

# Conf. 9.25

(Rev. CoP17)\*

## Inclusion of species in Appendix III

RECOGNIZING that Article XVI, paragraph 1, provides Parties with the right to list species in Appendix III;

RECALLING that Article II, paragraph 3, provides for the inclusion of species in Appendix III by a Party only if it needs the cooperation of other Parties in the control of trade;

RECOGNIZING that, for a species with a natural distribution that goes beyond the territory of the Party requesting its inclusion in Appendix III and its immediate neighbours, such inclusion may not necessarily need to cover all range States;

NOTING that Resolution Conf. 1.5, adopted by the Conference of the Parties at its first meeting (Bern, 1976), recommended that all readily recognizable parts and derivatives of species included in Appendix III be covered;

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

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

NOTING that Resolution Conf. 8.23, adopted by the Conference of the Parties at its eighth meeting (Kyoto, 1992), recommended *inter alia* 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;

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

OBSERVING that many Parties are unwilling to take on the administrative burden of implementing the provisions of the Convention with regard to Appendix III;

BELIEVING that this unsatisfactory implementation arises because the Parties are not fully convinced of the effectiveness of Appendix III;

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

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

CONSIDERING that, for the effective 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

1. RECOMMENDS that, if a Party has made a reservation with regard to any species included in Appendix I or II, it not request that this species be included in Appendix III;
2. RECOMMENDS that, when considering the inclusion of a species in Appendix III, a Party:

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\* Amended at the 10th, 14th and 15th meetings of the Conference of the Parties; amended by the Secretariat in compliance with Decision 14.19 and with the decisions adopted at the 61st meeting of the Standing Committee; and further amended at the 16th and 17th meetings of the Conference of the Parties.

- a) ensure that:
    - i) the species is native to its country;
    - ii) its national regulations for the conservation of the species are adequate to prevent or restrict exploitation and to control trade, and include penalties for illegal taking, trade or possession and provisions for confiscation;
    - iii) its national enforcement measures are adequate to implement these regulations; and
    - iv) for species that are traded for their timber, consideration is given to including only that geographically separate population or populations of the species for which the inclusion would best achieve the aims of the Convention and its effective implementation, particularly with regard to the conservation of the species in the country requesting its inclusion in Appendix III;
  - b) determine that, notwithstanding these regulations and measures, there are indications that the cooperation of the Parties is needed to control illegal trade;
  - c) inform the Management Authorities of other range States, the known major importing countries, the Secretariat and the Animals Committee or the Plants Committee that it is considering the inclusion of the species in Appendix III and seek their opinion on the potential effects of such inclusion;
  - d) after due consultation, and having satisfied itself that the biological status and trade status of the species justify the action, submit to the Secretariat the name of the species it wishes to include in Appendix III;
  - e) ensure that its request to include a species in Appendix III specifies which readily recognizable parts and derivatives are to be included unless it intends to include all readily recognizable parts and derivatives;
  - f) ensure that any proposed annotation that is part of a request to include a species in Appendix III includes those specimens that first appear in international trade as exports from its territory and that dominate the trade and the demand for the wild resource and is, to the extent practicable, harmonized with relevant existing annotations; and
  - g) consult with the Secretariat, the Standing Committee and, as appropriate, the Animals Committee or Plants Committee, to ensure that any proposed annotation that is part of a request to include a species in Appendix III (and any definitions developed that define terms in the annotation, as appropriate) is clear and unambiguous, and likely to be understood by enforcement personnel and user groups;
3. RECOMMENDS further that, unless there is an urgent need for inclusion, a Party intending to include a species in or delete a species from Appendix III inform the Secretariat of its intention at least three months before a meeting of the Conference of the Parties, in order that the Parties are informed 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;
4. DIRECTS the Secretariat:
- a) to publish the changed Appendices I, II and III together after each meeting of the Conference of the Parties, or at other times when warranted;
  - b) before communicating to Parties the inclusion of a species in Appendix III, to ensure that copies of all relevant national laws and regulations have been received from the Party concerned in accordance with paragraph 4 of Article XVI; and
  - c) if a Party requests the inclusion of a species in Appendix III and requests that the listing be limited to a particular population, to consult with that Party to ensure that the listing will achieve the level of control and cooperation with other range States intended by the Party;

5. AGREES that the inclusion of a species in Appendix III without an annotation shall indicate that all readily recognizable parts and derivatives are included in the Appendix;
6. REQUESTS the Animals Committee and the Plants Committee to assist Parties if necessary in reviewing the status of species in Appendix III, subject to available funding;
7. URGES Parties having included species in Appendix III to review periodically the status of these species and, taking into account these guidelines and any recommendations of the Animals and Plants Committees, to consider the necessity to maintain them in that Appendix;
8. RESOLVES that, when any species already included in Appendix III is subsequently included in Appendix I or II, it shall be deleted from Appendix III; and
9. REPEALS the Resolutions, or parts thereof, listed hereunder:
  - a) Resolution Conf. 1.3 (Bern, 1976) – *Deletion of species from Appendix II or III in certain circumstances* – paragraph b);
  - b) Resolution Conf. 1.5 (Bern, 1976) – *Recommendations Concerning the Interpretation and Implementation of Certain Provisions of the Convention* – paragraphs 3, 4 and 5;
  - c) Resolution Conf. 1.5 (Rev. CoP12) (Bern, 1976, as amended at Fort Lauderdale, 1994, and Santiago, 2002) – *Interpretation and implementation of certain provisions of the Convention*;
  - d) Resolution Conf. 5.22 (Buenos Aires, 1985) – *Criteria for the Inclusion of Species in Appendix III* – paragraphs a) and b) under RECOMMENDS and the paragraph under REQUESTS;
  - e) Resolution Conf. 7.15 (Lausanne, 1989) – *Amendments to Appendix III*; and
  - f) Resolution Conf. 8.23 (Kyoto, 1992) – *Review of Appendix III*.