

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

Fifth Meeting of the Conference of the Parties

Buenos Aires (Argentina), 22 April to 3 May 1985

General Matters of Principle Relating to the Appendices

CRITERIA FOR THE INCLUSION OF SPECIES IN APPENDIX III

This document has been prepared and is submitted by the Federal Republic of Germany.

1. The importance of Appendix III has increased as, in the meantime, 10 countries have listed flora and fauna species to be included in Appendix III which means that at present 87 contracting Parties - if they did not enter any reservation in accordance with Article XVI, paragraph 2) - are obliged to comply with the provisions of Article V. In view of the fact that more species are likely to be proposed for inclusion in Appendix III it seems to be necessary to work out clearly defined criteria for the inclusion of species in Appendix III to avoid abusive listing and reservations resulting from such inclusion.
2. The principles laid down in the Convention for inclusion of species in Appendix III are not clear and need to be supplemented. Article II, paragraph 3, only states that Appendix III includes all species which any Party identifies as being subject to regulation within its jurisdiction for the purpose of preventing or restricting exploitation, and as needing the co-operation of other Parties in the control of trade. Under Article XVI, paragraph 4, a Party submitting a list of species for inclusion in Appendix III shall submit to the Secretariat a copy of all domestic laws and regulations applicable to the protection of such species.
3. The first meeting of the Conference of the Parties (Berne, 1976) already decided that it was necessary to define the criteria for inclusion in Appendix III more precisely. In Resolution Conf. 1.5 the following recommendations concerning this problem were adopted:
 - If a country makes a reservation on any species listed in Appendix I or II, that country could not propose that this species be listed in Appendix III.
 - As a temporary measure, to facilitate the implementation of the Convention, Parties listing species in Appendix III should specify that all readily recognizable parts and derivatives should be covered.

- The Secretariat should not communicate to contracting Parties national proposals for additions to Appendix III prior to receiving copies of all national laws and regulations applicable to the protection of such species in that country (Article XVI, paragraph 4).
- When domestic legislation is adequate to protect a species, it should not be added to Appendix III; however, species occurring in a country and not appearing on Appendix I or II could be added to Appendix III when international control is needed to provide proper protection.

If these criteria are compared with the criteria adopted for Appendix I and II (see particularly Resolution Conf. 2.17) there is clear evidence that the criteria for inclusion in Appendix III continue to be rather vague.

4. In the context of controlling parts and derivatives in Appendix III the provisions laid down in Article I, paragraph b) (ii) and (iii), were considered to be unsatisfactory. In Resolutions Conf. 2.18 and Conf. 4.24 the Parties are requested when including species in Appendix III to generally include all readily recognizable parts and derivatives and thus contribute to making the implementation easier and improving the effectiveness of the Convention.
5. The proposal for a resolution contained in the Annex is meant to contribute to having species included in Appendix III only if this is necessary for the protection of native species in the country concerned (and not for other reasons). In addition it is to be an incentive for countries which propose species to treat all species and specimens in accordance with uniform criteria when granting export permits.

DRAFT RESOLUTION OF THE CONFERENCE OF THE PARTIES

Criteria for the Inclusion of Species in Appendix III

OBSERVING that Article II, paragraph 3, of the Convention provides for the inclusion of all species in Appendix III which any Party identifies as being subject to regulation within its jurisdiction, and as needing the co-operation of other Parties in the control of trade;

OBSERVING further that Article XVI, paragraph 4, of the Convention requires that a Party submitting a list of species for inclusion in Appendix III shall submit to the Secretariat a copy of all domestic laws and regulations applicable to the protection of such species;

RECOGNIZING that Resolution Conf. 1.5 adopted at the first meeting of the Conference of the Parties (Berne, 1976) made recommendations regarding the inclusion of species in Appendix III;

RECOGNIZING further that Resolution Conf. 2.18 adopted at the second meeting of the Conference of the Parties (San José, 1979) and Resolution Conf. 4.24 adopted at the fourth meeting of the Conference of the Parties (Gaborone, 1983) call for protection of all parts and derivatives unless exempt;

NOTING that different interpretations of the criteria of Article II, paragraph 3, may lead to abuses of the instrument of Appendix III;

CONSIDERING that all Parties should interpret the Convention in a uniform manner;

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RECOMMENDS

- a) that only those species are included in Appendix III which are native to the country proposing such inclusion;
- b) that only those species are included in Appendix III which, within the jurisdiction of the country concerned, are subject to regulations for the protection of flora and fauna for the purpose of preventing or restricting exploitation and that national export restrictions for other reasons do not justify the inclusion of such species in Appendix III;
- c) that Parties proposing the inclusion of species in Appendix III can exclude readily recognizable parts and derivatives from being listed in Appendix III only if this is in accordance with the procedures of Resolution Conf. 4.24; and
- d) that export permits granted under Article V, paragraph 2, of the Convention are issued in accordance with uniform criteria and that there is no differentiation according to the type of specimen (for example parts or derivatives); and

REQUESTS the Secretariat to compile an updated list of Appendix III species including only those which are native to the country having proposed their inclusion in Appendix III and which are not listed in Appendix I or II.