative and it was adopted in Plenary. —

Revision of Resolutions on Ranching

Delegates discussed the revision of COP-10 resolutions on ranching and trade in ranched specimens.

The document defines the term "ranching" as rearing in a controlled environment of specimens taken from the wild. The resolution recommends, *inter alia*, that populations of species included in Appendix I that occur within a Party's jurisdiction, and which the COP deems to be no longer endangered, to be included in Appendix II; and that any proposal transferring a population to Appendix II in order to conduct a ranching programme must satisfy certain criteria.

The resolution also recommends that annual reports on all relevant aspects of each approved ranching operation be submitted to the Secretariat. Following several minor amendments, the resolution was adopted.

Definition of the Term "Prepared"

Kenya introduced a draft resolution defining "prepared" to apply from capture to shipment of a species and recommending that Parties ensure the adequate treatment of animals during the entire preparation process in order to minimise the risk of injury, damage to health or cruel treatment. Israel and Zimbabwe supported the proposal, but requested further clarification of "prepared." Switzerland, South Africa, Japan and Canada opposed. The US opposed and suggested the Animals Committee's transport working group prepare guidelines taking into account Kenya's resolution for consideration at COP-12. Kenya withdrew its resolution in favour of the US proposal. The issue will be revisited at COP-12.

Traditional Medicines

The Secretariat introduced its draft decision, aiming to simplify the implementation of relevant resolution 10.19. In support, Canada suggested that a list of species traded for medicinal properties should include "their parts." With this and other minor amendments, the decision was adopted.

Consideration of Proposals for Amendment of Appendices I and II

Delegates in Committee I considered 62 proposals to amend Appendices I and II. The following is a summary of those proposals of most interest to our readers:

Whales

Japan introduced proposals to downlist from Appendix I to Appendix II the Southern Hemisphere stock of Minke whale and Okhotsk Sea-West Pacific stock of the Minke whale.

The delegate said that none of these stocks meet the biological criteria for Appendix I listing, and underlined that import controls prevent illegal trade. He emphasised that there is no evidence of illegal trade in whale products.

Several delegations expressed their support for the position of the International Whaling Commission (IWC), and opposed downlisting any species subject to the IWC moratorium. Many of these delegations acknowledged the

IWC efforts to establish an appropriate management regime, but stressed that no such scheme exists to date.

The IWC said a management scheme must be developed before commercial whaling can resume. Norway said Parties are paralysing a CITES position on whaling by taking refuge in the IWC. Iceland, Antigua and Barbuda, Cuba, Mongolia, Suriname, Bangladesh, Saint Vincent and the Grenadines supported the proposals, with some citing concerns over food security. The International Fund for Animal Welfare said regulation of whale products in consumer countries is very poor, and cited examples of endangered whale species products in consumer markets.

Eastern North Pacific Grey whale

Japan requested a secret ballot vote on a proposal to downlist this species, which was rejected.

Southern Hemisphere Minke whale

Japan amended this proposal to reserve trade to Parties maintaining an appropriate DNA procedure. Delegates rejected the amended proposal by a secret ballot vote.

Okhotsk Sea-West Pacific Minke whale

Again, Japan amended its proposal to limit trade to Parties having DNA identification methods. The proposal was rejected by secret ballot.

Northeast Atlantic and North Atlantic Central Minke whale

The Norwegian proposal to downlist this species was rejected by secret ballot.

In Plenary, Norway called to reopen the debate on the Minke whale and, supported by Japan and Iceland, amended its initial proposal to limit trade to products from animals taken within national jurisdiction with countries where DNA-based identification systems for trade control are implemented.

The US and others opposed, noting that downlisting this species would signal the resumption of commercial whaling. The proposal was rejected.

Hawksbill turtle

Cuba withdrew a proposal to downlist this species allowing for an initial export to Japan of its existing stockpile and an annual quota of 500 specimens thereafter. Instead, the delegate urged the Parties to support a proposal allowing for a one-off sale to Japan. She said specimens found in Cuban waters do not warrant listing in Appendix I and noted Cuba's national management programme to prevent illegal trade. Several delegations supported the proposal, with many others opposed. The proposal was rejected.

Later, in Plenary, Cuba reopened the debate on its proposals with an amendment stating that trade would not take place until the control systems in Japan had been reviewed by the CITES Standing Committee. Costa Rica opposed, noting that the turtle is a migratory species and that a one-off sale could encourage other countries to stockpile shells.

The proposal was narrowly defeated by secret ballot.

Closing Plenary

Chair Bagher Asadi convened the final Plenary on 20 April, where delegates finalised work on the Minke whale, Hawksbill turtle and the Basking shark.

In closing remarks, Nigeria, on behalf of the G-77 group of countries, solicited global assistance toward sustainable development. The EU expressed satisfaction at the outcome of the African elephant issue, and stressed the importance of the Precautionary Principle. The Born Free Foundation, on behalf of the 60 participants of the Species Survival Network, noted CITES had gained accountability by minimising trade impacts on wildlife and adopting important conservation decisions.

The UNEP Executive Director noted that COPs are “a means to an end,” and said the adoption of the Strategic Plan cannot be over-emphasised.

The CITES Secretary-General declared COP-11 a success, and said that the outcome of the elephant issue was a victory for the whole of Africa. He expressed concern over implementation of the Strategic Plan in view of budget reductions. Clearly, the 20 per cent cut in CITES’ mid-term budget raises questions about the ability of the Secretariat to implement the recently adopted Strategic Plan and its many work activities, as well as to meet its obliga-

tions to a growing membership, with 15 new developing country Parties since COP-10.

The next Conference of the Parties is scheduled to take place in the latter part of 2002 and Chile has offered to host COP-12 in Santiago. (MJ)



Notes

¹ There are three Appendices: Appendix I lists species endangered due to international trade. Exchange of them is permitted only in exceptional circumstances. Appendix II species require strictly regulated trade based on quotas and/or permits to prevent their unsustainable use; and controls aimed at maintaining ecosystems and preventing species from becoming eligible for Appendix I. Appendix III species are subject to regulation by a Party who requires the co-operation of other Parties to control their international trade.

To list a species, a Party provides a proposal for COP approval, containing scientific and biological data on population and trade trends. The proposal must be supported by a two-thirds majority of Parties present and voting at a COP, not including abstentions.

At present, there are 890 species of flora and fauna listed in Appendix I, 29,111 in Appendix II, and 241 in Appendix III.

² Prior to COP-10, a discussion paper was prepared by the International Union for Conservation of Nature and Natural Resources (IUCN) Environmental Law Programme, the aim of which was to raise three possible legal mechanisms to address problems arising out of the listing of the African elephant on Appendix I of the Convention. This is printed in *Environmental Policy & Law*, Vol. 28 (1998), No. 1, page 21.

³ At COP-10 the Standing Committee approved a new system for managing elephant populations and monitoring poaching across all of Africa and South-East Asia, termed “MIKE.” Experts developed this system with the IUCN.