

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

Fifty-first meeting of the Standing Committee
Bangkok (Thailand), 1 October 2004

Strategic and administrative matters

Rules of Procedure

PROPOSED AMENDMENT REGARDING
REGIONAL ECONOMIC INTEGRATION ORGANIZATIONS

1. This document has been submitted by Germany.

Introduction

2. At the 50th meeting of the Standing Committee (SC50, Geneva, March 2004), the representative of Europe (Germany) sought amendments to Rules 5 and 26 of the Rules of Procedure to allow regional economic integration organizations¹ with competence for the implementation of the Convention the right to be represented at meetings of the Committee and to participate in closed sessions. The purpose of the amendment was to allow the European Community² to participate as a right, rather than by invitation only, and to allow it to participate in closed sessions as an observer, on the same basis as representatives of observer Parties.
3. The amendment was not accepted by the Committee at the time but it was agreed that Germany should prepare a discussion document for consideration at the 51st meeting. The present document was prepared by Germany in response to this request.
4. The amendments proposed by Germany at the time were as follows:

Rule 5: "The United Nations... the IAEA, any regional economic integration organizations with competence for the implementation of the Convention, as well as... may be represented..."

Rule 26: "Parties and regional economic integration organizations with competence for the implementation of the Convention represented at the meeting by observers shall be entitled to be represented at closed sessions."

¹ At the 50th meeting of the Standing Committee, some Parties from other Regions raised the possibility that they could consider other regional groupings to constitute regional economic integration organizations but the term has a precise legal meaning which at present only applies to the European Community.

² CITES has normally accorded observer status to the European Commission as such, but only the European Community, comprising all the institutions, has any legal standing in international affairs.

Justification for the proposed amendments

5. The justification for the proposed amendments was threefold.
 - a) The present rules effectively equate the European Community with non-governmental organisations attending the Committee. This is not a fair or accurate reflection of the Community's status.
 - b) The European Community is responsible for Community legislation implementing CITES and Member States have very limited scope to act independently. Accordingly, in the event that there are allegations of non-compliance against a Member State, the participation of the Community in the discussions is crucial to a resolution of the situation.
 - c) The European Community is one of the largest import destinations for CITES goods and its cooperation is, therefore, essential to any effective compliance measures. The European Community coordinates Member States' implementation of Standing Committee recommendations on compliance cases. In fact, the legal basis for implementation of recommendations to suspend trade is set out in Community legislation. Therefore, the Community should be able to participate in the discussions leading to Standing Committee recommendations on such cases.

Use of the term "regional economic integration organizations with competence for the implementation of the Convention"

6. The amendments proposed at SC50 were proposed against a background where the Plants and Animals Committees had already agreed that their Rules of Procedure should be amended to allow "intergovernmental organizations" to participate in closed sessions. Under the customary procedures in CITES meetings, this is the term used to identify bodies such as the European Community.
7. In fact, this terminology is not strictly correct. Legally speaking, the European Community is different from traditional IGOs in that it has been ceded power to develop legislation – a status that is unique in international affairs. The wording of the Gaborone Amendment, which uses the term "regional economic integration organizations"(REIO), is an acceptable formulation. In fact, this is the term used in all international conventions to which the European Community is a Party.
8. The use of the term 'REIO' would also limit the scope of the amendment and allay fears that it might greatly extend the number or international organizations that would have the right to participate in closed sessions.
9. The merits of the Gaborone amendment have been endorsed by CITES as recently as the 12th meeting of the Conference of the Parties. Indeed, the first decision adopted at that meeting called on all Parties that had not done so, and in particular those that were Parties on 30 April 1983, to accept the Gaborone Amendment "as soon as possible and well before the 13th meeting of the Conference of the Parties". Notwithstanding this, the issues at stake in the amendments proposed to the Rules of Procedure are much simpler.

Conclusion

10. Germany remains of the view that the proposed amendments to the Rules of Procedure are justified and will only serve to improve the effectiveness of the Standing Committee. It is hoped that the explanations and justifications will clarify matters and that Parties will consider the proposal favourably at SC51.