

Interpretation and Implementation of the Convention

INCLUSION OF SPECIES IN APPENDIX III

The attached draft resolution (Annex) has been prepared by the Animals Committee and submitted by the Animals Committee and the Netherlands.

Note from the Secretariat

As it is worded, recommendation d) of the draft resolution can not be implemented by the Secretariat. If a Party submits to the Secretariat a list of species for inclusion in

Appendix III and communicates copies of all domestic laws and regulations applicable to the protection of such species, thus meeting the requirements of Article XVI of the Convention, the Secretariat must inform the Parties of the inclusion of this list in Appendix III, even if the submitting Party has not also submitted a report containing the information referred to in recommendation a) iii), iv) and v).

Doc. 9.59 (Rev.) Annex

DRAFT RESOLUTION OF THE CONFERENCE OF THE PARTIES

Inclusion of Species in Appendix III

ACKNOWLEDGING that according to Article II, paragraph 3, and Article XVI each Party has the right to determine species to be listed in Appendix III;

RECOGNIZING that Resolution Conf. 5.22, adopted at the fifth meeting of the Conference of the Parties (Buenos Aires, 1985), recommends criteria for the inclusion of species in Appendix III;

RECOGNIZING that Resolution Conf. 7.15, adopted at the seventh meeting of the Conference of the Parties (Lausanne, 1989), encourages Parties to declare inclusion of species in Appendix III or withdrawals therefrom at meetings of the Conference of the Parties;

RECOGNIZING that Resolution Conf. 8.23, adopted at the eighth meeting of the Conference of the Parties (Kyoto, 1992), recommends that, before submitting a species for inclusion in Appendix III, Parties request the advice of the Animals Committee or the Plants Committee regarding the trade status and biological status of that species;

RECALLING that Article II, paragraph 3, of the Convention provides for the inclusion of species in Appendix III only if a Party needs the co-operation of other Parties in the control of trade;

CONSIDERING that, at the moment, Appendix III may contain several species that occur rarely or not at all in international trade and for which the Convention is therefore not effective;

CONCERNED further that Parties may be less inclined to implement the provisions of the Convention with regard to Appendix III adequately, and may not provide means to cope with the resulting administrative burden if they are not fully convinced of the effectiveness of Appendix III; the observed poor implementation by a number of Parties may be interpreted as a result of this;

RECOGNIZING the recommendations previously made by the Conference of the Parties in relation to the inclusion of species in Appendix III in Resolutions Conf. 1.5 adopted at the first meeting of the Conference of the Parties (Berne, 1976), Conf. 5.22, Conf. 7.15 and Conf. 8.23;

ACKNOWLEDGING the wish of the Conference of the Parties, expressed at its eighth meeting (Kyoto, 1992), to reduce the number of the Resolutions of the Conference;

RECOGNIZING that Resolution Conf. 1.5, paragraph 5, is deficient in not addressing the need for adequate implementation of domestic legislation;

CONSIDERING that for the effectiveness of the implementation of the Convention with regard to Appendix III it is desirable to give clear guidelines for including species in

Appendix III that reflect the aims of the Convention expressed in its Preamble;

THE CONFERENCE OF THE PARTIES TO THE CONVENTION

RECOMMENDS that, when considering including a species in Appendix III, these guidelines be followed:

- a) a Party should only include a species in Appendix III if:
 - i) the species is native to the country making the inclusion, or exists in that country as an established wild population of introduced origin;
 - ii) adequate regulations exist in the country concerned to prohibit or restrict exploitation and to control trade, for the purpose of conservation of the species. These should include the possibility to penalize illegal taking, trade or possession and to confiscate specimens illegally taken, traded or possessed;
 - iii) it has reviewed the national measures to implement the regulations to ensure that all essential measures have been taken;
 - iv) in spite of adequate regulations and measures to implement them there are indications that significant illegal trade is taking place;
 - v) it has informed the Management Authorities of the range States of the species, the known major importing countries and the Secretariat that it is considering the inclusion of the species in Appendix III and informed them of the reasons for doing so and sought their opinion on the potential effects of such inclusion;
 - vi) after the consultation process it has clearly decided that the co-operation of the Parties is needed in the control of trade; and
 - vii) it has requested the advice of the Animals or Plants Committee regarding the trade and biological status of the species;
- b) each Party that intends to include a species in Appendix III, or to withdraw a species from this appendix, should inform the Secretariat of its intention well in advance of (at least three months before) a meeting of the Conference of the Parties, to allow the Secretariat to inform the Parties of the amendment in time to ensure that it enters into force on the same date as amendments to Appendices I and II adopted at the meeting;

- c) the Secretariat should publish the changed Appendices I, II and III together after each meeting of the Conference of the Parties;
- d) the Secretariat should not communicate to Parties the inclusion of a species in Appendix III before receiving copies of all national laws and regulations for the protection of the species in the country that has submitted the species for inclusion;
- e) these guidelines and the time frame need not apply where the species concerned appears to be eligible for inclusion in Appendix I or II and where immediate listing in Appendix III is needed as an emergency measure to control trade in that species until its inclusion in one of the other appendices has been considered by the Conference of the Parties; and
- f) Parties having included species in Appendix III carefully review such species, taking into account these guidelines, and consider the necessity to maintain them in that appendix;

DIRECTS the Animals Committee and the Plants Committee to assist the Parties requiring assistance in conducting this review, if needed, subject to available funding;

RECOMMENDS that Parties seriously consider withdrawing species from Appendix III if their review, or the advice of the Animals Committee or the Plants Committee, support such withdrawal; and

REPEALS the Resolutions, or parts thereof, listed hereunder:

- a) Resolution Conf. 1.5 (Berne, 1976) – Recommendations Concerning the Interpretation and Implementation of Certain Provisions of the Convention – paragraphs 3, 4 and 5;
- b) Resolution Conf. 5.22 (Buenos Aires, 1985) – Criteria for the Inclusion of Species in Appendix III;
- c) Resolution Conf. 7.15 (Lausanne, 1989) – Amendments to Appendix III; and
- d) Resolution Conf. 8.23 (Kyoto, 1992) – Review of Appendix III.