

RESOLUTION CONF. 11.18

TRADE IN APPENDIX-II AND -III SPECIES

1. In Resolution Conf. 11.18, the Conference of the Parties recommends that:

if any Party deems that an Appendix-II or -III species is being traded in a manner detrimental to the survival of that species, it:

- a) *consult directly with the appropriate Management Authorities of the countries involved or, if this procedure is not feasible or successful, make use of the provisions of Article XIII to call upon the assistance of the Secretariat;*
 - b) *make use of the options provided by Article XIV to apply stricter domestic measures particularly when re-export or transshipment, or trade with a State not party to the Convention is involved; or*
 - c) *make use of the options provided by Article X when trade with a State not party to the Convention is involved.*
2. With regard to recommendation a), it should be noted that Article XIII provides a procedure for dealing with concerns relating to species in Appendices I and II that are being adversely affected by trade in specimens of those species. But contains no provisions relating to detrimental trade in species in Appendix III. The reference to Article XIII in relation to Appendix-III species is therefore incongruous in relation to potentially detrimental trade, and should be corrected.
3. Moreover, in relation to Appendix-III species, it should be recalled that, in accordance with Article II, paragraph 3, of the Convention, this Appendix 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.*
4. Considering that the species included in Appendix III are already subject to some level of legal protection by the Parties that listed them, Article V of the Convention, which contains the provisions for trade in Appendix-III species, does not require that these species be traded in a manner that is not detrimental to the survival of the species. For export of specimens from any State that did not list these species, the Convention requires only that a certificate of origin be issued.
5. Recommendation b) is not clear regarding the case being dealt with: is it the next step after making use of Article XIII or an additional action? Is it action to be taken by a Party in relation to all trade of concern? Is the re-export or transshipment through its own territory? The Secretariat believes that it would be useful to clarify this or, preferably, to leave each Party to decide on the appropriate measures. It should be noted that, since the adoption of Resolution Conf. 11.18, the Conference of the Parties has adopted Resolution Conf. 14.3 on *CITES compliance procedures*, which provides a consensual way to address potential problem with the regulation of trade in CITES species.
6. It appears that recommendations a) and b) are both matters relating to compliance with the Convention and could be included in Resolution Conf. 11.3 (Rev. CoP15) on *Compliance and enforcement*. They also have a clear link with the substance of Resolution Conf. 12.8 (Rev. CoP13) on *Review of Significant Trade in specimens of Appendix-II species* and Resolution Conf. 14.3.
7. Moreover, recommendation c) and the last part of recommendation b) concern trade with non-Parties and would therefore be best included in Resolution Conf. 9.5 (Rev. CoP15) on *Trade with States not party to the Convention*.

8. As an additional point, it should be noted that, in Resolution Conf. 10.3, on *Designation and role of Scientific Authorities*, in recommendation f), the Conference of the Parties recommends that:

the Parties consult with the Secretariat when there is reason for concern as to whether the proper Scientific Authority findings are being made.

This recommendation is closely linked to recommendation a) of Resolution Conf. 11.18 and also deals with concern about a potential compliance matter. The Secretariat therefore suggests that it be combined with the text of that Resolution, while being transferred to Resolution Conf. 11.3 (Rev. CoP15).

Recommendation

9. The Secretariat recommends that the Conference of the Parties:
- a) adopt the amendments to Resolutions Conf. 9.5 (Rev. CoP15) and Conf. 11.3 (Rev. CoP15) indicated below: and
 - b) note that, if they are adopted:
 - i) recommendation f) of Resolution Conf. 10.3 will be deleted (and subsequent paragraphs re-lettered); and
 - ii) Resolution Conf. 11.18 will be defunct.

PROPOSED AMENDMENT TO RESOLUTION CONF. 9.5 (REV. COP15)

TRADE WITH STATES NOT PARTY TO THE CONVENTION

The following text is to be inserted immediately after recommendation e), and the subsequent paragraphs are to be re-lettered:

- f) if any Party deems that specimens of an Appendix-II or -III species are being exported from a State not party to the Convention in a manner detrimental to the survival of that species, it:
 - i) consult directly with the competent authorities of the State concerned; and
 - ii) if necessary, make use of the options provided by Article X, to reject permits, or Article XIV, paragraph 1 (a), to take stricter measures as appropriate;

COMPLIANCE AND ENFORCEMENT

The following new section is to be inserted immediately after the section *Regarding compliance, control and cooperation*:

Regarding trade in Appendix-II or -III species

RECOMMENDS that, if any Party deems that an Appendix-II or -III species is being exported by another Party in a manner detrimental to the survival of that species, it:

- a) consult directly with the appropriate Management Authority;
- b) in the case of an Appendix-II species, if there is no satisfactory response, call upon the assistance of the Secretariat, in the context of its responsibilities in Article XIII of the Convention and Resolution Conf. 14.3 on *CITES compliance procedures*;