

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

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Implementation of Resolution Conf. 8.9

A GUIDE TO THE REVIEW OF SIGNIFICANT TRADE

This document has been prepared by the African Resources Trust, under contract to the Secretariat, at the request of the Animals Committee.



## A Guide to the Significant-trade Review Process

### 1. Introduction – Article IV at the heart of CITES

The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), which was signed in 1973 and entered into force in July 1975, was drawn-up as a tool to regulate international trade in wildlife so that it does not lead to the extinction of species. Where trade has an actual or potential conservation impact on a species, the Parties to CITES may decide to include that species in one of three lists, known as appendices<sup>1</sup>. Species included in Appendix I are considered to be threatened with extinction and are excluded from commercial international trade. Species that are not currently threatened with extinction, but may become so if trade is not regulated, are included in Appendix II. Commercial international trade in Appendix II listed species may take place, but only if the Management Authority of the exporting State issues an export permit - and no such permits should be issued unless the Scientific Authority of the exporting State advises that the intended trade will not be detrimental to the survival of the species. The requirement is laid down formally in Article IV, paragraph 2(a), of the Convention and the basis for providing advice is elaborated in Resolution Conf. 10.3, adopted by the Parties in 1997.

In addition to the finding of “non-detriment” (that is the determination that the resource is used sustainably), which is linked to each export permit, Article IV also charges the Scientific Authority of the exporting State with ongoing responsibilities with respect to trade in Appendix II species. Paragraph 3 requires the Scientific Authority to monitor both the export permits issued and the actual exports. If there is a danger that the magnitude of exports over time is such that the species may be reduced to a level which compromises its role in the ecosystem<sup>2</sup>, then it has to advise the Management Authority of suitable measures to limit the grant of export permits.

Diligent implementation of the provisions of Article IV is essential for the effectiveness of CITES. For example, during the development of the Convention it has become clear that international trade is likely to take place at unsustainable (i.e. detrimental) levels if:

- there is no adequately functioning mechanism for the Scientific Authority to advise on the matter of detriment;
- the “non-detriment” finding is incorrect; or
- the Management Authority issues export permits contrary to the advice of the Scientific Authority.

If a regime of unsustainable trade is not noted and rectified in the monitoring process expected of the Scientific Authority, then ultimately a proposal may be formulated by a Party to the Convention to include the species in Appendix I.

### 2. Problems in the Implementation of Article IV

As early as the second meeting of the Conference of the Parties (CoP2), in 1979 (San Jose), concerns were raised that export permits are often granted for Appendix-II species to enter trade without the benefit of effective “non-detriment” findings. At CoP3, in 1981 (New Delhi), a document was presented to the Parties which noted that the requirements of Article IV were not being met in many cases. It expressed the view that “the Convention is simply documenting the decline of Appendix-II species”. One of the concerns raised at the time was that there was little an importing Party could do if it was not confident that the terms of Article IV had been adequately followed by the exporting Party. At CoP4, in 1983 (Gaborone), the Parties adopted Resolution Conf. 4.7, which created the mechanism for a review of trade in Appendix-II species in an effort to identify those for which trade levels were a real threat to the continuity of the species in the ecosystem. When the Animals Committee was established to replace the Technical Committee at CoP6, in 1987 (Ottawa), it was given specific responsibility for the implementation of this procedure.

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<sup>1</sup> Of the three appendices that list species, only two are of particular significance to the content of this guide.

<sup>2</sup> While this may be difficult to define, the text of the Convention states in addition that the species should remain well above the level at which it would become threatened with extinction.

After a slow period of development, in which lists of Appendix-II species of concern were drawn-up, but little remedial action was taken, the Parties adopted Resolution Conf. 8.9 at CoP8, in 1992 (Kyoto). This Resolution, entitled "Trade in wild-caught animal specimens", is a mechanism for taking action when there is reason to believe that Appendix-II species are being traded at significant levels without adequate implementation of Article IV<sup>3</sup>, paragraphs 2 (a) and 3. The review of significant-trade, if implemented correctly, acts as a safeguard of the Convention by ensuring that species do not continue to decline while they are listed in Appendix II. If Article IV, paragraph 2(a), were implemented correctly, Resolution Conf. 8.9 would not be necessary and there should be a reduction in the number of animal species that *need* to be transferred from Appendix II to Appendix I.

### 3. The Process established by Resolution Conf. 8.9

The review of significant trade, as established by Resolution Conf. 8.9 and elaborated through several Decisions of the Conference of the Parties, seeks to identify problems in the implementation of Article IV and rectify these in close co-operation with the Management Authorities of exporting countries. The detail of the process for the review of significant-trade is presented in an annotated flow-chart in Figure 1. The following is a summary of this process.

#### a) Identifying candidate species

The process is started by the World Conservation Monitoring Centre (WCMC) which, under the direction of the Secretariat, compiles data on net trade in animals for the most recent five years for which data are available and then creates a list of those for which net trade is considered to be in excess of a "safe" level of 100 specimens per year<sup>4</sup>. The Animals Committee and invited experts then review this list, removing those species for which it is clear that trade is not detrimental, and adding others where necessary, to create a list of "candidate species". This part of the process is considered in more detail in Section 4.

#### b) Compiling reviews and categorising species

Consultants are then engaged to compile detailed reviews of each of the candidate species incorporating both biological and trade data. On the basis of this information they then divide the species into three categories - those for which trade is not detrimental, those for which trade is detrimental and those for which there is insufficient information to make a decision. Subsequently, the Animals Committee reviews the consultants' work, revising the information if necessary. At this point, those species that are being traded at safe levels are eliminated from the review, though sometimes the Animals Committee may, at the same time, recommend some action to the Secretariat to deal with issues of concern.

#### c) Confirming the need for action

In order to confirm that the problem identified by the Animals Committee is real, at this stage in the process the Secretariat engages in formal consultation with the range State concerned by asking for an explanation of the scientific basis for permitting trade at the recorded level. The range State is expected to reply within six weeks and the Animals Committee is tasked with deciding whether the response is satisfactory - that is, whether or not the provisions of Article IV, paragraphs 2(a) and 3, have been satisfied. If they have, the species is eliminated from the process.

#### d) Primary and secondary recommendations

If the Animals Committee is not satisfied, then it may, in consultation with the Secretariat, formulate recommendations of two types to the States concerned: ***primary recommendations***,

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<sup>3</sup> Resolution Conf. 8.9 arose out of concerns that the requirements of Article IV were often not met before wild-caught birds entered trade. However, it was soon recognised that these problems were not restricted to the trade in live birds and that a generic process was needed for trade in all Appendix II animals, their parts and derivatives.

<sup>4</sup> This is an arbitrary level set by the Animals Committee and confirmed by the Parties in Decision 10.79 paragraph a) in order to provide a basis for review.

which address serious issues and which should be implemented within 90 days of receipt; and **secondary recommendations**, which address less serious problems or problems requiring field studies, which should be implemented within 12 months of receipt. The recommendations formulated by the Animals Committee are communicated by the Secretariat to the Management Authority of the relevant Party. Where the Party responds to the satisfaction of the Secretariat, in consultation with the Animals Committee<sup>5</sup>, the species is removed from that phase of the process, though it will automatically be reviewed again at a later date. In cases where the Party either fails to respond, or provides a response which is considered unsatisfactory, then the Secretariat is authorized to refer the matter to the CITES Standing Committee together with specific recommendations for “strict measures”.

**e) Action by the Standing Committee**

The Standing Committee is tasked with deciding on appropriate measures, which may include the suspension of trade in the species in question from the Party concerned, until such time as it adequately addresses the problem identified by the Animals Committee. In many cases the Management Authority of the exporting Party consults with the Secretariat to define a conservative annual export quota that is deemed to fulfil the requirements of Article IV, paragraph 3.

**f) Nature of the process**

All species that have been the subject of primary recommendations are subject to further review after two consecutive periods between meetings of the Conference of the Parties. Species that have been subject to secondary recommendations may also be reintroduced to the review process.

**g) Field projects for data-poor species**

Though not specifically mentioned in Decision 10.79 and Resolution Conf. 8.9, the Animals Committee may attempt to increase the amount of data on species for which information is sparse or incomplete. For these species, the Animals Committee establishes priorities for field projects and the Secretariat contracts IUCN to co-ordinate these in collaboration with WCMC and help raise funds for them.

**4. Information management in the Review of significant trade**

As indicated in Section 3, paragraphs (a) and (b), the Review of significant trade involves the generation of basic trade data, biological and other information that are used in the selection of candidate taxa. Detailed reviews are then compiled for the taxa selected. Because this part of the process is central to its success, it is elaborated here in greater detail.

Three NGOs play a particularly important supporting role in the process; these are WCMC, the TRAFFIC Network and IUCN. The involvement of the latter two has been of considerable benefit as both have proved effective at mobilizing information from their networks within and outside the range States.

**a) Generating basic data**

WCMC has been involved in the management of data, notably the CITES trade database, for the CITES Secretariat since 1979. Its role in the review of significant trade was institutionalized in Decision 10.79 b) which states that:

*“WCMC should produce a print-out from the CITES database showing the recorded net levels of trade in all Appendix-II species over the five most recent years for which reasonable data are available. Species for which the average net trade over this period*

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<sup>5</sup> Between CoP8 and CoP10 the Secretariat had to judge whether the range State had satisfied the terms of recommendation. In Decision 10.79 the Animals Committee was included in this part of the process.

*has exceeded the "normally safe" level should be selected and a print-out should be produced showing the levels of export and re-export of these species, by country. This will constitute the list of taxa that might be subject to significant levels of trade, for consideration in the current period of the cycle."*

The CITES trade database contains trade statistics submitted by Parties in annual reports in accordance with their reporting obligations under Article VIII of the Convention. Although information is added to the database as it is received, because Parties do not have to submit annual reports until 31st October in the year following that in which trade took place, the data are usually at least a year in arrears, and commonly more. The process of organizing these trade statistics to provide the information required by the Animals Committee is complex, but can be summarized as follows:

**Step 1 – The production of a print-out showing recorded net levels of trade in all Appendix II species over the five most recent years for which reasonable data are available.**

- The data for animal species are organized within taxonomic groups, in the same sequence as used in the appendices.
- The data are adjusted to take into account animals that have recently been transferred between appendices. Where species have moved to Appendix II from Appendix III (such as *Hippopotamus amphibius*) the trade data from the Appendix III period will be combined with those reported from period in Appendix II.
- Terms describing the items traded are sorted for inclusion or exclusion. For example, the categories "Live", "Skin", "Trophy", are included, but smaller units such as "watch-straps" are excluded.
- Non-standard units of measurement such as "box" are deleted from the analysis, unless they are relevant to whole animals (e.g. frogs legs are usually reported by weight, which can be converted to number of animals).
- In the case of reptiles, units such as "side" or "flank" are corrected to approximate to whole animals.
- Trade declared as originating from captive-bred specimens is deleted from the analysis (which concerns only wild-taken specimens).
- The net trade volume for each species is calculated by subtracting re-exports from imports to approximate the level of trade taking place from the range States.
- For each species an average annual trade is calculated for the most recent five years for which adequate data are available.
- A print-out is produced for the Animals Committee and all species with an average of over 100 specimens in trade per annum are marked.

**Step 2 – The production of a print-out showing the levels of export and re-export, on a country-by-country basis, of species for which net trade has exceeded the "normally safe" level.**

- The net trade calculation is run as above, but the data are sub-totaled for each country rather than for the species on a global basis.
- All species for which global trade amounts to fewer than 100 specimens a year on average are removed from the analysis.
- Where trade exceeds an average of 100 specimens per annum in any of the years examined, trade data are reported for each country (even if some of the countries have low trade volumes).
- A print-out is produced for the Animals Committee.

**b) Detailed species reviews**

Over the years since the Animals Committee started an agenda of work on Appendix-II species, a range of detailed species reviews have been undertaken, resulting in reports produced in 1988, 1991, 1992, 1995 and 1996. In the first review, published as three volumes in 1988, the work was undertaken by WCMC (then part of IUCN) and the central involvement of IUCN and WCMC

has continued since that time. TRAFFIC was associated with the process in 1991, and has played an increasingly important role since that time. At the present time, WCMC, IUCN and TRAFFIC are contracted by the Secretariat in terms of the relevant mechanism described in Decision 10.79 as follows:

*"Consultants should be engaged to compile information about the biology and management of species remaining in the list and should contact the range States to obtain information for inclusion in the compilation. The consultants should summarize their conclusions about the effects of the international trade and should divide the species into three categories....."*

For phase 4 of the review the consultants had to produce a report comprising information sheets on 37 species which were selected by the Animals Committee following discussion at its 14th meeting in 1998 (Caracas) and subsequent consultation. In brief, the review was undertaken as follows:

- The consultants sought to include in the review documents specific information on distribution, status and trends in the wild, management and trade regimes and legislation.
- Existing material was used as a base for the review. This included previous analyses produced for earlier rounds of the significant-trade review, CITES listing proposals, analyses of CITES listing proposals and reviews undertaken by the European Union on Annex B species in terms of EU Regulation 338/97.
- Additional information was obtained from specialists on the various species (such as members of IUCN/SSC specialist groups) and from within the regions where the species occurred or were traded in significant amounts (both in local institutions and through the TRAFFIC Network, for example).
- The Management Authorities of the range States were solicited for information and other inputs, in the appropriate language of the Convention.
- The trade data were analysed.
- Information sheets were reviewed, translated into the three languages of the Convention, and made available to the Animals Committee through the Secretariat.
- All sources of information referred to in the information sheets is available to the Animals Committee on request.

## **5. Consultation and the role of the range State**

In discussions on the process of the review of significant trade the issue of consultation with the range States has been a recurring topic both at meetings of the Conference of the Parties (in the formulation of Resolution Conf. 8.9, for example) and at Animals Committee meetings. The close involvement of the range States is considered essential for two main reasons:

- it provides the Animals Committee with the most up-to-date information on species and their management and on trade being authorized so it can accurately identify whether or not a problem exists, and the nature of it;
- it ensures that the owners of the resources remain in control of trade in their natural resources as intended by the Convention.

According to Decision 10.79 the consultants who are engaged by the CITES Secretariat to compile information about the biology and management of the species selected for detailed review should "contact the range States to obtain information for inclusion in the compilation".

As the Animals Committee reviews the information provided by the consultants it may decide that it is appropriate to seek further consultation with the range State to clarify details. For example, at the 12th Meeting of the Animals Committee, in 1995 (Guatemala), consultants presented a draft report on 24 species that had been selected for detailed review in Phase 3 of the review of significant trade. While considering this information, the Committee identified several instances where it was appropriate to seek further information from the range States. Regional representatives were then tasked with contacting specific range States to solicit further inputs into the process.

Once the Animals Committee has reviewed the consultant's reports it focuses its attention towards those species on which trade appears to be having adverse effects on population levels, or for which there is insufficient information to decide what the effects of trade might be. At this stage, Decision 10.79 requires that the Secretariat consult with the range State to determine the scientific basis for permitting trade at the recorded level. Only after the answer has been received and reviewed (or six weeks has passed without an answer being received) does the Animals Committee move on to formulate primary or secondary recommendations. Once recommendations are formulated, they are communicated to the Parties in question by the Secretariat. From this stage onwards, the level of communication between the Secretariat and the range State is often very high and commonly results in the voluntary setting of "safe" export quotas by the range State, particularly if meeting the terms of a recommendation proves to be difficult or time consuming. However, if the response of the range State does not satisfy the Secretariat, in consultation with the Animals Committee, then the Secretariat will recommend appropriate measures to the Standing Committee. Even at this stage the range State is in control of the situation. At any time it can consult with the Secretariat to discuss mechanisms to overcome the problems so that measures taken may be revoked.

## 6. Progression of the Review – Phases 1 to 4

For convenience, the Animals Committee and the Secretariat commonly refer to the progress of the review of significant trade in terms of 'Phases'. The four phases to date are included in the following table:

Phase	Listed as subject to significant trade	Reviewed by consultants	Recommendations Formulated by AC <sup>6</sup>	Recommendations sent to Parties
Phase 1	May 1991	August 1991 & January 1992	March 1992 - for 27 species	June 1992
Phase 2	May 1991	January 1992 & June 1993	September 1993 - for 120+ species	January 1994
Phase 3	August 1995	August/September 1995	September 1995 - for 24 species	March 1996
Phase 4	May 1998 (including species from Phase 1 and 2)	Review of 37 species finalized June 1999		

## 7. Conclusion – Broader benefits of the review of significant trade

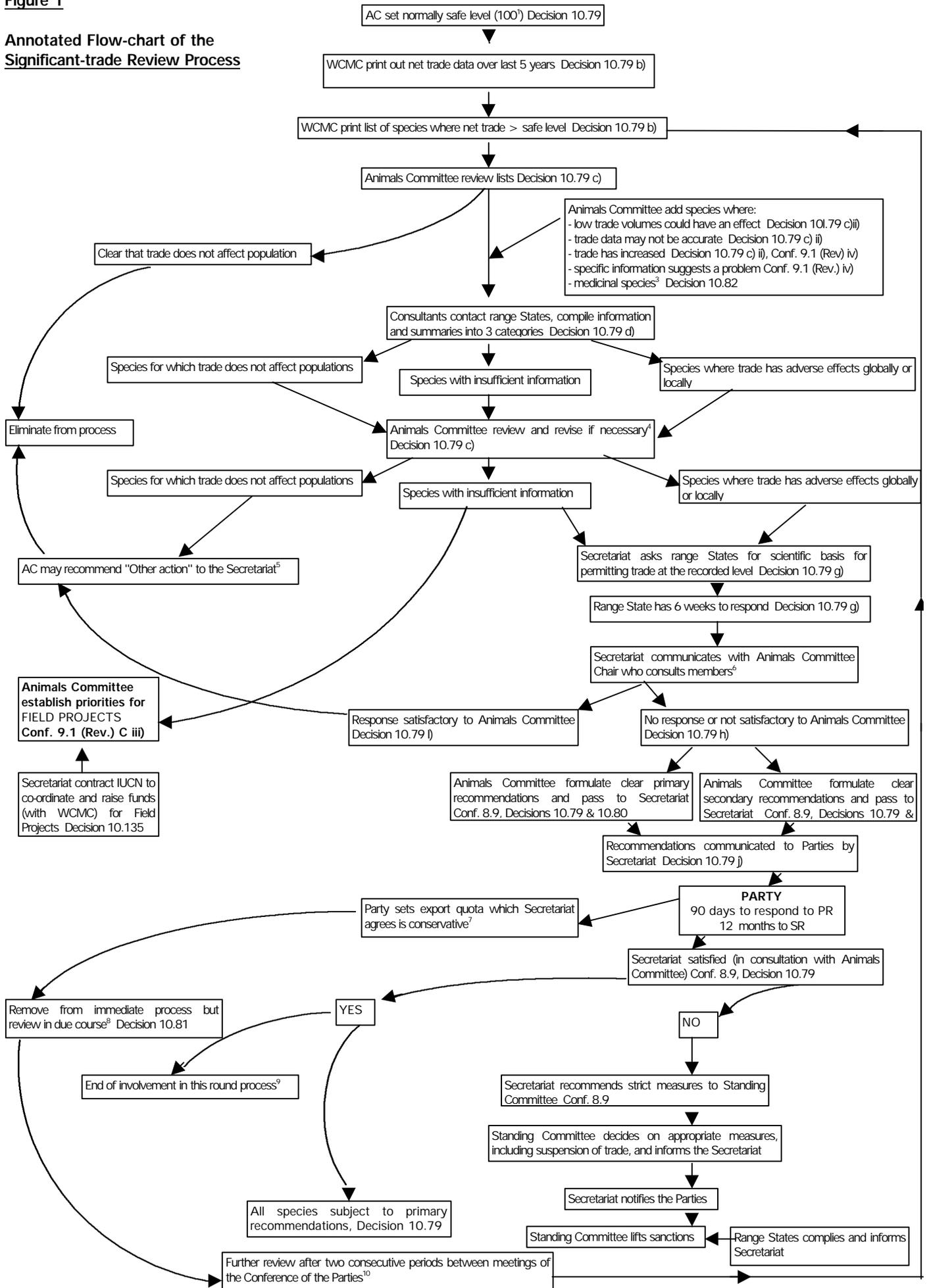
When viewed in overall terms, the review of significant trade is clearly a compromise in which Parties acknowledge that CITES has not operated as effectively as it might, and have chosen to ensure that the Convention can achieve its objectives through a multilateral process involving a high degree of consultation and co-operation. Although the review can result in punitive measures where there are problems with the implementation of the provisions of Article IV, implicit to the implementation of the process is the fact that the species remains in Appendix II and the exporting country retains control over the management of the species. Furthermore, when there are problems with the implementation of Article IV, the implementation of Resolution Conf. 8.9 generally reduces the need for importing countries to apply stricter domestic measures (such as import bans or independently-derived export quotas), which is viewed very positively by exporting countries. Another positive feature associated with the process, which was probably important in ensuring that exporting countries were prepared to adopt the process in the first place, is the fact that it can result in individual exporting countries being assisted to develop the necessary technical and administrative capacity where these are lacking to implement the requirements of Article IV.

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<sup>6</sup> AC = Animals Committee.

Figure 1

**Annotated Flow-chart of the Significant-trade Review Process**



## Notes to Figure 1

- <sup>1</sup> During the evolution of the process, trade levels under 100 specimens a year have come to be considered safe.
- <sup>2</sup> WCMC remove records of trade in captive bred specimens from the analysis in line with the title of Resolution Conf. 8.9, which refers to "wild-caught" specimens.
- <sup>3</sup> The Parties have given no guidance for the inclusion of medicinal species according to Decision 10.82.
- <sup>4</sup> On occasion (notably in Phase 3 of the review) Committee members have contacted range States to seek relevant inputs.
- <sup>5</sup> There is no formal requirement or mandate for this step, but it has been adopted for practical purposes to deal with species which may be of minor concern.
- <sup>6</sup> This step is not formally laid out, but is implied.
- <sup>7</sup> The setting of voluntary quotas as a response to recommendations was not foreseen, but has become common practice and was recognized in Decision 10.81.
- <sup>8</sup> No guidance is given as to the review process, the Animals Committee therefore includes these in the regular review of species for which primary recommendations have been made.
- <sup>9</sup> Species subject to primary recommendations are automatically re-reviewed after two consecutive periods between meetings of the Conference of the Parties. Species subject to secondary recommendations may be re-introduced to the process in terms of Resolution Conf. 9.1 (Rev.) Annex 2 iv) or Decision 10.79 b) or c) ii).
- <sup>10</sup> This has been taken by the Animals Committee to mean that species subject to recommendations between CoP8 and CoP9 will be reviewed again at CoP11.