

CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES
OF WILD FAUNA AND FLORA

Thirteenth meeting of the Conference of the Parties
Bangkok (Thailand), 2-14 October 2004

Commercial trade in Appendix-I species

1. This document has been submitted by Israel.
2. This is a proposal to clarify paragraph 4 of Resolution Conf. 5.10, since the current language of this paragraph apparently allows for commercial trade in Appendix-I species to occur, that could be interpreted as non-commercial. This apparent loop-hole has been implemented by a number of Parties, and a clarification by the CoP is therefore called for.
3. Resolution Conf. 5.10 clarifies that under Article III of the Convention, permits for the trade in Appendix-I species may be issued only if certain conditions are met, including that the Management Authority of the State of import satisfied that the specimen will not be used for commercial purposes.
4. Resolution Conf. 5.10 and its Annex clearly indicate the intention of the Conference of the Parties on how to interpret Article II, Paragraph 1, and Article III of the Convention, so that trade in Appendix-I species must only be for non-commercial purposes, and that this term should be interpreted as broadly as possible.
5. If a narrow interpretation of Paragraph 4 of Resolution Conf. 5.10 is used, then it can be interpreted to mean that only the nature of the final use of the specimen needs to be taken into account by the importing Party when determining if the trade is 'non-commercial', and not the nature of the transaction itself. This is contrary to the rest of the Resolution and its Annex, which explain that Parties should not allow trade in Appendix-I species when the international transaction itself is of a commercial nature.
6. Clarification of Paragraph 4 of Resolution Conf. 5.10 is needed to close this apparent loop-hole.
7. The current language of Resolution Conf. 5.10, Paragraph 4 is as follows:
 4. *Article III, paragraphs 3 (c) and 5 (c), of the Convention concern the intended use of the specimen of an Appendix-I species in the country of importation, not the nature of the transaction between the owner of the specimen in the country of export and the recipient in the country of import. It can be assumed that a commercial transaction underlies many of the transfers of specimens of Appendix-I species from the country of export to the country of import. This does not automatically mean, however, that the specimen is to be used for 'primarily commercial purposes.'*

Annex

Draft for new Paragraph 4 of Resolution 5.10

4. Article III, paragraphs 3 (c) and 5 (c), of the Convention concern the intended use of the specimen of an Appendix-I species in the country of importation. The nature of the transaction between the owner of the specimen in the country of export and the recipient in the country of import must also be taken into account as part of the determination of the intended use of the specimen, to ensure that a commercial transaction does not underlie the transfer of specimens of Appendix-I species from the country of export to the country of import. Only Appendix-I specimens originating from registered operations, as defined in Resolution Conf. 12.10, may be traded for commercial purposes.