

CONSIDERATION OF PROPOSALS FOR AMENDMENT OF APPENDICES I AND II

A. Proposal

Inclusion of *Araucaria araucana* in Appendix I, replacing *Araucaria araucana*** + 219 (populations of Argentina and Chile), and deletion of *Araucaria araucana** -114 #1 in Appendix II

B. Proponent

Argentina.

C. Supporting statement

1. Taxonomy

- 1.1 Class: Coniferopsida
- 1.2 Order: Coniferales
- 1.3 Family: Araucariaceae
- 1.4 Genus and species: *Araucaria araucana* (Molina) K. Koch
- 1.5 Scientific synonyms: *Araucaria imbricata* Ruiz and Pavon
Pinus araucanax Molina
- 1.6 Common names: English: monkey puzzle tree, Chilean pine, Parana pine
French: pin du Chili, désespoir des singes
Spanish: pehuén, araucaria, araucaria de Neuquén, pino de Neuquén, pino hachado, pino solo

2. Objectives

This proposal does not seek to modify the status of the species *Araucaria araucana* in the CITES Appendices but to reflect the level at which this species should have been included if the CITES Secretariat had correctly interpreted the intention of the Parties at the time the decision was taken by the Conference of the Parties at its 11th meeting (Gigiri, 2000).

Araucaria araucana is found in the forests of Argentina and Chile, the only two range States of this species. However, as now listed in the CITES Appendices, this species seems to have a larger area of distribution, with only two populations included in Appendix I.

This does not reflect the true situation of this species, because the only populations covered by the current inclusion in Appendix II are 'introduced populations', still unconfirmed, or 'introduced specimens', which occur with numerous other species listed in the CITES Appendices without being subject to special treatment.

The listing as it now stands creates a precedent, since up to now no species included in the CITES Appendices has its wild populations in one Appendix and its introduced 'populations' or 'specimens' in another. All introduced specimens of other species are in the same CITES Appendix as the wild populations and are subject to the same provisions of the Convention, although they may be excluded by a specific annotation, where considered necessary.

This proposal seeks to obtain the same treatment for *Araucaria araucana* as for any other species listed in the CITES Appendices. For this reason, the proposal does not require the presentation of standard data described in Annex 6 of Resolution Conf. 9.24. This information was already provided in the proposal presented by Argentina (Prop. 11.55), which was considered and unanimously adopted at the 11th meeting of the Conference of the Parties. For this reason, the format proposed in Annex 6 is not followed in this document.

3. Background

After careful preparation, involving the Plants Committee and the Secretariat – the Secretariat participated in all the discussions – Argentina submitted a proposal to transfer its population of *Araucaria araucana* from Appendix II to Appendix I (the only other wild population of this species, that of Chile, had already been included in Appendix I) for consideration at the 11th meeting of the Conference of the Parties.

At that time, Argentina clearly explained that if that proposal were adopted by the Conference of the Parties, that step would eliminate the split-listing of the species between two Appendices. This was made clear in the supporting statement of the proposal which forms an integral part of it, taking into account Decision 10.15 (now Decision 11.11) and similar decisions adopted at previous meetings of the Conference of the Parties. The Secretariat raised no objection and at no time suggested that the wording of the proposal *sensu stricto* should be modified to reflect this specific aim. The intention of this proposal was very clear to the Plants Committee before the meeting of the Conference of the Parties and to the Parties during the 11th meeting of the Conference of the Parties.

Furthermore, after the meeting of the Conference of the Parties, the Secretariat published a revised version of Appendices I and II, including *Araucaria araucana* in Appendix I (Notification to the Parties No. 2000/034 of 15 June 2000). No Party objected to that inclusion or submitted a reservation within the period provided for in paragraph 3 of Article XV of the Convention. One Party did request clarification.

After expiration of the deadline for presenting reservations, the Secretariat changed the listing of the species in the Appendices without previously consulting the range States of that species or the Plants Committee, alleging that there are other populations in addition to those in Argentina and Chile (although the only wild populations, as stated above, are in these two countries) that had not been transferred to Appendix I and as a result remained in Appendix II (Notification to the Parties No. 2000/037 of 31 July 2000).

After several comments by Argentina, the Secretariat put this subject on the agenda of the 10th meeting of the Plants Committee (Shepherdstown, December 2000) (Doc. PC 10.9.1). Another document, refuting the arguments of the Secretariat, was submitted to the Plants Committee by Argentina with the support of Chile (Doc. PC 10.9.1.a). The Plants Committee unanimously supported the position of Argentina and Chile and requested the Standing Committee to ask the Secretariat to issue a Notification to the Parties reflecting the original intention of the proposal and supporting the original intention of including the whole species in Appendix I. The Standing Committee did not take this step, but instead included the subject on the agenda of its 45th meeting (Paris, June 2001). The Secretariat presented document SC45 Doc. 14, and Argentina and Chile presented a document with an alternative view (SC45 Inf. 5).

During the debate on this subject, there seems to have been clear support for the position of Argentina and Chile by the Plants Committee as well as several members of the Standing Committee. Surprisingly, nonetheless, discussion closed with a simple request for opinions instead of a formal vote as required by the Standing Committee's Rules of Procedure in the absence of a consensus, and the Secretariat's document was accepted.

4. References

In order to inform the Parties fully, the following documents are attached to this proposal:

- Doc. PC 10.9.1 Species proposals for the 12th meeting of the Conference of the Parties – *Araucaria araucana* (Annex 1).
- Doc. PC 10.9.1.a Species proposals for the 12th meeting of the Conference of the Parties – *Araucaria araucana* – The point of view of Argentina (Annex 2).
- SC45 Doc. 14 Interpretation and implementation of the Convention – *Araucaria araucana* (Annex 3).
- SC45 Inf. 5 Interpretation and implementation of the Convention – *Araucaria araucana* – The point of view of Argentina and Chile (Annex 4).

5. Conclusion

Given the circumstances described in the preceding paragraphs, Argentina finds no other way to obtain reparation of a situation that is prejudicial for the conservation of the species in question than to request the Parties, following the postal procedure described in paragraph 2 of Article XV of the Convention, to confirm the decision adopted unanimously and unequivocally by the Conference of the Parties at Gigiri to eliminate the split-listing of *Araucaria araucana* and list the whole species in Appendix I.

Argentina is confident that no Party will object to this legitimate request, as expressed in paragraph A of this proposal. This would not have been necessary had the Secretariat correctly interpreted and respected the decision adopted at the 11th meeting of the Conference of the Parties.

6. Additional comments from Argentina

As Parties know, the proposal submitted by Argentina for consideration through the postal procedures was finally submitted to a postal vote. The Philippines had previously sent an objection based on the following reasons that are mentioned in the Notification from the Secretariat to the contracting or signatory Parties to the CITES Convention, dated 25 February 2002:

Araucaria araucana is an introduced species in the Philippines. As such it may be a subject of scientific studies and/or may be used for commercial production purposes. The right of any country, therefore, to earn from its endeavour should not be deprived by another.

The populations of this species outside Argentina and Chile are currently traded commercially in many countries including the Philippines but this has no negative effect on the natural population of the species in Argentina and Chile; and

The position of the Secretariat is consistent with the Philippines forestry policy which encourages commercial utilization of plantation species in support of the socio-economic and environmental programmes of the country.

As Parties are also aware, postal votes were received from less than half of the Parties to the Convention. Consequently, the proposal will be submitted to the 12th meeting of the Conference of the Parties, as established in Article XV, paragraph 2 (i), of the Convention.

This was confirmed in a note from the CITES Secretary-General to Argentina. The note stated "that in any proposal to amend the Appendices, information on the populations listed in Appendix II must be included." Furthermore, it alluded "to the possibility that Argentina might want to withdraw the existing

proposal and present a revised proposal in accordance with the provisions stipulated in Resolution Conf. 9.24".

This reference to Resolution Conf. 9.24 is a reiteration of what the Secretariat had already expressed in the comments and recommendation contained in its Notification to the contracting or signatory States to CITES, dated 7 December 2001. The Notification drew comments from Argentina, which, in turn, were annexed to the Notification to the CITES contracting or signatory States dated 14 February 2002. Argentina's comments were obviously ignored by the Secretariat, as were the comments in favour of the proposal received by the Secretariat from Chile (the only other range state of the species in question), three other Parties, the FAO and the IUCN. In fact, the Secretariat, in its Notification of 14 February 2002, said that it did "not wish to add anything new to the comments received from the Parties" and that it would "continue to recommend rejection of Argentina's proposal".

Under such circumstances, Argentina maintains its proposal, but would like to repeat some of the comments it had already received in response to statements by the Secretariat and provide certain additional information not received until after this response was sent, to supplement the proposal's supporting statement.

Format of the proposal

In Resolution Conf. 9.24, the Conference of the Parties "RESOLVES that proposals to amend Appendices I and II should be based on the best information available and presented in the format in Annex 6, **unless otherwise justified** [this is emphasized]". In section C.2., *Supporting Statement – Objectives*, Argentina's proposal clearly justifies why it did not follow the format in Annex 6 of Resolution Conf. 9.24. However, it can be said that the proposal, as established in paragraph A, *Proposal*, fulfils Resolution Conf. 9.24. What is in fact requested is an inclusion in Appendix I and a deletion from Appendix II.

Information on Appendix-II populations

This requirement is at the heart of the Secretariat's arguments against the Argentine proposal. But it is based on two erroneous interpretations:

1. In the first place, considering that all wild populations are doubtless to be found in Argentina and Chile and are listed in Appendix I, a valid question is whether such Appendix-II 'populations' truly exist. In the light of available information, what would currently be included in Appendix II are individual trees of this species that occur in parks and gardens in several countries around the world. This is also the case with many other animal and plant species, but introduced specimens are never treated differently from wild populations. In reference to 'introduced populations,' the Plants Committee, at its 10th meeting (Shepherdstown, 2000), expressed its consideration that "no other 'population' of the species exists outside Chile and Argentina."

Nevertheless, at a later date, the Philippines sent an objection to the Argentine proposal, making use of this same argument. Given this situation, the Argentine Management Authority requested the Philippine Management Authority to provide information on the plantations of this species in that country, but received no answer whatsoever. What Argentina has received is the following information from the Chairman of the IUCN/Philippines Plant Specialist Group, dated 6 May 2002 (non-official translation):

I agree that it is highly unlikely for A. araucana to thrive as an introduced species in the Philippines. I have no personal knowledge of any A. araucana plantation existing in the Philippines. The species is not included in the revised list of Philippine trees (Revised Lexicon of Philippine Trees, Rojo, 2001). The species said to occur in the Philippines is probably another species of Araucaria (our list of introduced species of Araucaria is the following: A. heterophylla, A. bidwillii, and A. columnaris).

In addition, we consulted the Endangered Plant Species Database at the CITES Secretariat website. No reference appears there to any 'introduced population' of *Araucaria araucana*. Under the reference '*Araucaria araucana* and Philippines' there is no mention of the species' presence in that country.

Finally, at its 12th meeting (Leiden, May 2002) the Plants Committee, after a brief discussion of this topic, neither contributed nor received any additional information, and maintained its initial position.

In view of all of the above, one question remains: where are the Appendix-II populations to be found? In the event that such 'populations' should eventually be discovered, Resolution Conf. 9.24 makes no provision for information sent on other populations besides those in the wild or those occurring in range States. In Annex 6 of the Resolution, only one possibly relevant element can be identified. This is item 3.5, *Captive breeding or artificial propagation for commercial purposes (outside country of origin)*, which states: "To the extent possible, provide information on the extent of captive breeding or artificial propagation outside the country or countries of origin".

Under the present circumstances, Argentina is not in a position to provide such information, except to reiterate that some specimens of the species grow in parks and gardens, and possibly in some nurseries.

2. The second error, linked to the first one, appears when the Secretariat indicates that the proposal does not include comments from other range States. This is not correct, as Chile (the only other range State of this species besides Argentina) was consulted in the original proposal. The Secretariat evidently seems to confuse two different terms: 'range State' and 'introduced populations.' The existence of 'introduced populations' of a species in a given country does not mean that the country where these populations are found is considered a range State. Even if numerous introduced populations exist outside Argentina and Chile, these two countries are the only two range States for the species. To say, as the Secretariat does, that Parties presenting a proposal to amend Appendices I and II should also consult the States in which specimens have been introduced, although the species may be cultivated or reproduced in another way, is nonsensical. These countries are not range States for the species, so they have never been consulted on any amendment proposal in the past.

With respect to this point, a mention of Notification to Parties No. 2001/091 of 19 December 2001 on *Relationship between ex situ production and in situ conservation* is worthwhile. In this Notification, the Secretariat clearly differentiates, particularly in paragraph 2. ii), between range States, for whom *in situ* conservation is a concern, and states for whom the species seems to have been introduced for purposes of *ex situ* production ('non-range countries', as the Secretariat calls them). We do not understand why the Secretariat did not adopt the same criteria when it came to analysing Argentina's proposal on *Araucaria araucana*.

Effects of a split-listing

We cannot help but comment on a point in the Secretariat's document and in the Philippine justification for its objection that especially concerns us: the statement that "commercial trade from these introduced populations does not seem to have any negative effect on the natural wild populations." As mentioned in Argentina's original proposal submitted to CoP11, seeds are the most important specimens – in fact they are the only ones – involved in international trade. Furthermore, to say that the current listing "is the appropriate listing for conservation of the species, even taking into account the provisions regarding split-listing in Resolution Conf. 9.24 Annex 3" shows an attitude that is at the very least irresponsible on the part of the Secretariat. The current listing is, or at least could be detrimental to the survival of the species in the wild, as it could allow illicit trade in specimens originally from the two only range States of the species in question. Such a threat is due to the fact that, as Parties know, seeds are exempt from

CITES controls in the case of Appendix-II plant species. This is why Argentina presented its proposal to CoP11 and the reason why it was unanimously approved.

Trade in artificially propagated specimens

Finally, we must express our concern about a Party feeling the need to present an objection to the Argentine proposal in order to maintain the possibility, as expressed in said objection, of using its plantations of this species for commercial purposes. This Party should be reminded that an Appendix-I listing of the species does not prevent trade in such populations, which would be considered of artificially propagated origin, and thus could be traded, as set forth in the special provisions of Article VII, paragraph 4.

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



Tenth meeting of the Plants Committee
Shepherdstown (United States of America), 11–15 December 2000

Species proposals for the 12th meeting of the Conference of the Parties

ARAUCARIA ARAUCANA

1. The current listing of *Araucaria araucana* in the CITES Appendices has been the subject of some discussion, for which reason the Secretariat has prepared this document for consideration by the Plants Committee at its 10th meeting.
2. The current listing is as follows:
 - Appendix I: the populations of Argentina and Chile.
 - Appendix II: remaining populations.
3. The Appendices with regard to *Araucaria araucana* are correct because the proposal to CoP11 was to transfer the Argentine population of this species to Appendix I and this was adopted.
4. In the last paragraph of this proposal it was mentioned that one of the reasons for the proposed transfer was to eliminate the current split-listing. It was for this reason that the Plants Committee supported the proposal.
5. After the meeting it was realized that, when this proposal was adopted, populations of this species other than those specified as being in Appendix I would remain in Appendix II. These populations are introduced populations, not natural ones, of which at least one exists in Switzerland.
6. The Plants Committee is requested to consider the following:
7. Should the current split-listing be maintained or not?
8. Resolution Conf. 9.24 Annex 3 recommends that split-listings should be avoided as much as possible. It was with that in mind that the Plants Committee supported the proposal by Argentina. As explained above, the current split-listing has all the wild populations in Appendix I and the remaining introduced populations in Appendix II. Where conservation status of populations allow it and where it poses no serious enforcement problems, split-listing should be stimulated.

9. If the current listings of *Araucaria araucana* should be maintained, does the Committee think that there is a need to develop guidelines for Parties with regard to proposals relating to species for which introduced populations exist? If so, the Secretariat could draft appropriate text, applicable to fauna and flora. This text could be included in Annex 6 of the Resolution on criteria for amendment of Appendices I and II.
10. If the Committee is of the opinion that the current listing should be amended, it should seek a Party to present such a proposal. It should, however, bear in mind that, if such a proposal is adopted, several Parties might wish to enter Reservations, which could result in enforcement problems. Also, to include introduced populations in Appendix I would seem a bit peculiar, since it does not serve any conservation purpose.

CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES
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ARAUCARIA ARAUCANA

THE POINT OF VIEW OF ARGENTINA

1. This document has been prepared and is submitted by Argentina in response to document Doc. PC.10.9.1 prepared by the Secretariat for consideration by the Plants Committee at its 10th meeting.
2. Argentina, as one of the main affected Parties, has been directly involved in the discussion, evoked by the Secretariat in paragraph 1 of its document, about the listing of the species *Araucaria araucana* in the CITES Appendices, after the adoption by consensus at the 11th meeting of the Conference of the Parties (Gigiri, 2000), of the proposal submitted by Argentina with the aims to transfer its population from Appendix II to Appendix I and so to eliminate the split-listing of the species in these Appendices.
3. As not all Parties, and not all members of the Plants Committee, were involved in the discussion on this issue, we consider it important to provide some explanations, which do not appear in the document of the Secretariat, about the origin and the causes of the discussion.
4. The species *Araucaria araucana* is endemic to Argentina and Chile. It was included in Appendix II at the Plenipotentiary Conference at which CITES was adopted (Washington, D.C., 1973). In 1979, at CoP2, the population of Chile was transferred to Appendix I, leaving that of Argentina in Appendix II. Since then and until CoP11, the species was listed in the Appendices as follows, forgetting the parts and derivatives to be covered under Appendix II:
 - Appendix I: *Araucaria araucana* ** +2xx [where the annotations meant that the population of Chile was listed in that Appendix and the other(s) in Appendix II]
 - Appendix II: *Araucaria araucana* * -1xx [where the annotations meant that the species was listed in that Appendix, except the population of Chile listed in Appendix I].

Although it did not refer expressly to the population of Argentina, this listing in Appendix II did in fact correspond to that population only, and this was never contested until July this year.

At this point, it is worthwhile to look at the Proceedings of the Second Meeting of the Conference of the Parties, in the paragraph related to the discussion on the Chilean proposal, which we quote partially:

...“After several interventions by the United Kingdom, USA and Chile, during which it was argued that the geographical range of the species comprised not only Chile but also Argentina, it was concluded that the proposed amendment should be focused on the Chilean population, and so it was adopted, by 11 votes in favour and two against.”

The interpretation of the Parties on this point is very clear and so is the basis of the decision made at CoP2. Taking this into account, the debate initiated by the Secretariat is surprising.

5. Annex 3 to Resolution Conf. 9.24 states that “Listing of a species in more than one Appendix should be avoided in general in view of the enforcement problems it creates”. This is in essence repeated in Secretariat’s document Doc. PC.10.9.1, paragraph 8. Regarding plants, the fact that parts and derivatives may be excluded from CITES provisions, the enforcement problems created by split-listing may be exacerbated. This is the case with *A. araucana* because seeds from the population of Argentina were specifically excluded, although they are looked after for international trade. The proposal from Argentina aimed therefore to two purposes. On one side, the transfer of the population of Argentina to Appendix I because it met two of the criteria for such transfer and, on the other side, the elimination of the split-listing and of its enforcement problems. This is recognized in the Secretariat’s document, in paragraph 4.
6. In paragraph 8 of its document, the Secretariat adds that, in certain circumstances, split-listing should be stimulated. This does not appear at all in Resolution Conf. 9.24 and certainly for good reasons. In our opinion, split-listing should never be stimulated but we nevertheless believe that there are circumstances under which a split-listing should be seriously considered, in particular for species with a vast geographical range and various conservation and management status. This obviously does not apply to *Araucaria araucana* and the Secretariat is not competent to make general recommendations contrary to those currently in force, to be implemented even before the Parties agree on such modifications.
7. Argentina took advantage of the Ninth Meeting of the Plants Committee (Darwin, 1999) to present the proposal it intended to submit for consideration at CoP11. The summary of the discussion that took place is on page 25 of the Proceedings of the meeting. It is nevertheless worth extracting the following, which constitutes the essential of the discussion:

“The Chairman explained that the proposal on *Araucaria araucana* was very detailed and well drafted.

Mr von Arx (representative for North America) pointed out that it was much easier to have the taxa in one Appendix only, but wondered whether listing under Appendix I would solve the problem. Mrs Clemente (Chairman) replied that in principle it would, because the main problem related to trade in seeds. Mr Kiehn (Austria) explained these problems by stating that *A. araucana* seeds are already impossible to obtain from Chile because of their listing in Appendix I, so seeds are obtained from Argentina. However, there are difficulties with distinguishing seeds from Chile and Argentina.

Mr van Vliet (Secretariat) clarified the reasoning for Argentina’s proposal by explaining that he had received a letter from Argentina expressing that it wanted to include seeds in Appendix II, and that the Secretariat had suggested that Argentina could also consider the transfer of the species to Appendix I...

...

Mr von Arx explained that he thought that there were still big differences in listing under Appendix I and Appendix II. He inquired about the quota for seeds, to which Mr van Vliet stated that a zero quota would not help because seeds were not subject to the Convention. He then referred to the Resolution Conf. 9.24 which stated that split-listing should be avoided when possible.

Mr McGough (United Kingdom) agreed that getting rid of this split-listing should be encouraged, and that if a species meets a criteria for Appendix I it should go forward.

The Plants Committee agreed to support the proposal by Argentina.”

8. It must be added that Switzerland was represented at the meeting by its officer in charge with plant issues and that Mr von Arx is a Swiss citizen who, before moving to Canada, represented the Swiss Management Authority for Plants, as well as Europe on the Plants Committee. Neither of them contested that the proposal from Argentina, as drafted, was not adequate to eliminate the split-listing, because of the existence of other populations of the species in question, in particular in Switzerland. This was neither contested by any participant in the meeting, including the representatives of the Secretariat, who, if felt necessary, would have had the opportunity to explain, and should have explained, how to draft the proposal to avoid any potential problem.
9. After the proposal was formally submitted by Argentina and circulated by the Secretariat, Switzerland did not make any comment about its purposes, although it made comments about a number of other proposals. On its side, the Secretariat stated in its provisional assessment, among other things: “The Plants Committee, at its Ninth Meeting (Darwin, Australia, June 1999), supported this proposal, arguing that the elimination of the current split-listing would also provide protection to the Chilean populations in avoiding illegal trade in seeds from the populations in that country. The Secretariat shares that position.” In its final comments, it stated also: “... the Secretariat still supports the position of the Plants Committee, but would like to suggest that Argentina also considers its original option of including only seeds originating in Argentina in Appendix II...” (see document Doc. 11.59.3, Prop. 11.55). Incidentally, the latter statement appears, although correct, to be in contradiction with that made in the meeting of the Plants Committee (see above under paragraph 7.). The Secretariat also referred to the IUCN assessment, which provided more details on the current population status of the species but, apparently at least, did not refer to other populations than those of Argentina and Chile.
10. Committee I considered the proposal at CoP11. The discussions were summarized as follows in document Com.I. 11.5: “Regarding proposal Prop. 11.55 to transfer from Appendix II to Appendix I the Argentine population of *Araucaria araucana*, the delegation of Argentina noted that the species met the requirements for Appendix-I listing and that the adoption of the proposal would relieve problems caused by a split listing. The proposal was supported by the delegation of Portugal, on behalf of the Member States of the European Union. There being no further comments the proposal was approved.” This approval was confirmed at a later stage and without any opposition by the Conference of the Parties.
11. The delegation of Argentina could not have been more clear and its statement was approved by consensus, in presence of the delegation of Switzerland, amongst all the other participants. At no time, any participant referred to the possible existence of another population than those of Argentina and Chile and indicated that the proposal, if adopted as drafted, was not meeting the requirements for a listing of the whole species in Appendix I.
12. Consequently, when the Secretariat published the Appendices I and II as adopted by the Conference of the Parties, valid from 19 July 2000, and communicated them with Notification to the Parties Nº 2000/034 dated 15 June 2000, it correctly listed the whole species *Araucaria araucana* in Appendix I.
13. After that publication in July 2000, the Management Authority of Switzerland (the Plants Officer?) sent an e-mail to the Secretariat in which the following was stated:

“in Notification No. 2000/034, the transfer of *Araucaria araucana* (population of Argentina) from App. II to App. I was communicated. However, in the attached Appendices I and II, *Araucaria araucana* is listed in App. I without any further specification of populations. It is no longer listed in App. II. Prior to COP11, *Araucaria araucana* was listed in App. II, the population of Chile was excluded from App. II and listed in App. I.

My understanding of COP11 is, that additionally to the population of Chile, the population of Argentina shall be excluded from App. II and listed in Appendix I. In my opinion, specimens

cultivated in the Mediterranean region or elsewhere outside Chile and Argentina, specifically our national "population" in Ticino, should still figure in App. II.

I would appreciate timely clarification of this point (prior to the deadline for reservations)."

14. In theory, the position of Switzerland, although it does not meet our understanding of CoP11, may have some merits and this is probably for that reason that the Secretariat decided to amend the listing of *Araucaria araucana*, without any explanation, and apparently without further consultation. Revised Appendices I and II were then communicated with Notification to the Parties N° 2000/037 of 31 July 2000 with the following listing:

- Appendix I: *Araucaria araucana* ** +219 [where the annotations mean that the populations of Argentina and Chile are listed in that Appendix and the other(s) in Appendix II]
- Appendix II: *Araucaria araucana* * -114 [where the annotations mean that the species is listed in that Appendix, except the populations of Argentina and Chile listed in Appendix I].

This listing is declared as correct by the Secretariat in its document Doc. PC.10.9.1, paragraph 3.

15. Argentina fully disagrees with the Secretariat's position, for the following reasons, the list being not necessarily exhaustive:

a) Technically speaking, supposing that the argument of Switzerland is acceptable (it is not in our point of view), the listing should have reflected the fact that the species is endemic to Argentina and Chile and should have read:

- Appendix I: *Araucaria araucana* ** -114 [where the annotations would have meant that the species is listed in that Appendix, except XX population(s) listed in Appendix II]
- Appendix II: *Araucaria araucana* * +219 [where the annotations would have meant that XX population(s) is (are) listed in that Appendix and the species except XX population(s) in Appendix I].

The difference between both listings above may appear as of pure semantic. It is in fact of significance, as it would have indicated correctly which are the main populations.

b) Switzerland reacted extremely late when it could have made its comments at several occasions, starting with the ninth meeting of the Plants Committee and ending with CoP11. We can not believe that the lack of reaction was intentional. Therefore, it might have been simply due to an error or an omission. In this case, we think that Argentina and Chile should not suffer the consequences of such an error or omission, but rather that Switzerland should bear responsibility for it and submit its comments to the next COP.

c) Similarly, the wording in paragraph 5 of the Secretariat's document is misleading. It says that it is after the meeting that it was realized that populations of the species other than those specified as being in Appendix I would remain in Appendix II. Indeed, any Party should know, and Switzerland and the Secretariat certainly do, that the remaining populations of a species, if any, remain in the same Appendix where they are listed when they are not covered by a proposal. What could and should have been said is that it is only after the meeting that it was realized that other populations, at least one in Switzerland, existed. Once again, this is not the responsibility of Argentina and Chile and it is not a good enough reason for the Secretariat to amend the Appendices unilaterally and without consultation (at least the range states, which are affected by such decisions, should have been consulted).

d) As indicated above, in paragraph 5, the proposal to CoP11 was in fact twofold, i.e. the transfer of the population of Argentina to Appendix I and, consequently, the elimination of the split-listing of the species. We may recognize that it might have been better if the proposal would have requested the transfer to Appendix I of the species *A. araucana* except the population of Chile, i.e. indeed the

population of Argentina, as this would have taken formally into account the listing as it was in the Appendices I and II before CoP11. Nevertheless, to separate the two purposes of the proposal, as the Secretariat does in paragraphs 3. and 4. of document Doc. PC.10.9.1, is not correct, and for two reasons:

- first, until the publication of the first version of the revised Appendices I and II, nobody contested that the only existing populations were those of Argentina and Chile and that the proposal as presented by Argentina would lead to the listing of the whole species in Appendix I;
 - second, the position of the Secretariat is contrary to Decision of the Conference of the Parties 10.15, which states: "The term 'the text of the proposed amendment' in Article XV, paragraph 1, of the Convention includes the substantially complete supporting statement accompanying it, ...". Therefore, the elimination of the split-listing was actually proposed by Argentina in accordance with Article XV of the Convention, and it was adopted by the Conference of the Parties without any objection.
- e) In the correspondence exchanged on this matter, the Secretary General has indicated that if the listing of the whole species in Appendix I would have been maintained, this would have meant that the scope of the Argentine proposal would have been broadened, and this is contrary to the text of the Convention (in fact, this is against the Rules of Procedure of the COP, not the text of the Convention). Because of Decision 10.15, this is not true and, therefore, this may explain why this argument does not appear as such in document Doc. PC.10.9.1. On the other hand, the reduction of the scope of the proposal could have been demanded at CoP11, if felt necessary, by the means of an amendment submitted, e.g. by the Swiss delegation, to request the maintenance in Appendix II, with an appropriate annotation, of the populations located outside South America, for example.
- f) This leads us to the question of the actual existence of a "Swiss population" of *A. araucana*. We do not believe that Switzerland, without taking into account the timing of the presentation, provided any information to confirm or establish the existence on its territory of a population that may be considered as a 'geographically separate population', in the sense of the use of this term in the Convention. As said above, its representative and delegation certainly did not at the PC meeting and at CoP11. In fact, in an email sent to the Management Authority of Argentina, the Swiss MA indicated that most of *Araucaria araucana* were planted in gardens and public parks, often during the 19th century. There may also be some in the wild, e.g. in gardens which have given up at certain points in time and became forest in the meantime. It added: the situation is the same in Italy and other Mediterranean countries. From that, we may probably consider that these plants were essentially artificially propagated, although they do not all necessarily meet now the CITES definition of the term 'artificially propagated'. However, to consider this type of 'population' as a 'geographically separate population' and countries like Switzerland as range States of *A. araucana* seems to us seriously exaggerated. This may not be compared, as an example, with the status of Indonesia with respect to mahogany when the listing of the latter on Appendix II was proposed. If the Parties would accept such reasoning, many countries throughout the world would have to be considered as range States of many animals and even more plants, the true range States of which are located far away in the world, because they have 'populations' in their parks and gardens. Through the sudden discovery of a 'Swiss population' and through its recognition by the Secretariat, we believe that a very serious precedent has been created, and in two ways:
- in recognizing, without proper justification, introduced 'populations' as 'geographically separated populations' and countries of introduction as 'range States'; and
 - in amending the Appendices I and II without the submission of an amendment proposal in accordance with Article XV of the Convention.
- g) In term of conservation and of enforcement of CITES, the maintenance of a split-listing for the species in question, as understood by Switzerland and accepted by the Secretariat may generate serious problems, the responsibility of which the Parties should not accept to endorse.

16. Should the current split-listing be maintained or not? This is the question raised by the Secretariat in paragraph 7 of its document. In our opinion, the answer is obviously no and certainly not in the way it has been maintained. Therefore, this should be corrected immediately.
17. Regarding paragraph 9 of the Secretariat's document, we support the idea that Resolution Conf. 9.24 be revised in order to include criteria and/or guidelines with respect to the treatment of introduced (populations of) animals and plants. This should include definitions of the terms 'geographically separate population', to determine when it is applicable to 'introduced populations', and 'range State'. This issue should be considered prior to the meeting of the Plants Committee, i.e. at the joint meeting of the Animals and Plants Committees to be held just before the tenth meeting of the Plants Committee. However, this should not be made dependent on the maintenance or not of the current listing, as suggested by the Secretariat, since there are clearly solid arguments to modify the current listing. In any case, the agreed criteria could not be applied retrospectively.
18. Regarding paragraph 10. of the Secretariat's document, we consider that the Secretariat is reversing the burden of proof. The listing of *Araucaria araucana* in Appendices I and II should be as adopted at CoP11, i.e. the whole species in Appendix I. If it is accepted finally, on the basis of the criteria and/or guidelines proposed by the Animals and Plants Committees at their joint meeting, that the 'Swiss population', and possibly others, may be recognized as 'geographically separate populations' by the Plants Committee, then Switzerland or any other Party would be in a position to propose, in accordance with Article XV, that this or these population(s) be transferred to Appendix II at CoP12 or at any stage, by postal procedure.
19. The last sentence of the Secretariat's document is also a bit surprising, not because it recognizes once more the existence of a 'Swiss population', but because it indicates that its listing in Appendix I does not serve any conservation purpose. In saying this, the Secretariat's seems to ignore that split-listing is considered by the Conference of the Parties, in Annex 3 to Resolution Conf. 9.24, as creating enforcement problems. We believe that such problems may affect the conservation of species listed in CITES Appendices.

Conclusions and recommendations

20. The issues exposed above at length have various aspects that need to be considered by the Parties. First, there is a substantive one concerning introduced populations in general, and the way to treat them within CITES. Second, there is the procedural issue of how to deal with the amendments to the Appendices and, in this case, with the amendment concerning *Araucaria araucana*. Third, there is the specific case of a 'Swiss population' of *A. araucana*. In our opinion, these various aspects should be dealt with separately and at various levels within CITES, since they fall within the purview of different organs of CITES, although any final decisions will have to be taken by the Conference of the Parties.
21. Regarding the substantive aspect, we believe, as indicated under paragraph 17 above, that it is relevant to the joint meeting of the Animals and Plants Committees. Therefore, this question should be included on the agenda of the joint meeting, which should have both documents Doc. PC. 10.9.1 and this one at its disposal.
22. The procedural issue is indeed relevant to the Standing Committee. However, it should have at its disposal the views expressed by the joint meeting, as well as by the Plants Committee, and of the Secretariat if it so wish.
23. The specific case of the 'Swiss population' should be dealt with by the Plants Committee, taking into account the conclusions of the joint meeting.
24. Nevertheless and finally, as a first step to avoid conservation and enforcement problems, as well as unpleasant feelings between Parties and between some Parties and the Secretariat, we call upon Switzerland to accept that its understanding of CoP11 was not correct and that the Secretariat inform urgently the Parties that the whole species is actually listed in Appendix I, as agreed by the Conference of the Parties without any objection.

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

Forty-fifth meeting of the Standing Committee
Paris (France), 19-22 June 2001

Interpretation and implementation of the Convention

ARAUCARIA ARAUCANA

1. The current listing of *Araucaria araucana* in the CITES Appendices has been the subject of debate. This includes a request from the Plants Committee to the Standing Committee to instruct the Secretariat to amend the current listing (see Annex). The Secretariat has therefore prepared this information document for the Standing Committee.
2. The current listing is as follows:
 - Appendix I: *Araucaria araucana* (the populations of Argentina and Chile)
 - Appendix II: *Araucaria araucana* (except the populations of Argentina and Chile).
3. *Araucaria araucana* was included in Appendix II when the Convention entered into force on 1 July 1975.
4. At its second meeting (San José, 1979) the Conference of the Parties approved a proposal by Chile to transfer its population to Appendix I.
5. At its 11th meeting (Gigiri, 2000) the Conference of the Parties approved a proposal from Argentina to transfer its population from Appendix II to Appendix I.
6. In the belief that the entire species was now included in Appendix I, the Secretariat initially deleted the species from Appendix II, in the revised Appendices.
7. Following receipt of a query from Switzerland regarding the status of its national population¹ it was realized that this deletion was incorrect because it implied an expansion of the adopted amendment to all populations of the species, i.e. including those that were not subject to the Argentine proposal. This would have been against the Rules of Procedure of the meeting of the Conference of the Parties (Rule 23, paragraph 6).
8. The Secretariat therefore corrected the Appendices by indicating that only the Chilean and Argentine populations were included in Appendix I and that any remaining populations were still in Appendix II.

¹ In its query, Switzerland referred to its national population of the species. Although it is not relevant for the current listing, the Secretariat has investigated whether naturalized populations exist in the world. Although many full-grown individuals in Switzerland, and elsewhere in the world, produce viable seeds it has not yet been demonstrated that naturalized individuals occur in Switzerland. C.A. Stace (1991; *New flora of the British Isles*) states that the species is very rarely self-sown, suggesting that naturalized individuals occur. These should, however, first develop into full grown specimens (which takes many tens of years) before a real self-sustaining 'introduced population' can be established. Trees have a much longer generation time than many other invasive species.

9. When considering the above, the Secretariat noted that at least two aspects of the transfer or listing of geographically separate populations are not clear, or are subject to disagreement, specifically:
- a) What constitutes a 'geographically separate population'?
 - When does a group of living specimens become a 'geographically separate population'?
 - Does this term include specimens that have been introduced into a country where the species does not occur naturally (i.e. introduced populations)?
 - Should plants and animals held under 'controlled conditions' (e.g. in a zoo or nursery) be considered as geographically separate populations and, if so, does it make a difference whether or not they are held under such conditions in countries where they occur naturally (e.g. ranches)?
 - If specimens are introduced into a country where the species does occur naturally, do they form part of the population into which they have been introduced?
 - b) If specimens from a geographically separate population are exported when that population is included in one Appendix and it is then transferred to another, what is the (Appendix) status of the specimens that were exported and what is the status of their offspring?
10. The Secretariat intends to prepare a document on these subjects for consideration at the 12th meeting of the Conference of the Parties.
11. With regard to the request of the Plants Committee that the Standing Committee instruct the Secretariat to delete *Araucaria araucana* from Appendix II, the Secretariat believes that this is not possible. Article XV of the Convention contains explicit provisions for the amendment of the Appendices. Changing of the current listings for this species is only possible after an amendment proposal, submitted by a Party, has been approved by the Parties, either through a postal procedure or at a meeting of the Conference of the Parties.
12. It should be noted that, if the Appendices were changed now to indicate that all populations of *Araucaria araucana* are in Appendix I, this would mean that Parties that would have entered a reservation against the amendment adopted at the 11th meeting of the Conference of the Parties would not be able to do so, since this is only possible within 90 days after the meeting.



December, 19th 2000

TO: KENNETH STANSELL, CHAIRMAN OF THE STANDING COMMITTEE FROM: MARGARITA CLEMENTE, CHAIRMAN OF THE PLANTS COMMITTEE
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Dear Chairman,

The Plants Committee in its tenth meeting thoroughly discussed the issue of *Araucaria araucana*, as presented in Doc. PC 10.9.1 and Doc. PC 10.9.1a.

The Plants Committee agreed unanimously that the intention at PC 9 meeting was to achieve the objective of listing of *Araucaria araucana* on Appendix I without exclusions to avoid in this way the split listing of the species.

After having discussed the history of inclusion of populations of *Araucaria araucana* in the Appendices, the Plants Committee believes that there is no other "population" of the species outside Chile and Argentina.

The Plants Committee therefore informs the Standing Committee of this opinion and requests that the Standing Committee direct the Secretariat to issue a notification which reflects the original intent of the proposal, supporting the position of Argentina and Chile to include the species in Appendix I. The Plants Committee requests that this subject be dealt with urgently out of the session.

The Plants Committee is of the opinion that the discussion regarding naturalized populations in general, should be addressed during the 2nd meeting of the Criteria Working Group, which will be held in Spain, February/March 2001.

Yours Sincerely

Prof. Dr. MARGARITA CLEMENTE

ON BEHALF OF THE PLANTS COMMITTEE

c/c: Argentina, Chile,

Plants Committee Representatives [Africa: Mr. Luke (Kenya) & Mr. Donaldson, (South Africa); Asia: Mr. Shaari (Malaysia) & Mr. Singh (India); Central and South America & Caribbean: Mr. Forero (Colombia) & Ms. Werkhoven (Surinam); Europe: Mr. De Koning (The Netherlands) & Ms. Clemente (Spain); North America: Mr. von Arx (Canada); Mr. Leach (Oceania)]
Chairman CWG.

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

Forty-fifth meeting of the Standing Committee

Paris (France), 19-22 June 2001

Interpretation and implementation of the Convention

Araucaria araucana

THE POINT OF VIEW OF ARGENTINA AND CHILE

1. This document has been prepared and is submitted by Argentina and Chile in response to document SC45 Doc. 14 prepared by the Secretariat for consideration by the Standing Committee at its 45th meeting. Both countries express their concern to have to intervene once again in this issue, this time during the discussions of the Standing Committee at its meeting of June this year in Paris, France, since had the agreements reached on the matter during the last meeting of the Plants Committee been adequately implemented, there would be no need to continue a debate that has been artificially and unnecessarily prolonged.
2. Although the Secretariat's document SC45 Doc.14 includes, as an Annex, a copy of the request from the Chairman of the Plants Committee addressed, after the 10th meeting of the Plants Committee (Shepherdstown, December 2000), to the Chairman of the Standing Committee, it does not adequately reflect the discussions, opinions expressed and agreements reached during that meeting. Indeed, the document, presented in paragraph 1 as an information document, reflects the point of view of the Secretariat, which was objected by the Plants Committee, as demonstrated by the request just mentioned. Therefore, Chile and Argentina have agreed to draft this document for discussion during the Standing Committee meeting.
3. More specifically, paragraphs 1 and 11 of the Secretariat's document could, unless further information is provided, mislead the Standing Committee, since it is inaccurate to say that the Plants Committee is requesting the Standing Committee "to instruct the Secretariat to amend the current listing" or "to instruct the Secretariat to delete *Araucaria araucana* from Appendix II". What the Committee is requesting is indeed "that the Standing Committee directs the Secretariat to issue a notification which reflects the original intent of the proposal, supporting the position of Argentina and Chile to include the species in Appendix I." This is perfectly clear and to do so does not require an amendment to Appendices I and II. This merely implies the need to inform the Parties of an error made when the 'corrected' Appendices were sent with Notification to the Parties No. 2000/037 of 31 July 2000. Such action would not at all be different from those undertaken by the Secretariat when Notifications to the Parties No. 2000/037 and No. 2000/050 of 16 August 2000 were issued to point out other errors and corrections in the edition of Appendices I and II distributed at earlier stages. The reference, in paragraph 11, to Article XV of the Convention is not therefore, relevant.
4. Paragraph 2 of the Secretariat's document provides the listing as it appears in the editions of Appendices I and II sent with the two Notifications mentioned in paragraph 3 of this document. Argentina and Chile, the only range States of *Araucaria araucana*, as well as the Plants Committee, have contested that this is the 'current listing' as it resulted from the decision taken at CoP11 (Gigiri, 2000).

At that meeting, as well as in proposal Prop. 11.55 and at the ninth meeting of the Plants Committee, it was made clear that the transfer of the Argentine population to Appendix I would result in the inclusion of the whole species in that Appendix (see e.g. paragraph 5 of document Doc. PC. 10.9.1a). This was accepted, as summarized in CoP11 document Com.I. 11.5, the Summary Report of the fifth session of Committee I: "Regarding proposal Prop. 11.55 to transfer from Appendix II to Appendix I the Argentine population of *Araucaria araucana*, the delegation of Argentina noted that the species met the requirements for Appendix-I listing and that the adoption of the proposal would relieve problems caused by a split-listing. The proposal was supported by the delegation of Portugal, on behalf of the Member States of the European Union. There being no further comments the proposal was approved." This approval was confirmed at a later stage and without any opposition by the Conference of the Parties (see paragraph 10 of document Doc. PC. 10.9.1a). Therefore, paragraph 5 of the Secretariat's document is partial, in both senses of the term.

5. The Secretariat, as stated in paragraph 6 of its document, interpreted that decision as it was accepted by the Conference of the Parties and, regarding *Araucaria araucana*, the revised edition of Appendices I and II circulated with Notification to the Parties No. 2000/034 of 15 June 2000 was, in our opinion, correct.
6. In paragraph 7, the Secretariat explains its unilateral decision to change - not to correct - the listing of *Araucaria araucana* in Appendices I and II. The reference to the national population of Switzerland is used as the main argument to demonstrate that the whole species was not transferred to Appendix I, in spite of the fact that, in the footnote relating to that 'population', the Secretariat states that "it has not yet been demonstrated that naturalized individuals occur in Switzerland". If there is no proof of naturalized individuals, the existence of naturalized population is far from probable [See also document Doc. PC. 10.9.1a, paragraph 15 f)].
7. The reference, still in paragraph 7, to an expansion of the adopted amendment and to the Rules of Procedure of the meeting of the Conference of the Parties was also objected in document Doc. PC. 10.9.1a [see paragraph 15 d)]. As a matter of fact, the position of the Secretariat is contrary to Decision of the Conference of the Parties 11.11 (previously 9.3 and then 10.15), which states: "The term 'the text of the proposed amendment' in Article XV, paragraph 1, of the Convention includes the substantially complete supporting statement accompanying it, ...". Therefore, the elimination of the split-listing was actually proposed by Argentina in accordance with Article XV of the Convention and was adopted by the Conference of the Parties without any objection.
8. On the other hand, it may be noted that paragraph 8 of the Secretariat's document refers to 'any remaining populations', while the footnote mentioned above, though it makes reference to some naturalized individuals in the British Isles, implies that this is far from a real self-sustaining 'introduced population'. The Secretariat could have added that, as stated in the *Executive Summary 12 December 2000* of the 10th meeting of the Plants Committee: "It was made clear from discussions that there is only one population of *Araucaria araucana* – the population of Argentina and Chile".
9. Although it is essentially beyond the issue under consideration, paragraph 9 of the Secretariat's document raises true issues that should be considered by the Parties. Such issues were very superficially mentioned in the Secretariat's document Doc. PC. 10.9 1 (paragraph 9) and more substantially in the document from Argentina Doc. PC. 10.9.1a (paragraph 17 and Conclusions and recommendations). The points made by the Secretariat are of significance, although reference to the definition of the term 'range State' could have been included as well.
10. Nevertheless, the proposal in paragraph 10 of the Secretariat's document should be of some concern, since at least certain of the issues raised need to be considered urgently and definitions or guidelines should be included in the revised Resolution Conf. 9.24 on the CITES criteria. Therefore, Argentina, supported by Chile, suggested that the Joint Meeting held in Shepherdstown should have approached them, which was not done. However, in the letter of the Chairman of the Plants Committee to the Chairman of the Standing Committee, it is stated: "The Plants Committee is of the opinion that the

discussion regarding naturalized populations in general, should be addressed during the 2nd meeting of the Criteria Working Group ...” This was not apparently done, but it would have been desirable. It might be suggested that both the Animals Committee and the Plants Committee consider these issues at their next meetings, later this year. The Standing Committee could ask them to take such action.

11. Paragraph 12 of the Secretariat’s document, the last one, is also misleading. The Parties were informed of the amendments adopted at CoP11 through the diplomatic channels and through Notification to the Parties No. 2000/034 of 15 June 2000. The edition of Appendices I and II sent to the Parties at that date correctly included *Araucaria araucana* in Appendix I. In paragraph 7 of the document communicating the amendments, the Secretariat specified that “In accordance with the provisions of paragraph 3 of Article XV of the Convention, and during the period of 90 days provided for by sub-paragraph (c) of paragraph 1 of that Article (i.e. by 19 July 2000), any Party may by notification in writing to the Depository Government (the Government of the Swiss Confederation) make a reservation with respect to one or more amendments adopted at the 11th meeting of the Conference of the Parties.” From the information published by the Secretariat, no Party made a reservation with respect to the listing of *Araucaria araucana* in Appendix I. As the change (called ‘correction’ by the Secretariat) to the original listing was communicated through Notification to the Parties No. 2000/037 dated 31 July 2000, i.e. 12 days **after** the expiry of the 90 days deadline, in that context the statement made by the Secretariat in paragraph 12 of its document to the Standing Committee makes no sense, given that one of the effects of the Secretariat’s intervention after July 19 could have been to inhibit Parties who desired to enter a reservation with respect to the listing of *Araucaria araucana* from doing so.
12. On the basis of all the above, Argentina and Chile express their hope that the Standing Committee will adequately consider the conclusions reached by the Plants Committee on this issue and take the necessary action to definitely solve the matter, in accordance with the real sense of the resolutions emanated from the Conference of the Parties and with the requests made by Argentina and Chile concerning the listing of the whole species on Appendix I of the Convention.